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Regulation Package #1114-09

CDSS MANUAL LETTER NO. CCL-16-05

TO: HOLDERS OF THE COMMUNITY CARE LICENSING MANUAL, TITLE 22,
DIVISION 6, CHAPTER 2, SOCIAL REHABILITATION FACILITIES

Regulation Package #1114-09

Effective 1/5/16

Entire Manual

This manual letter has been posted on the Office of Regulations Development website at <http://www.cdss.ca.gov/ord/PG648.htm>.

Prior to this regulations package, Social Rehabilitation Facilities (SRFs) were regulated by the California Code of Regulations (CCR), Title 22, Division 6, Chapters 1 (General Licensing Requirements) and 2 (Social Rehabilitation Facilities).

This regulations package creates an SRF stand-alone chapter, Title 22, Division 6, Chapter 2. SRFs do not have to comply with any regulations in Chapter 1 anymore; all SRF applicable regulations are now in Chapter 2.

Since these regulatory amendments are nonsubstantive in nature, 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-16-04. The latest prior manual letter containing Social Rehabilitation Facilities regulation changes was Manual Letter No. CCL-98-06.

Page(s)
Entire Manual

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Entire Manual

Attachments

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Manual of Policies and Procedures
COMMUNITY CARE LICENSING DIVISION

**SOCIAL REHABILITATION
FACILITIES**

**Title 22
Division 6
Chapter 2**



**STATE OF CALIFORNIA
HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES**

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SOCIAL REHABILITATION FACILITIES

This Users' Manual is issued as an operational tool.

This Manual contains:

- a) Regulations adopted by the Department of Social Services (DSS) for the governance of its agents, licensees, and/or beneficiaries
- b) Regulations adopted by other State Departments affecting DSS programs
- c) Statutes from appropriate Codes which govern DSS programs
- d) Court decisions; and
- e) Operational standards by which DSS staff will evaluate performance within DSS programs.

Regulations of DSS 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. Please note that both other departments' regulations and statutes are mandatory, not optional.

| Please note revised language is 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 2. SOCIAL REHABILITATION FACILITIES**Article 1. GENERAL REQUIREMENTS AND DEFINITIONS****81000 GENERAL 81000**

- (a) Social rehabilitation facilities, as defined in Section 81001(s)(4), shall be governed by the provisions specified in this chapter.
- (b) In addition to Section 81000(a) above, social rehabilitation facilities shall be governed by those provisions specified in Title 9 (Rehabilitative and Developmental Services), Division 1 (Department of Mental Health), Chapter 3, Article 3.5, Sections 531 through 535 of the California Code of Regulations.
- (c) The licensee shall ensure compliance with all applicable law and regulation.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1501 and 1502(a)(7), Health and Safety Code.

81001 DEFINITIONS 81001

For the 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 the 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., moving from a bed to a wheelchair or sofa, coming to a standing position, and/or repositioning to promote circulation and prevent skin breakdown).

81001 **DEFINITIONS** (Continued)**81001**

- (E) Contenance: 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.

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See also the definition of "Client Who Relies Upon Others to Perform All Activities of Daily Living" in Section 81001(c)(7).

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 facility.
 - (3) "Adult" means a person who is 18 years of age or older.
 - (4) "Applicant" means any individual, firm, partnership, association, corporation, county, city, public agency or other government entity that has made application for a social rehabilitation facility license, an administrator certificate, or a special permit.
 - (5) "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 or public placement agency.
 - (6) "Automated External Defibrillator" (AED) means a lightweight, 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 facility to provide basic services. For SSI/SSP recipients, the basic rate means the established nonmedical out-of-home care rate, which includes any exempt income allowance but does not include that amount allocated for the recipient's personal and incidental needs.
- (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 social rehabilitation facility license.

81001 DEFINITIONS (Continued)**81001**

- (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, convicted of a minor traffic offense or adjudicated as a juvenile.
- (2) "Capacity" means the maximum number of persons authorized to be provided care and supervision at any one time in any licensed facility.
- (3) "Care and Supervision" means any one or more of the following activities provided by a person or facility to meet the needs of clients:
- (A) Assistance in dressing, grooming, bathing and other personal hygiene.
 - (B) Assistance with taking medication, as specified in Section 81075.
 - (C) Central storing and/or distribution of medications, as specified in Section 81075.
 - (D) Arrangement of and assistance with medical and dental care.
 - (E) Maintenance of house rules for the protection of clients.
 - (F) Supervision of client schedules and activities.
 - (G) Maintenance and/or supervision of client cash resources or property.
 - (H) Monitoring food intake or special diets.
 - (I) Providing basic services as defined in Section 81001(b)(2).
- (4) "Cash Resources" means:
- (A) Monetary gifts.
 - (B) Tax credits and/or refunds.
 - (C) Earnings from employment or workshops.
 - (D) Personal and incidental need allowances from funding sources including, but not limited to, SSI/SSP.
 - (E) Any other similar resources as determined by the licensing agency.

81001 DEFINITIONS (Continued)**81001**

- (5) "Certified" means a social rehabilitation facility program that has been certified by the California Department of Health Care Services as meeting the standards established for that program.
- (6) "Client" means an adult who is receiving care and supervision in a social rehabilitation facility. Client includes "resident" as used in the California Community Care Facilities Act (Health and Safety Code section 1500 et seq.).
- (7) "Client Who Relies upon Others to Perform All Activities of Daily Living" means a client who is unable to perform all of the activities of daily living specified in Section 81001(a)(1) without physical assistance.
- (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" (CCF) means any facility, place or building where nonmedical care and supervision, as defined in Section 81001(c)(3), are provided.
- (10) "Completed Application" means:
- (A) The applicant has submitted and the licensing agency has received all required materials including: an approved fire clearance, if appropriate, from the State Fire Marshall; a criminal record clearance on the applicant and any other individuals specified in Section 81019.
 - (B) The licensing agency has completed a site visit to the facility.
- (11) "Conservator" means a person appointed by the Superior Court, pursuant to the provisions of Section 1800 et seq. of the Probate Code or Section 5350 of the Welfare and Institutions Code, to care for the person, or the estate, or the person and the estate, of another.

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Probate Code section 1801 provides in pertinent 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...

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(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...

(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 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. The conservatee of the limited conservator shall not be presumed to be incompetent and shall retain or legal and civil rights except those which by court order have been designated as legal disabilities and have been specifically granted to the limited conservator...

Welfare and Institutions Code section 5350 provides in pertinent 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...

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- (12) "Consultant" means a person professionally qualified by training or experience to provide expert information on a particular subject.
- (13) "Control of Property" means the right to enter, occupy, and maintain the operation of the facility 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

81001 **DEFINITIONS** (Continued)**81001**

- (C) a court order or similar document that shows the authority to control the property pending outcome of a probate proceeding or an estate settlement.
- (14) "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.
- (15) "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.) and/or regulations adopted by the Department pursuant to the Act.
- (3) "Dementia" means a deterioration of intellectual function and other cognitive skills, leading to a decline in one's ability to perform activities of daily living.
- (4) "Department" means the California Department of Social Services, as defined in Health and Safety Code section 1502(b).
- (5) "Developmental Disability" means a disability as defined in Welfare and Institutions Code section 4512(a).

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Welfare and Institutions Code section 4512(a) provides in pertinent part:

"Developmental disability" means a disability that originates before an individual attains age 18 years, continues, or can be expected to continue, indefinitely and constitutes a substantial disability for that individual.

...this term shall include intellectual disability, cerebral palsy, epilepsy, and autism. This term shall also include disabling conditions found to be closely related to intellectual disability or to require treatment similar to that required for individuals with an intellectual or to require treatment similar to that required for mentally retarded individuals, but shall not include other handicapping conditions that are solely physical in nature.

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81001 **DEFINITIONS** (Continued)**81001**

- (6) "Dietitian" means a person who is a member of or registered by the American Dietetics Association.
- (7) "Director" means the director of the California Department of Social Services, as defined in Health and Safety Code section 1502(c).
- (8) "Direct-Care Staff" means those persons who deliver direct care and supervision to the clients.
- (e) (1) "Egress-Alert Device" means a wrist band or other device, that may be worn by a client or carried on a client's person that triggers a visual or auditory alarm when the client leaves the facility building or grounds.
- (2) "Elderly Person" means any person who is 60 years of age or older.
- (3) "Emergency Approval to Operate" - LIC 9117 (8/14) (EAO), means a temporary approval to operate a facility for no more than 60 days pending the Department's decision to either approve or deny a provisional license.
- (4) "Evaluator" means any person who is a duly authorized officer, employee or agent of the Department, including any officer, employee or agent of a county or other public agency authorized by the Department to license community care facilities.
- (5) "Evict" or "eviction" means an involuntary relocation or removal of a client from the facility by the licensee.
- (6) "Evidence of Licensee's Death" shall include, but not be 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 the coroner's office verifying the licensee's death.
- (7) "Exception" means a written authorization issued by the licensing agency to use alternative means that meet the intent of a specific regulation(s) and which are based on the unique needs or circumstances of a specific client(s) or staff person(s). Exceptions are granted for a particular client(s) or staff person(s) and are not transferable or applicable to another client(s) or staff person(s), facilities or licensees.
- (8) "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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Health and Safety Code section 1522(g) reads in pertinent part:

After review of the record, the director may grant an exemption from disqualification for a license or special permit as specified in paragraph (4) of subdivision (a), or for a license, special permit, or certificate of approval as specified in paragraphs (4), (7), and (8) of subdivision (d), or for employment, residence, or presence in a community care facility as specified in paragraphs (3), (4), and (5) of subdivision (c), 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 for purposes of subdivision (c)...

HANDBOOK ENDS HERE

- (f) (1) "Federal Bureau of Investigation (FBI) Clearance" means an individual has no felony or misdemeanor convictions reported by the FBI. However, the individual may have been arrested with no criminal conviction, convicted of a minor traffic offense or adjudicated as a juvenile.
- (g) (1) "Guardian" means a person appointed by the Superior Court pursuant to the provisions of Sections 1500 et seq., of the Probate Code to care for the person, or estate, or the person and estate of another.
- (h) (1) "Health Condition Relocation Order" means written notice by the Department to a licensee requiring the relocation of a client from a CCF because either the licensee is not providing adequate care of 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 the client has a prohibited health condition, as specified in Section 81091.
- (i) (1) "Inhalation-Assistive Device" means any equipment that assists a client to breathe, including, but not limited to, aerosol delivery devices, nebulizers, humidifiers, incentive spirometry devices, positive airway pressure devices, positive expiratory pressure devices, and intermittent positive pressure breathing (IPPB) machines.

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Metered-dose inhalers and dry-powder inhalers are not inhalation-assistive devices.

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81001 **DEFINITIONS** (Continued)**81001**

- (2) "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, 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 social rehabilitation 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 a physician and surgeon, physician assistant, nurse practitioner, registered nurse, licensed vocational nurse, psychiatric technician, physical therapist, occupational therapist and respiratory therapist who is operating within his or her 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 social rehabilitation facility.
- (4) "Licensing Agency" means the California Department of Social Services or any state, county or other public agency authorized by the Department to assume specified licensing responsibilities pursuant to Section 1511 of the Health and Safety Code.
- (5) "Long-Term Residential Treatment Program" means a program as defined in Welfare and Institutions Code, section 5671(b).

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Welfare and Institutions Code section 5671(b) provides:

A long-term residential treatment program, with a full day treatment component as a part of the program, for persons who may require intensive support for as long as two or three years. This program should be designed to provide a rehabilitation program for the so-called "chronic" patient who needs long-term support in order to develop independent living skills.

HANDBOOK CONTINUES

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The clients in this program should be those who would otherwise be living marginally in the community with little or no service support, and who would return many times to the hospital for treatment. It should also serve those who are referred to, and maintained in, state hospitals or nursing homes because they require long-term, intensive support. This program should go beyond maintenance to provide an active rehabilitation focus for these individuals.

The services in this program should include, but not be limited to, intensive diagnostic work, including learning disability assessment, full day treatment program with an active prevocational and vocational component, special education services, outreach to develop linkages with the general social service system, and counseling to aid clients in developing the skills to move toward a less structured setting.

HANDBOOK ENDS HERE

- (m) (1) "Medical Professional" means an individual who is licensed or certified in California to perform the necessary medical procedures within his or her scope of practice. This includes, but is not limited to, Medical Doctor (MD), Registered Nurse (RN) and Licensed Vocational Nurse (LVN).
- (2) "Mental Disorder" means any of the disorders set forth in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition) of the American Psychiatric Association and a degree of functional impairment that renders a person eligible for the services enumerated under the Lanterman-Petris-Short Act, commencing with Section 5000 of the Welfare and Institutions Code.
- (3) "Mental Illness" means the mental condition of any adult who has been evaluated and referred for treatment for a mental disorder, as defined in Section 81001(m)(2).
- (n) (1) "Needs and Services Plan" means a time-limited, goal-oriented written plan which identifies the specific needs of an individual client, including the items specified in Section 81068.2, and delineates those services necessary to meet the client's 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 81072(a)(8) is deemed nonambulatory.
- (B) A person is not deemed nonambulatory solely because they are deaf, blind, or prefers to use a mechanical aid.

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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, 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

- (o) (1) "On-Call Staff" means a staff person who is not on duty on the facility premises, but who can be contacted by the facility if an additional staff person is needed, and can be at the facility and on duty within 30 minutes.
- (p) (1) "Physician" means a person licensed as a physician and surgeon by the California Board of Medical Examiners or the California Board of Osteopathic Examiners.
- (2) "Placement agency" is defined in Health and Safety Code sections 1536.1 and 1569.47(a).

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Health and Safety Code section 1536.1 provides in pertinent part:

(a) "Placement agency" means a county probation department, county welfare department, county social service department, county mental health department, county public guardian, general acute care hospital discharge planner or coordinator, conservator pursuant to Part 3 (commencing with Section 1800) of Division 4 of the Probate Code, conservator pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code, and regional center for persons with developmental disabilities, that is engaged in finding homes or other places for placement of persons of any age for temporary or permanent care.

Health and Safety Code section 1569.47(a) provides 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, state-funded program or private agency providing placement or referral services, conservator pursuant to Part 3 (commencing with Section 1800) of Division 4 of the Probate Code, conservator pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code, and regional center for persons with developmental disabilities which is engaged in finding homes or other places for the placement of elderly persons for temporary or permanent care.

HANDBOOK ENDS HERE

- (3) "PRN Medication" (pro re nata) means any nonprescription or prescription medication that is to be taken as needed.
- (4) "Program Director" means the person who has been designated the authority and the responsibility by the licensee to oversee and carry out the overall treatment program and management of the facility.
- (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 that is temporary, nonrenewable, and issued for a period not to exceed twelve months. A provisional license is issued in accordance with the criteria specified in Section 81030.

81001 DEFINITIONS (Continued)**81001**

- (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, parent, stepparent, son, daughter, brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, nephew, niece, first cousin, or any such person denoted by the prefix "grand" or "great"; or the spouse of any of the persons specified in this definition, even after the marriage or the domestic partnership has been terminated by death or dissolution.

HANDBOOK BEGINS HERE

Family Code section 297.5 provides in pertinent part:

- (a) Registered domestic partners shall have the same rights, protections, and benefits, and shall be subject to the same responsibilities, obligations, and duties under law, whether they derive from statutes, administrative regulations, court rules, government policies, common law, or any other provisions or sources of law, as are granted to and imposed upon spouses.

HANDBOOK ENDS HERE

- (3) "Responsible person" means that individual or individuals, including a relative, health care surrogate decision maker, or placement agency, who assists a 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 Deficiency" means any deficiency that presents an immediate or substantial threat to the physical health, mental health or safety of the clients of a community care facility.
- (2) "Short-Term Crisis Residential Program" means a program type as defined in Welfare and Institutions Code, section 5671(a).

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Welfare and Institutions Code section 5671(a) provides in pertinent part:

A program for a short-term crisis residential alternative to hospitalization for individuals experiencing an acute episode or crisis requiring temporary removal from their home environment. The program should be available for admissions 24 hours a day, seven days a week. The primary focus of this program should be on reduction of the crisis, on stabilization, and on a diagnostic assessment of the person's existing support system, including recommendations for referrals upon discharge.

The services in the program should include, but not be limited to, provision for direct family work, connections to prevocational and vocational programs, and development of a support system, including income and treatment referrals. This program should be designed for persons who would otherwise be referred to an inpatient unit, either locally or in the state hospital. This program should place emphasis on stabilization and appropriate referral for further treatment or support services, or both.

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- (3) "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.
- (4) "Social Rehabilitation Facility" means any facility which provides 24-hour-a-day nonmedical care and supervision in a group setting to adults recovering from mental illness who temporarily need assistance, guidance, or counseling.
- (5) "Social Worker" means a person who has a graduate degree from an accredited school of social work.
- (6) "Supplemental Security Income/State Supplemental Program" (SSI/SSP) 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 that has been investigated by the licensing agency and, as a result, a violation of regulations or statute has been found.

81001 DEFINITIONS (Continued)**81001**

- (t) (1) "Transfer Trauma" means the consequences of the stress and emotional shock caused by an abrupt, involuntary relocation of a client or resident from one facility to another.
- (2) "Transitional Residential Program" means a program type as defined in Welfare and Institutions Code section 5671(c).

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Welfare and Institutions Code section 5671(c) provides:

A transitional residential program designed for persons who are able to take part in programs in the general community, but who, without the support of counseling, as well as the therapeutic community, would be at risk of returning to the hospital. This program may employ a variety of staffing patterns and should be for persons who may be expected to move toward a more independent living setting within approximately three months to one year. The clients should be expected to play a major role in the functioning of the household, and shall be encouraged to accept increasing levels of responsibility, both in the residential community, and in the community as a whole. Residents should be required to be involved in daytime activities outside of the house which are relevant to their personal goals and conducive to their achieving more self-sufficiency.

The services in this program should include, but are not limited to, counseling and ongoing assessment, development of support systems in the community, a day program which encourages interaction between clients and the community-at-large, and an activity program that encourages socialization and utilization of general community resources.

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- (3) "Treatment Program" means the services that are to be provided to the clients and are specific to the program type(s) certified by the California Department of Health Care Services.
- (4) "Treatment/Rehabilitation Plan" means a plan as defined in California Code of Regulations, Title 9, Division 1, Chapter 3, Article 3.5, Section 532.2(c), as specified in Section 81068.2(b)(3).

81001 **DEFINITIONS** (Continued)**81001**

(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 control 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.
7. 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 that contain blood.
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.
5. And 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. And dispose of used gloves immediately after use.

81001 **DEFINITIONS** (Continued)**81001**

- (C) Cleaning with a disinfectant - Staff should clean with a disinfectant:
1. On all surfaces and in the client's room 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 it in a plastic trash bag, tying it with a secure tie, and disposing of it out of reach of clients and children.
- (2) "Unlicensed Community Care Facility" means a facility as defined in Health and Safety Code section 1503.5.

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Health and Safety Code section 1503.5 provides in pertinent part

- (a) A facility shall be deemed to be an 'unlicensed community care facility' and 'maintained and operated to provide nonmedical care' if it is unlicensed and not exempt from licensure and any one of the following conditions is satisfied:
- (1) The facility is providing care or supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.
 - (2) The facility is held out as or represented as providing care or supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.
 - (3) The facility accepts or retains residents who demonstrate the need for care or supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.
 - (4) The facility represents itself as a licensed community care facility...

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81001 DEFINITIONS (Continued)**81001**

- (A) A facility that is providing "care and supervision," as defined in Section 81001(c)(3), 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 facility that is "held out as or represented as providing care or supervision" includes, but is not limited to:
 - 1. A facility whose license has been revoked or denied, but the individual continues to provide care for the same or different clients with similar needs.
 - 2. A facility where a change of ownership has occurred and the same clients are retained.
 - 3. A licensed facility that moves to a new location.
 - 4. A facility that advertises as providing care and/or supervision.
- (C) A facility that "accepts or retains residents who demonstrate the need for care or supervision" includes, but is not limited to:
 - 1. A facility with residents requiring care and/or supervision, even though the facility is providing board and room only, or board only, or room only.
 - 2. A facility 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 facility 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 facility location when clients are in need of services from the same operator at the new location.
 - (B) A change of facility 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 that are based on a facility-wide need or circumstance.

81001	DEFINITIONS (Continued)	81001
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(x) (Reserved)

(y) (Reserved)

(z) (Reserved)

NOTE: Authority Cited: Sections 1502, 1522.41(j), 1524(e), 1530 and 1530.9, Health and Safety Code. Reference: Sections 4512, 5350, 5670, 5671 and 11006.9, Welfare and Institutions Code; Sections 1501, 1502, 1502(a)(7), 1502(a)(8), 1502(b), 1502.5, 1503, 1503.5, 1505, 1507, 1508 1509, 1520, 1522, 1524(e), 1525, 1525.5, 1526, 1530, 1531, 1533, 1534, 1536.1, 1537, 1538.5, 1550, 1551, 1556, 1797.196 and 13131, Health and Safety Code; Section 297.5, Family Code; Section 1811, Probate Code; 29 CFR 1910.1030.

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Article 2. LICENSING**81005 LICENSE REQUIRED****81005**

- (a) Unless a facility is exempt from licensure as specified in Section 81007, no adult, firm, partnership, association, corporation, county, city, public agency or other governmental entity shall operate, establish, manage, conduct or maintain a social rehabilitation facility, or hold out, advertise or represent itself by any means as doing so, without first obtaining a current valid license from the licensing agency.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; 1505, 1508, 1509, 1513 and 1531, Health and Safety Code.

81006 OPERATION WITHOUT A LICENSE**81006**

- (a) An unlicensed community care facility is providing care and supervision as defined in Section 81001(u)(2), the facility is in violation of Health and Safety Code section(s) 1503.5 and/or 1508 unless exempted from licensure pursuant to California Code of Regulations section 81007.
- (b) If the facility is alleged to be in violation of Health and Safety Code section(s) 1503.5 and/or 1508, the licensing agency shall conduct a site visit and/or evaluation of the facility pursuant to Health and Safety Code section 1538.

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Health and Safety Code section 1538 provides in pertinent part:

- (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 . . . within 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.

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- (c) If the facility is operating without a license, the licensing agency shall issue a notice of operation in violation of law and shall refer the case for criminal prosecution and/or civil proceedings.

81006 OPERATION WITHOUT A LICENSE (Continued)**81006**

- (d) The licensing agency shall have the authority to issue an immediate civil penalty pursuant to Section 81058 and Health and Safety Code section 1547.

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Health and Safety Code section 1547 provides in pertinent 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, unless other remedies available to the department, including criminal prosecution, are deemed more effective by the department.

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- (e) Sections 81006(c) and (d) shall be applied pursuant to Section 1549 of the Health and Safety Code.

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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.

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- (f) The licensing agency shall notify the appropriate placement or protective service agency if either of the following conditions exists:
- (1) There is an immediate threat to the clients' health and safety.
 - (2) The facility does not submit an application for licensure within 15 calendar days of being served a notice of operation in violation of law.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; 1503.5, 1505, 1508, 1533, 1538, 1540, 1540.1, 1541, 1547 and 1549, Health and Safety Code.

81007 EXEMPTION FROM LICENSURE**81007**

- (a) The social rehabilitation facility regulations contained in this division shall not apply to any of the following:
- (1) Any health facility, as defined by Section 1250 of the Health and Safety Code.
 - (2) Any clinic, as defined by Section 1202 of the Health and Safety Code.
 - (3) Any facility 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 the church or denomination.
 - (4) Any house, institution, hotel, homeless shelter, or other similar place that supplies board and room only, or room only, or board only, which provides no element of "care and supervision," as defined in Section 81001(c)(3).
 - (5) Any care and supervision of persons by a relative, guardian or conservator.
 - (6) Any care and supervision of persons from only one family by a close friend of the parent, guardian or conservator, provided that such arrangement is not for financial profit and does not exceed 10 hours per week.
 - (A) Provision of longer hours of care shall not be precluded when provided for a brief period of time for reasons, including but not limited to family emergencies, vacation, and military leave.
 - (7) Any arrangement for the care and supervision of an adult or adults from only one family by a close friend, who is not a licensee or current employee of a residential care facility for the elderly or of an adult residential facility, and whose friendship pre-existed a provider/recipient relationship, and all of the following are met:
 - (A) The care and supervision is provided in a home or residence chosen by the recipient, regardless of who owns the home or residence.
 - (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 provision of 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.
 - (8) Any supported living arrangement for individuals with developmental disabilities as defined in Section 1505(m) of the Health and Safety code.

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Health and Safety Code section 1505 provides in pertinent part:

This chapter does not apply to any of the following:...

(m) Any supported living arrangement for individuals with developmental disabilities, as defined in Section 4689 of the Welfare and Institutions Code.

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- (9) Any family home agency, family home, or family teaching home as defined in Health and Safety Code section 1505(n).

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Health and Safety Code section 1505(n) provides in pertinent part:

(1) Any family home agency, family home, or family teaching home as defined in Section 4689.1 of the Welfare and Institutions Code, that is vendored by the State Department of Developmental Services and that does any of the following:

(A) As a family home approved by a family home agency, provides 24-hour care for one or two adults with developmental disabilities in the residence of the family home provider or providers and the family home provider or providers' family, and the provider is not licensed by the State Department of Social Services or the State Department of Public Health or certified by a licensee of the State Department of Social Services or the State Department of Public Health.

(B) As a family teaching home approved by a family home agency, provides 24-hour care for a maximum of three adults with developmental disabilities in independent residences, whether contiguous or attached, and the provider is not licensed by the State Department of Social Services or the State Department of Public Health or certified by a licensee of the State Department of Social Services or the State Department of Public Health.

(C) As a family home agency, engages in recruiting, approving, and providing support to family homes...

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81007 EXEMPTION FROM LICENSURE (Continued)**81007**

- (10) Any placement agency as defined in Health and Safety Code section 1536.1 or an individual who places individuals for care in a facility licensed to receive and care for such persons.
- (11) Any housing project for elderly or disabled individuals that meets federal requirements specified in Health and Safety Code section 1505(p).

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Health and Safety Code section 1505(p) provides:

(1)(A) Any housing occupied by elderly or disabled persons, or both, that is initially approved and operated under a regulatory agreement pursuant to Section 202 of Public Law 86-372 (12 U.S.C. Sec. 1701q), or Section 811 of Public Law 101-625 (42 U.S.C. Sec. 8013), or whose mortgage is insured pursuant to Section 236 of Public Law 90-448 (12 U.S.C. Sec. 1715z), or that receives mortgage assistance pursuant to Section 221d (3) of Public Law 87-70 (12 U.S.C. Sec. 1715l), where supportive services are made available to residents at their option, as long as the project owner or operator does not contract for or provide the supportive services.

(B) Any housing that qualifies for a low-income housing credit pursuant to Section 252 of Public Law 99-514 (26 U.S.C. Sec. 42) or that is subject to the requirements for rental dwellings for low-income families pursuant to Section 8 of Public Law 93-383 (42 U.S.C. Sec. 1437f), and that is occupied by elderly or disabled persons, or both, where supportive services are made available to residents at their option, as long as the project owner or operator does not contract for or provide the supportive services.

(2) The project owner or operator to which paragraph (1) applies may coordinate, or help residents gain access to, the supportive services, either directly, or through a service coordinator.

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- (12) The Department.
- (13) Any similar facility as determined by the Director.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 4689, 4689.1, 5670 and 5671, Welfare and Institutions Code; 1200, 1200.1, 1250, 1501, 1502, 1505, 1508, 1530, and 1536.1, Health and Safety Code; Grimes v. CDSS (1999) 70 Cal.App.4th 1065.

81008 LICENSING OF INTEGRAL FACILITIES**81008**

- (a) Upon written application from the licensee, the licensing agency shall have the authority to issue a single license for separate buildings which might otherwise require separate licenses provided that all of the following requirements are met:
- (1) Separate buildings or portions of the facility are integral components of a single program.
 - (2) All components of the program are managed by the same licensee.
 - (3) All components of the program are conducted at a single site with a common address.
- (b) If (a) above does not apply, each separately licensed component of a single program shall be capable of independently meeting the provisions of applicable regulations as determined by the licensing agency.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; 1508, 1509 and 1513, Health and Safety Code.

81009 POSTING OF LICENSE**81009**

- (a) The license shall be posted in a prominent, publicly accessible location in the facility.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1501 and 1502(a)(7), Health and Safety Code.

81010 LIMITATIONS ON CAPACITY AND AMBULATORY STATUS**81010**

- (a) A licensee shall not operate a facility beyond the conditions and limitations specified on the license, including the capacity limitation.
- (b) A facility or room approved for ambulatory clients only shall not be used by nonambulatory clients.
- (1) A client whose condition becomes nonambulatory shall not use rooms or areas restricted to ambulatory clients.
 - (2) The licensing agency shall have the authority to require clients who use ambulatory sections of the facility to demonstrate that they are ambulatory.
- (c) The total capacity of all program types certified for one facility shall not exceed the total licensed capacity of the facility.

81010	LIMITATIONS ON CAPACITY AND AMBULATORY STATUS	81010
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(Continued)

- (d) The total licensed capacity of a social rehabilitation facility shall not exceed 15, except as provided in (e) below.

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Welfare and Institutions Code section 5670.5 provides in pertinent part:

Criteria for community residential treatment system programs are as follows:

(a) Facilities:

- (1) Settings, whether residential or day, should be as close to a normal home environment as possible without sacrificing client safety or care.
- (2) Residential treatment centers should be relatively small, preferably 15 beds or less, but in any case with the appearance of a noninstitutional setting.
- (3) The individual elements of the system should, where possible, be in separate facilities, and not part of one large facility attempting to serve an entire range of clients...

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- (e) A facility licensed as an Adult Residential Facility prior to the effective date of these regulations shall be allowed to apply for a Social Rehabilitation Facility license, at the same location, with a capacity equal to or less than that for which the facility is currently licensed.
- (1) The licensing agency shall not deny an application solely because the requested capacity exceeds 15.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670, 5670.5 and 5671, Welfare and Institutions Code; Sections 1501, 1502(a)(7) and 1531, Health and Safety Code.

81011 ADVERTISEMENTS AND LICENSE NUMBER**81011**

- (a) Licensees shall reveal each facility license number in all advertisements in accordance with Health and Safety Code section 1514.

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Health and Safety Code section 1514 provides:

- (a) Each residential care facility licensed under this chapter shall reveal its license number in all advertisements, publications, or announcements made with the intent to attract clients or residents.
- (b) Advertisements, publications, or announcements subject to the requirements of subdivision (a) shall include, but are not limited to, those contained in the following:
- (1) Newspaper or magazine.
 - (2) Consumer report.
 - (3) Announcement of intent to commence business.
 - (4) Telephone directory yellow pages.
 - (5) Professional or service directory.
 - (6) Radio or television commercial.

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- (b) Correspondence shall be considered a form of advertisement if the intent is to attract clients.
- (c) Licensees that operate more than one facility and use a common advertisement for these facilities shall be required to list each facility license number in accordance with Health and Safety Code section 1514.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Section 5670 and 5671, Welfare and Institutions Code; 1514, Health and Safety Code.

81012	FALSE CLAIMS	81012
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- (a) No licensee, officer, or employee of a licensee shall make or disseminate any false or misleading statement regarding the facility or any of the services provided by the facility.
- (b) No licensee, officer, or employee of a licensee shall alter a license, or disseminate an altered license.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1501, 1508 and 1531, Health and Safety Code.

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Article 3. APPLICATION PROCEDURES**81017 NON-DISCRIMINATION OF APPLICANTS****81017**

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

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Section 5670 and 5671, Welfare and Institutions Code; Section 51, Civil Code; and Section 1520, Health and Safety Code.

81018 APPLICATION FOR LICENSE**81018**

- (a) Any adult, firm, partnership, association, corporation, county, city, public agency or other governmental entity desiring to obtain a license shall file with the licensing agency a verified application on forms furnished by the licensing agency.
- (b) Prior to filing an application, the applicant shall attend an orientation designed for the social rehabilitation facility category 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 for a facility in the same category, shall not be required to attend an orientation if the last orientation attended was for the same facility type and within two (2) years of the next scheduled orientation.
- (3) An applicant applying for more than one social rehabilitation facility license, shall be required to attend only one orientation.
- (c) The applicant/licensee shall cooperate with the licensing agency in providing verification and/or documentation as requested by the licensing agency.

81018 APPLICATION FOR LICENSE (Continued)**81018**

(d) The application and supporting documents shall contain the following:

- (1) Name or proposed name and address of facility.
- (2) Name and residence and mailing addresses of applicant.
 - (A) If the applicant is a partnership, the name and principal business address of each partner.
 - (B) If the applicant is a corporation or association, the name, title and principal business address of each officer, executive director and member of the governing board.
 - (C) If the applicant is a corporation which issues stock, the name and address of each person owning more than 10 percent of stock in such corporation.
 - (D) If the applicant is a corporation or association, a copy of the articles of incorporation, the constitution and the by-laws.
 - (E) If the applicant is a corporation, each member of the board of directors, executive director, and any officer shall list the names of facilities which they have been licensed to operate, employed by or a member of the board of directors, executive director or an officer.
- (3) Name and address of owner of facility premises if applicant is leasing or renting.
- (4) Procedures as required pursuant to Section 1524.5 of the Health and Safety Code.

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Health and Safety Code section 1524.5 provides:

- (a) In addition to any other requirements of this chapter, any community care facility providing residential care for six or fewer persons, except family homes certified by foster family agencies, foster family homes, and small family homes, shall provide a procedure approved by the licensing agency for immediate response to incidents and complaints. This procedure shall include a method of assuring that the owner, licensee, or person designated by the owner or licensee is notified of the incident, that the owner, licensee, or person designated by the owner or licensee has personally investigated the matter, and that the person making the complaint or reporting the incident has received a written response of action taken or a reason why no action needs to be taken.

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(b) In order to assure the opportunity for complaints to be made directly to the owner, licensee, or person designated by the owner or licensee, and to provide the opportunity for the owner, licensee, or person designated by the owner or licensee to meet residents and learn of problems in the neighborhood, any facility, except family homes certified by foster family agencies, foster family homes, and small family homes, shall establish a fixed time on a weekly basis when the owner, licensee, or person designated by the owner or licensee will be present.

(c) Facilities shall establish procedures to comply with the requirements of this section on or before July 1, 1996.

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- (5) Category of facility to be operated.
- (6) Maximum number of persons to be served.
- (7) Age range, sex and categories of persons to be served, including but not limited to persons with developmental disabilities, mental disorders, and physically handicapped and/or nonambulatory persons.
- (8) Hours or periods of facility operation.
- (9) Name of administrator, if applicable.
- (10) Information required by Health and Safety Code section 1520(d).

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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).

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81018 APPLICATION FOR LICENSE (Continued)**81018**

- (11) Information required by Health and Safety Code section 1520(e).

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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).

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- (12) Name, address and telephone number 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 facility is located.
- (13) A plan of operation as specified in Section 81022.
- (14) Criminal record clearance as specified in Section 81019.
- (15) The bonding affidavit specified in Section 81025(a).
- (16) A health screening report on the applicant as specified in Section 81065(g).
- (17) The fee for processing the application by the requested capacity as specified in Section 81036.
- (18) Such other information as may be required pursuant to Section 1520(g) of the Health and Safety Code.

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Health and Safety Code section 1520(g) provides:

Any other information that may be required by the department for the proper administration and enforcement of this chapter.

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81018 APPLICATION FOR LICENSE (Continued)**81018**

- (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, 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 that serves the geographical area in which the facility is located.
- (g) Each applicant shall submit to the Department an itemized financial plan of operation. The financial plan of operation shall consist of a financial statement listing the applicant's assets and liabilities and an anticipated budget, including operating income and costs.
 - (1) Liquid assets shall be available for start-up funds sufficient to cover the first three months operating costs of the facility.
 - (A) The value of an existing contract with a county mental health agency shall be included as a liquid asset.
- (h) The licensing agency shall have the authority to require written verification of the availability of the funds required in Section 81018 (g)(1) above.
- (i) Prior to licensure, each applicant shall submit to the licensing agency evidence of current program certification, which shall be signed by an authorized representative of the California Department of Health Care Services.
 - (1) The certification document shall contain the following:
 - (A) Facility name and address;
 - (B) Program type(s);
 - (C) Capacity for each program type;
 - (D) Staff positions and qualifications;
 - (E) Staffing pattern and ratio; and
 - (F) Certification effective/expiration date.

81018 APPLICATION FOR LICENSE (Continued)**81018**

- (2) The facility shall notify the California Department of Health Care Services of any changes pertaining to Section 81018(i)(1).
- (A) The licensee shall keep written evidence on file at the facility that the California Department of Health Care Services has received the notification.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1501, 1502(a)(7), 1520, 1520.11 1522, 1523.1, 1524.5 and 1560, Health and Safety Code.

81019 CRIMINAL RECORD CLEARANCE**81019**

- (a) The Department shall conduct a criminal record review of all individuals specified in Health and Safety Code section 1522(b), 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.

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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.

Health and Safety Code section 1522(b)(1) provides:

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.

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(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 community care facility. The facility shall maintain the copy of the certification on file as long as 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 community care facility pursuant to Section 1558.

(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.

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(b) The following persons are exempt from the requirement to submit fingerprints:

(1) A medical professional, as defined by the Department in regulations, who holds a valid license or certification from the individual's governing California medical care regulatory entity and who is not employed, 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.

81019 CRIMINAL RECORD CLEARANCE (Continued)**81019**

- (C) The individual is providing care or services within the individual's scope of practice.
 - (D) The individual is not a community care facility licensee or an employee of the facility.
- (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 of the facility, and are in the facility at the request of that client or client's legal decision maker.
- (A) The exemption shall not apply to a person who is a community care facility licensee or an employee of the facility.
- (4) Clergy and other spiritual caregivers who are performing services in common areas of the residential care facility, or who are advising an individual client at the request of, or with the permission of, the client.
- (A) This exemption shall not apply to a person who is a community care facility licensee or an employee of the facility.
- (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 facility premises.
 - (C) The same group does not conduct such activities more often than once a month.

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- (6) The following persons unless contraindicated by the client's individualized program plan (IPP) or Needs and Services Plan:
- (A) A spouse, significant other, relative, close friend of a client, or the attendant or facilitator who is not employed, retained or contracted by the licensee for a client with a developmental disability, as long as the person is visiting the resident or providing direct care and supervision to that client only.
 - (B) An attendant or facilitator for a client with a developmental disability if the attendant or facilitator is not employed, retained or contracted by the licensee.
 - (C) The exemptions in Section 81019(b)(6)(A) or (B) apply only if the person is visiting the client or providing direct care and supervision to the client.
- (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, administrator, and any adult other than a client, residing in the facility shall obtain a California criminal record clearance or exemption as specified in Health and Safety Code section 1522(a)(4).

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Health and Safety Code section 1522(a)(4) provides in pertinent part:

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 applicant shall be denied, unless the director grants an exemption pursuant to subdivision (g).
- (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.

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81019 CRIMINAL RECORD CLEARANCE (Continued)

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(D) If the State Department of Social Services finds after licensure that the licensee, or other person specified in paragraph (1) 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 (g).

(E) An applicant and any other person specified in subdivision (b) shall submit fingerprint images and related information to the Department of Justice for the purpose of searching the criminal records of the Federal Bureau of Investigation, in addition to the criminal records search required by this subdivision. If an applicant and all other persons described in subdivision (b) meet all of the conditions for licensure, except the receipt of the Federal Bureau of Investigation's criminal offender record information search response for the applicant or any of the persons described in subdivision (b), the Department may issue a license if the applicant and each person described in 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 1550. The Department may also suspend the license pending an administrative hearing pursuant to Section 1550.5.

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- (d) All individuals subject to criminal record review shall be fingerprinted and sign a Criminal Record Statement - LIC 508 (1/03) under penalty of perjury.
- (1) A person signing the LIC 508 must:
- (A) Declare whether he/she has been convicted of a crime, other than a minor traffic violation as specified in Section 81019(i), regardless of whether the individual was granted a pardon for the conviction or received an expungement pursuant to Penal Code section 1203.4 or the individual's record was sealed as a result of a court order.
- (B) If convicted of a crime other than a minor traffic violation, provide information regarding the conviction.
- (2) 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 to comply with the requirements of Section 81019(e), prior to the individual's employment, residence, or initial presence in the community care facility.

81019 CRIMINAL RECORD CLEARANCE (Continued)**81019**

- (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) All individuals subject to a criminal record review pursuant to Health and Safety Code section 1522 shall prior to working, residing or volunteering in a licensed facility:
- (1) Obtain a California clearance or a criminal record exemption as required by the Department; or
 - (2) Request a transfer of a criminal record clearance as specified in Section 81019(f); or
 - (3) Request and be approved for a transfer of a criminal record exemption, as specified in Section 81019.1(s), unless, upon request for the transfer, the Department permits the individual to be employed, reside or be present at the facility.
- (f) 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 TrustLine to a state-licensed facility by providing the following documents to the Department:
- (1) A signed Criminal Background Clearance Transfer Request - LIC 9182 (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., Criminal Record Statement - LIC 508 (1/03), job description).

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Health and Safety Code section 1522(h)(2) provides:

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

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81019 CRIMINAL RECORD CLEARANCE (Continued)**81019**

- (g) Violation of Section 81019(e) will result in a citation of a deficiency and an immediate assessment of a civil penalty of one hundred dollars (\$100) per violation per day for a maximum of five (5) days by the Department.
- (1) Subsequent violations within a twelve (12) month period will 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 81019(e) may result in a denial of the license application or suspension or revocation of the license.
- (i) If the criminal record transcript of any of the individuals specified in Health and Safety Code section 1522(b) discloses a plea or verdict of guilty or a conviction following a plea of nolo contendere for any crime other than a minor traffic violation for which the fine was less than \$300, and an exemption pursuant to Section 81019.1(a) 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 revoke the license, if the individual continues to provide services at the facility.
 - (4) For convicted individuals residing in the facility, 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 and/or reside at the facility.
- (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 81066.
- (1) The documentation shall be available for inspection by the Department.

81019 CRIMINAL RECORD CLEARANCE (Continued)**81019**

- (k) 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: Section 1530 and 1548(e), Health and Safety Code. Reference: Sections 1503.5, 1505, 1508, 1522, 1531 1533, 1538, 1540, 1540.1, 1541, 1547, 1548 and 1549, Health and Safety Code.

81019.1 CRIMINAL RECORD EXEMPTION**81019.1**

- (a) The Department will notify a licensee to act immediately to remove from the facility or bar from entering the facility any person described in Sections 81019.1(a)(1) through (a)(5) below while the Department considers granting or denying an exemption. Upon notification, the licensee shall comply with the notice.
- (1) Any person who has been convicted of, or is awaiting trial for, a sex offense against a minor;
- (2) Any person who has been convicted of a felony;
- (3) Any 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) Any 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

81019.1 CRIMINAL RECORD EXEMPTION (Continued)**81019.1**

- (G) Criminal Threat to Harm or Injure Another Person
 - (H) Cruelty to Animals
 - (I) Willful Harm or Injury to Child;
 - (5) Any other person ordered to be removed by the Department.
- (b) In addition to the requirements of Section 81019.1(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 facility.
- (1) Confirmation must be made on either a Removal Confirmation – Exemption Needed - LIC 300A (9/03), Removal Confirmation - Denial - LIC 300B (9/03), Removal Confirmation - Rescinded - LIC 300C (9/03), or Removal Confirmation – Non-exemptible - LIC 300D (9/03).
- (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 facility, or
 - (3) The applicant/licensee chooses not to seek an exemption on the affected individual's behalf, 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, presence, or residence in a licensed facility.
- (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 81019.1(c)(4). The Department will 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.

81019.1 CRIMINAL RECORD EXEMPTION (Continued)**81019.1**

- (2) The notice will 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 81019(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/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/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.
 - (D) Individuals may request a criminal record exemption on their own behalf if the licensee or license applicant:
 - 1. Chooses not to request the exemption and
 - 2. Chooses not to employ or terminates the individual's employment after receiving notice of the individual's criminal history, or
 - 3. Removes the individual who resides in the facility 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.

81019.1 CRIMINAL RECORD EXEMPTION (Continued)**81019.1**

- (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 – Exemptions [Rev. (07/03)]).
- (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 (1/03) 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.
- (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.

81019.1 CRIMINAL RECORD EXEMPTION (Continued)**81019.1**

- (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 facility.
- (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 they 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 81019.1(j)(2).
- (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 81019.1(k)(1) through (6) and the individual provides the Department with substantial and convincing evidence of good character as specified in Section 81019.1(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.

81019.1 CRIMINAL RECORD EXEMPTION (Continued)**81019.1**

- (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 81019.1(k)(1) through (k)(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 81019.1(k)(1) through (k)(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.

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Pursuant to Health and Safety Code section 1522(g)(1), no exemption shall be granted if an individual has been convicted of any of the following offenses, including those in Penal Code sections 290(c) and 667.5(c):

- (1) Penal Code section 37 – Treason
- (2) Penal Code section 128* - Perjury resulting in the conviction of an innocent person
- (3) Penal Code sections 136.1* constituting a felony of 186.22 – Threats to victims or witnesses, as defined in Section 136.1, which would constitute a felony violation of Section 186.22.

HANDBOOK CONTINUES

81019.1 CRIMINAL RECORD EXEMPTION (Continued)**81019.1**

HANDBOOK CONTINUES

- (4) Penal Code sections 187, 190 through 190.4 and 192(a) – Any murder/Attempted murder/Voluntary manslaughter.
- (5) Penal Code section 203 – Any mayhem.
- (6) Penal Code section 206 – Felony torture.
- (7) Penal Code sections 207**, 208, 209**, 209.5, 210 – Kidnapping.
- (8) Penal Code sections 211, 212.5, 213, 214 – Any robbery. Pursuant to Glesmann v. Saenz (2006) 140 Cal. App. 4th 960, 990 an exemption may be considered if the subject was convicted of 2nd degree robbery and has obtained a certificate of rehabilitation.
- (9) Penal Code section 215 – Carjacking.
- (10) Penal Code section 218 or 219 – Train Wrecking
- (11) Penal Code section 220 – Assault with intent to commit mayhem, rape, sodomy or oral copulation. A conviction for an attempt to commit this crime is also non-exemptible, except for attempted assault with intent to commit mayhem, as specified at Penal Code section 290(c).
- (12) Penal Code section 243.4 **– Sexual battery.
- (13) **Penal Code section 261(a), (a)(1), (2), (3), (4) or (6) – Rape.
- (14) Penal Code section 262(a)(1)** or (4) – Rape of a spouse. Section 262(a)(1) requires use of violence or force for which the subject was sentenced to state prison, as specified at Penal Code section 290(c).
- (15) Penal Code section 264.1** – Rape in concert.
- (16) Penal Code section 266** – Enticing a minor into prostitution.
- (17) Penal Code section 266c – Induce to sexual intercourse, etc. by fear or consent through fraud.
- (18) Penal Code section 266h(b) – Pimping a minor.

HANDBOOK CONTINUES

81019.1 CRIMINAL RECORD EXEMPTION (Continued)

81019.1

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- (19) Penal Code section 266i(b) – Pandering a minor.
- (20) Penal Code section 266j – Providing a minor under 16 for lewd or lascivious act.
- (21) Penal Code section 267** – Abduction for prostitution.
- (22) Penal Code section 269** – Aggravated assault of a child.
- (23) Penal Code section 272** – Contributing to the delinquency of a minor. Must involve lewd or lascivious conduct as specified at Penal Code section 290(c).
- (24) 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.
- (25) Penal Code section 273d – Willfully inflicting any cruel or inhuman corporal punishment or injury on a child. If conviction was prior to 1978, then it must be for child abuse and not spousal abuse.
- (26) Penal Code section 285** – Incest.
- (27) Penal Code section 286** – Sodomy. Pursuant to Penal Code section 290(c), need not be "by force".
- (28) Penal Code section 288** – Lewd or lascivious act upon a child under 14.
- (29) Penal Code section 288a – Oral copulation. Pursuant to Penal Code section 290(c), need not be "by force".
- (30) Penal Code section 288.2** – Felony conviction for distributing lewd material to children.
- (31) Penal Code section 288.3 - Contact with a minor to commit sexual offense
- (32) Penal Code section 288.4 – Meeting with minor for sexual purpose
- (33) Penal Code section 288.5 – Continuous sexual abuse of a child and attempted.
- (34) Penal Code section 288.7 — Sexual conduct with child 10 years or younger

HANDBOOK CONTINUES

81019.1 CRIMINAL RECORD EXEMPTION (Continued)**81019.1**

HANDBOOK CONTINUES

- (35) Penal Code section 288.5(a)** – Continuous sexual abuse of a child.
- (36) Penal Code section 289** – Genital or anal penetration or abuse by any foreign or unknown object.
- (37) Penal Code section 290(a) – All crimes specified for which one must register as a sex offender including attempts and not guilty by insanity.
- (38) Penal Code section 311.1** – Sent or brought into state for possession or distribution: child related pornography.
- (39) **Penal Code section 311.2(b), (c) or (d) – Sending or bringing into state, possessing for distribution: child-related pornography.
- (40) Penal Code section 311.3** – Sexual exploitation of a child.
- (41) Penal Code section 311.4** – Using a minor to assist in making or distributing child pornography.
- (42) Penal Code section 311.10** – Advertising or distributing child pornography.
- (43) Penal Code section 311.11** – Possessing child pornography.
- (44) Penal Code section 314 (1) or (2) – Lewd or obscene exposure of private parts.
- (45) Penal Code section 347(a) – Felony poisoning or adulterating food, drink, medicine, pharmaceutical products, spring, well or reservoir.
- (46) Penal Code section 368 – Elder or dependent adult abuse.
- (47) Penal Code section 417(b) – Felony drawing, exhibiting or using a loaded firearm on the grounds of a child day care center or similar program.
- (48) Penal Code section 451(a) – Arson with great bodily injury.
- (49) Penal Code sections 186.22 and 518 – Felony Extortion/ Gang related.
- (50) **Penal Code section 647.6 or prior to 1988 former Section 647a – Annoy or molest a child under 18.

HANDBOOK CONTINUES

81019.1 CRIMINAL RECORD EXEMPTION (Continued)**81019.1**

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- (51) Penal Code section 653f(c)** – Solicit another to commit rape, sodomy, etc.
- (52) Penal Code sections 664/187 – Any attempted murder.
- (53) *Penal Code section 667.5(c)(7) – Any felony punishable by death or imprisonment in the state prison for life without possibility of parole.
- (54) *Penal Code section 667.5(c)(8) – Enhancement for any felony which inflicts great bodily injury.
- (55) 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.
- (56) Penal Code section 12022.53 – Enhancement for listed felonies where use of a firearm.
- (57) Penal Code section 11418(b)(1) or (b)(2) – Use of weapon of mass destruction.
- (58) 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.

** A conviction for the attempt to commit these crimes is also non-exemptible, as specified at Penal Code section 290(a)(2)(A).

HANDBOOK ENDS HERE

- (n) The Department shall consider granting a simplified criminal record exemption only if the individual has the criminal history profile outlined in Sections 81019.1(n)(1) through (n)(4) below:
 - (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.

81019.1 CRIMINAL RECORD EXEMPTION (Continued)**81019.1**

- (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 facility.
 - (4) For individuals residing in the facility or the licensee, 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 and/or reside at the facility.
- (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 81019.1(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 or certified home, 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 81019.1(q)(1) above, the Department may, according to the provisions in this section, grant or deny the subsequent request for an exemption.

81019.1 CRIMINAL RECORD EXEMPTION (Continued)**81019.1**

- (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 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 facility, along with all information required of an individual requesting a criminal exemption as provided in this section. 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.
- (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 (9/03).
 - (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 (1/03), 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.

81019.1 CRIMINAL RECORD EXEMPTION (Continued)**81019.1**

- (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
 - (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: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1522 and 1531, Health and Safety Code, and Gresher v. Anderson (2005) 127 Cal. App. 4th 88; and Glesmann v. Saenz (2006) 140 Cal. App.4th 960.

81020 FIRE CLEARANCE**81020**

- (a) A social rehabilitation facility shall secure and maintain a fire clearance approved by the city or county fire department, the district providing fire protection services, or the State Fire Marshal.
- (1) The request for fire clearance shall be made through and maintained by the licensing agency.
- (b) The applicant shall notify the licensing agency if the facility plans to admit any of the following categories of clients so that an appropriate fire clearance, approved by the city or county fire department, the district providing fire protection services, or the State Fire Marshal, can be obtained prior to the acceptance of such clients:
- (1) Persons 65 years of age and over.
- (2) Persons who are nonambulatory, as defined in Section 81001(n)(2).

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Persons who use postural supports pursuant to Section 81072(a)(8) are nonambulatory.

HANDBOOK ENDS HERE

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1501, 1520 and 1531, Health and Safety Code.

81021 WATER SUPPLY CLEARANCE**81021**

- (a) A social rehabilitation facility 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 onsite 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 State Department of Public Health 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:

81021 WATER SUPPLY CLEARANCE (Continued) 81021

<u>LICENSED CAPACITY</u>	<u>ANALYSIS REQUIRED</u>	<u>PERIODIC SUBSEQUENT ANALYSIS</u>
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: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1501, 1520 and 1531, Health and Safety Code.

81022 PLAN OF OPERATION 81022

- (a) Each licensee 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) A copy of the admission agreement.
 - (4) Administrative organization, if applicable.
 - (5) Staffing plan, qualifications and duties, if applicable.
 - (6) Plan for inservice education of staff if required by regulations governing this chapter.
 - (7) 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.

81022 PLAN OF OPERATION (Continued)**81022**

- (8) 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.
- (9) Sample menus and a schedule for one calendar week indicating the time of day that meals and snacks are to be served.
- (10) Transportation arrangements for clients who do not have independent arrangements.
- (11) Rate setting policy including, but not limited to, policy on refunds.
- (12) A statement whether or not the licensee will handle the clients' money, personal property, and/or valuables. If money, personal property, and/or valuables will be handled, the method for safeguarding shall ensure compliance with Sections 81025 and 81026.
- (13) Consultant and community resources to be utilized by the facility as part of its program.
- (14) A statement of the facility's policy concerning family visits and other communications with the client pursuant to Health and Safety Code section 1512.

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Health and Safety Code section 1512 provides in pertinent part:

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

HANDBOOK ENDS HERE

- (15) A statement that specifies the maximum length of treatment for the clients, which shall not exceed 18 months.
- (16) Written evidence of arrangements for any consultants and community resources which are to be utilized in the facility's plan of operation or to meet regulatory requirements.
- (17) Provisions for ensuring that food service requirements (Section 81076) and building and grounds requirements (Section 81087) shall continue to be met when the clients are unable or unwilling to perform these functions as a part of their treatment plans.

81022 PLAN OF OPERATION (Continued)**81022**

- (18) A written plan for the supervision and training of staff as required by Section 81065(q).
- (19) A written staff continuing education plan which meets the requirements of Section 81065(r).
- (20) A written plan for managing client psychiatric crises, including procedures for facility staff intervention and for securing assistance from local psychiatric emergency response agencies.
- (21) A current, valid program certification by the Department of Health Care Services.
 - (A) The certification document shall contain the information required in Section 81018.
- (c) Any facility with a certified Long-Term Residential Treatment Program shall submit the following information to the licensing agency:
 - (1) The treatment program which shall include those services specified in Section 81001(1)(5).
- (d) Any facility with a certified Short-Term Crisis Residential Program shall submit the following information to the licensing agency:
 - (1) The treatment program, which shall include those services specified in Section 81001(s)(2).
- (e) Any facility with a certified Transitional Residential Program shall submit the following information to the licensing agency:
 - (1) The treatment program which shall include those services specified in Section 81001(t)(2).
- (f) If the licensee intends to admit or care for one or more clients who have a restricted health condition as specified in Section 81092, the facility 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.

81022 PLAN OF OPERATION (Continued)

81022

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.
- (g) 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 of 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 the licensee and/or staff have completed specific to the needs of these clients.
 - (5) History of continued placements by a regional center.
- (h) If the licensee intends to admit and/or specialize in care for one or more clients who has a propensity for behaviors that result in harm to self or others, the facility plan of operation shall include a description of precautions that will be taken to protect that client and all other clients.
- (i) 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 81061.
- (j) The facility shall operate in accordance with the terms specified in the plan of operation and may be cited for not doing so.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1501, 1502(a)(7), 1507, 1512, 1520 and 1531, Health and Safety Code.

81023 DISASTER AND MASS CASUALTY PLAN**81023**

- (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.
- (c) The licensee shall instruct all clients, age and abilities permitting, all staff, and/or members of the household 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 facility grounds or contact with local disaster agencies.
 - (2) The drills shall be documented and the documentation maintained in the facility for at least one year.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1501, 1520 and 1531, Health and Safety Code.

81024 WAIVERS AND EXCEPTIONS**81024**

- (a) Unless prior written licensing agency approval is received as specified in Section 81024(b) below, 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 facility client.
 - (2) The applicant or licensee shall submit to the licensing agency a written request for a waiver or exception, together with substantiating evidence supporting the request.

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In determining the merits of each request, the licensing agency shall use as guidelines the standards utilized or recommended by well-recognized state and national organizations, as available or determined appropriate by the licensing agency.

HANDBOOK ENDS HERE

- (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, describing additional information required for the request to be acceptable and a time frame for submitting this information.
 - (A) Failure of the applicant or licensee to comply within the time specified in Section 81024(c)(2) above shall result in denial of the request.
- (d) Within 30 days of receipt of an acceptable 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.
- (e) The Department shall notify the California Department of Health Care Services of all waiver and exception requests.
- (1) A copy of the approval or denial shall be sent to the California Department of Health Care Services.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; and Sections 1501, 1502(a)(7), 1509 and 1531, Health and Safety Code.

81025**BONDING****81025**

- (a) The licensee shall submit an affidavit, on a form provided by the licensing agency, stating whether he/she safeguards or will safeguard cash resources of clients; and the maximum amount of cash resources to be safeguarded for all clients, or for 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:

<u>AMOUNT SAFEGUARDED PER MONTH</u>	<u>BOND REQUIRED</u>
\$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 and 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 clients' cash resources.
- (f) The provisions of this section shall not apply if the licensee meets the requirements specified in Section 1560 of the Health and Safety Code.

NOTE: Authority Cited: Sections and 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; 1560 and 1561, Health and Safety Code.

81026 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, AND VALUABLES**81026**

- (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 facility who has been designated by the client or his/her authorized representative shall be handled by the licensee or facility staff, and shall be safeguarded in accordance with the requirements specified in Section 81026(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 guardian or 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 81026(i) with a resident.
- (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 facility funds or petty cash.
- (1) The above requirement shall not prohibit the licensee from providing advances or loans to clients from facility funds.
 - (A) Documentation of such transactions shall be maintained in the facility.
- (f) The licensee or employee of a licensee shall not make expenditures from clients' cash resources for any basic services specified in these regulations, 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.

81026 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, AND VALUABLES (Continued)**81026**

- (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.

81026 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, AND VALUABLES (Continued) 81026

- (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 Section 81026(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 responsible party as specified in Section 81026(l)(2) or (l)(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.

81026 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, AND VALUABLES (Continued) 81026

- (A) Such accounting shall be made on a form provided or approved by the licensing agency.
- (2) Provided the licensing agency approves the application for the new licensee, the form specified in Section 81026(m)(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 Section 81026(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 friends or relatives of a deceased client shall not be subject to the requirements specified in Section 81026(n) and (n)(1) above.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; 1501, 1531 and 1560, Health and Safety Code; and 20 CFR 416.601.

81027 INITIAL APPLICATION REVIEW 81027

- (a) Within 90 days of receipt of the application by the licensing agency, the licensing agency shall give written notice to the applicant of one of the following:
 - (1) The application is complete.
 - (2) The application is deficient, describing what documents are outstanding and/or inadequate, and informing the applicant that the information must be submitted within 30 days of the date of the notice.
 - (A) If the applicant does not submit the required information within the 30 days, the application shall be deemed withdrawn unless either the licensing agency has denied the application or the facility is under construction.
- (b) The licensing agency shall cease review of any application under the conditions specified in Section 1520.3 of the Health and Safety Code.
 - (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.

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Health and Safety Code section 1520.3 provides in pertinent 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 under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.3 (commencing with Section 1569), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) 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 under any of the chapters listed in paragraph (1) of subdivision (a) 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.

HANDBOOK ENDS HERE

(c) The circumstances and the conditions in which the licensing agency may continue to review a previously denied application shall include, but 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

81027 INITIAL APPLICATION REVIEW (Continued) 81027

- (3) A person with a criminal record, which was the basis for license denial, is no longer associated with the facility.
- (d) The application review shall not constitute approval of the application.
- (e) The application fees shall be nonrefundable as specified in Section 81036(d).

NOTE: Authority Cited: Sections 1524 and 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; 1520, 1520.3, 1523.1, and 1524, Health and Safety Code.

81028 CAPACITY DETERMINATION 81028

- (a) A license shall be issued for a specific capacity.
- (b) The number of persons for whom the facility is licensed to provide care and supervision shall be determined on the basis of the application review by the licensing agency, which shall take into consideration the following:
 - (1) The fire clearance specified in Section 81020.
 - (2) The licensee's/administrator's ability to comply with applicable law and regulation.
 - (3) Any other household members, including but not limited to persons under guardianship or conservatorship, who reside at the facility and their individual needs.
 - (4) Physical features of the facility, including available living space, which are necessary in order to comply with regulations.
 - (5) Number of available staff to meet the care and supervision needs of the clients.
 - (6) Any restrictions pertaining to a social rehabilitation facility.
- (c) The licensing agency shall be authorized to issue a license for fewer clients than is requested when the licensing agency determines that:
 - (1) The licensee's responsibilities to other persons in the home, including persons under guardianship and conservatorship, would preclude provision of the care required by these regulations.
- (d) 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 81040.

81028 CAPACITY DETERMINATION**81028**

- (e) 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 specified in Section 81028(b) above.
- (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 81042.
- (f) 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 81040.

NOTE: Authority Cited: Section 1530, Health and Safety Code and Section 10554, Welfare and Institutions Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1501, 1524, and 1531, Health and Safety Code.

81029 WITHDRAWAL OF APPLICATION**81029**

- (a) An applicant shall have the right to withdraw an application.
- (1) Such withdrawal shall be in writing.

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Health and Safety Code section 1553 provides in pertinent part:

The withdrawal of an application for a license or 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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- (2) The fee for processing the application shall be forfeited.

NOTE: Authority Cited: Sections 1530 and 1553, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1520, 1523.1, 1524 and 1553, Health and Safety Code.

81030 PROVISIONAL LICENSE**81030**

- (a) The licensing agency shall have the authority to issue a provisional license to an applicant, pending action under Sections 81031 or 81040 on a completed application for an initial license, if it determines that all of the following circumstances exist:
- (1) The facility 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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Health and Safety Code section 1520.11(b) provides:

- (b) 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 facility, 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 case for criminal prosecution.
- (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 1553, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1520, 1520.11, 1524, 1525.5, 1550, and 1553, Health and Safety Code.

81031 ISSUANCE OF LICENSE**81031**

- (a) Within 90 days of the date that a completed application, as defined in Section 81001(c)(10), has been received, 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 specified in Section 81040.
- (b) The licensing agency shall notify the applicant in writing, of the issuance of the license.
- (1) Issuance of the license itself shall constitute written notification of license approval.
- (c) No limitation shall be imposed on the licensee or printed on the license solely on the basis that a licensee is a parent who has administered or will continue to administer corporal punishment, not constituting child abuse as defined in Section 11165, subdivision (g) of the Penal Code, or Section 1531.5(c) of the Health and Safety Code, on his/her own child(ren).
- (d) The licensing agency's completed review of an application for the two years immediately preceding this regulation has been approximately:
- (1) A minimum of 30 days.
 - (2) A median of 90 days.
 - (3) A maximum of 180 days.

NOTE: Authority Cited: Sections 1530 and 1553, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1509, 1520, 1520.5, 1525, 1526, and 1553, Health and Safety Code.

81034 SUBMISSION OF NEW APPLICATION**81034**

- (a) A licensee shall file a new application as required by Section 81018 whenever there is a change in the conditions or the limitations described on the current license, or other changes, including, but not limited to, the following:
- (1) Any change in the location of the facility.
 - (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.
 - (3) Any change in facility category.
 - (4) 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.
 - (5) A permanent change in any client from ambulatory to nonambulatory status.
- (b) A new application as required by Section 81018 shall be filed whenever an applicant fails to complete a new application within the time limit required by Section 81027(a) if the applicant chooses to continue the application process.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1501, 1520, 1523.1, and 1531, Health and Safety Code.

81035 CONDITIONS FOR FORFEITURE OF A LICENSE**81035**

- (a) Conditions for forfeiture of a social rehabilitation facility license may be found in Section 1524 of the Health and Safety Code.

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Health and Safety Code section 1524 provides in pertinent 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)(1) The licensee moves a facility from one location to another. The department shall develop regulations to ensure that the facilities are not charged a full licensing fee and do not have to complete the entire application process when applying for a license for the new location.

(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. The department shall promulgate regulations for expediting applications submitted pursuant to this subdivision.

(f) The licensee abandons the facility.

(g) When the certification issued by the State Department of Developmental Services to a licensee of an Adult Residential Facility for Persons with Special Health Care Needs, licensed pursuant to Article 9 (commencing with Section 1567.50), is rescinded.

(h) When the certification issued by the State Department of Developmental Services to a licensee of an enhanced behavioral supports home, licensed pursuant to Article 9.5 (commencing with Section 1567.61), is rescinded.

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(i) When the certificate of program approval issued by the State Department of Developmental Services, pursuant to Article 8 (commencing with Section 4698) of Chapter 6 of Division 4.5 of the Welfare and Institutions Code, to a licensee of a community crisis home, licensed pursuant to Article 9.7 (commencing with Section 1567.80), is rescinded.

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.

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- (b) "Licensee abandons the facility" shall mean either of the following:
- (1) The licensee informs the licensing agency that the licensee no longer accepts responsibility for the facility; or
 - (2) The licensing agency is unable to determine the licensee's whereabouts after the following:
 - (A) The licensing agency requests information about the licensee's whereabouts from the facility's 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 facility licensee dies, an adult relative who has control of the property shall be permitted to operate a previously licensed facility under an Emergency Approval to Operate - LIC 9117 (8/14) (EAO) 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 social rehabilitation facility.

81035 CONDITIONS FOR FORFEITURE OF A LICENSE (Continued)**81035**

- (2) The relative files with the Department within five days of the licensee's death an Application for a Community Care Facility or Residential Care Facility for the Elderly License - LIC 200 (7/91), and evidence of the licensee's death as defined in Section 81001(e)(6).
- (A) Notwithstanding the instructions on the Application for a Community Care Facility or Residential Care Facility for the Elderly License - LIC 200 (7/91), 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 fingerprint cards.
- (d) If the adult relative complies with Section 81035(c)(1) and (2) above, he/she shall not be considered to be operating an unlicensed facility pending the Department's decision on whether to approve a provisional license.
- (e) The Department shall make a decision within 60 days after the application is submitted on whether to issue a provisional license pursuant to Section 81030.
- (1) A provisional license shall be granted only if the Department is satisfied that the conditions specified in Sections 81035(c) and 81030 have been met and that the health and safety of the residents of the facility will not be jeopardized.

NOTE: Authority Cited: Section 1524 and 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Section 1520, 1522, 1523.1, 1524 and 1525.5, Health and Safety Code.

81036 LICENSING FEES**81036**

- (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 pertinent part:

- (a) 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:

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<u>Facility Type</u>	<u>Capacity</u>	<u>Fee Schedule</u>	
		<u>Initial Application</u>	<u>Annual</u>
Other Community Care Facilities	1-3	\$454	\$454
	4-6	\$908	\$454
	7-15	\$1,363	\$681
	16-30	\$1,815	\$908
	31-49	\$2,270	\$1,135
	50-74	\$2,725	\$1,363...

(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 annual fee, in addition to the 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 annual fee when any 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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(4) No local jurisdiction shall impose any business license, fee, or tax for the privilege of operating a facility licensed under this chapter which serves six or fewer persons.

(c)(1) The revenues collected from licensing fees pursuant to this Section shall be utilized by the department for the purpose of ensuring the health and safety of all individuals provided care and supervision by licensees and to support activities of the licensing program, including, but not limited to, monitoring facilities for compliance with licensing laws and regulations pursuant to this chapter, and other administrative activities in support of the licensing program, when appropriated for these purposes. The revenues collected shall be used in addition to any other funds appropriated in the Budget Act in support of the licensing program. The department shall adjust the fees collected pursuant to this section as necessary to ensure that they do not exceed the costs described in this paragraph.

(2) The department shall not utilize any portion of these revenues sooner than 30 days after notification in writing of the purpose and use of this revenue, as approved by the Director of Finance, to the Chairperson of the Joint Legislative Budget Committee, and the chairpersons of the committee in each house that considers appropriations for each fiscal year. The department shall submit a budget change proposal to justify any positions or any other related support costs on an ongoing basis.

(d) A facility may use a bona fide business check to pay the license fee required under this Section.

(e) 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.

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

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Health and Safety Code section 1523.1(b)(1) provides in pertinent part:

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

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

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81036 LICENSING FEES (Continued)**81036**

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

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Health and Safety Code section 1523.1(b)(1) provides in pertinent part:

(b)(1) In addition to the 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.

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- (1) To qualify for the relocation fee, the following shall apply:
- (A) The licensee shall notify the licensing agency before actually relocating the facility.
 - (B) The facility category shall remain the same when relocating the facility.
 - (C) The fee shall be based on the requested capacity at the new location.
- (d) The fees shall be nonrefundable.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1523.1 and 1524, Health and Safety Code.

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Article 4. ADMINISTRATIVE ACTIONS**81040 DENIAL OF INITIAL LICENSE****81040**

- (a) Except as specified in Section 81030, which provides for issuance of a provisional license based upon substantial compliance and urgent need, the licensing agency shall deny an application for an initial license if it is determined that the applicant is not in compliance with applicable law and regulation.
- (1) The licensing agency shall have the authority to deny an application for an initial license if the applicant has failed to pay any civil penalty assessments pursuant to Section 81058 and in accordance with a final judgment issued by a court of competent jurisdiction, unless payment arrangements acceptable to the licensing agency have been made.
 - (2) An application for initial licensure shall not be denied solely on the basis that the applicant is a parent who has administered or will continue to administer corporal punishment, not constituting child abuse as defined in Section 11165, subdivision (g) of the Penal Code, or Section 1531.5(c) of the Health and Safety Code, on his/her own child(ren).
 - (3) An application for licensure shall be denied as specified in Health and Safety Code sections 1520.11(b), (d) and 1550.

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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.

Health and Safety Code section 1520.11(d) provides:

Prior to instituting an 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.

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81040 DENIAL OF INITIAL LICENSE (Continued)

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Health and Safety Code section 1550 provides:

The department may deny an application for, or suspend or revoke, any license, or any special permit, certificate of approval, or any administrator certificate, issued under this chapter upon any of the following grounds and in the manner provided in this chapter, or may deny a transfer of a license pursuant to paragraph (2) of subdivision (b) of Section 1524 for any of the following grounds:

- (a) Violation of this chapter or of the rules and regulations promulgated under this chapter by the licensee or holder of a special permit or certificate.
- (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 the people of this state or an individual in, or receiving services from, the facility or certified family home.
- (d) The conviction of a licensee, holder of a special permit or certificate, 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, the holder of a special permit or certificate, 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 or certified family home, 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.

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- (b) If the application for an initial license is denied, the licensing agency shall mail the applicant a written notice of denial.
 - (1) The notification shall inform the applicant of and set forth the reasons for the denial, and shall advise the applicant of the right to appeal.
- (c) If the application for an initial license is denied, the application processing fee shall be forfeited.

81040 DENIAL OF INITIAL LICENSE (Continued)**81040**

- (d) An applicant shall have the right to appeal the denial of the application pursuant to Health and Safety Code section 1526.

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Health and Safety Code section 1526 provides in pertinent part:

Immediately upon the denial of any application for a license or for a special permit, the state department [licensing agency] shall notify the applicant in writing. Within 15 days after the state department [licensing agency] mails the notice, the applicant may present his written petition for a hearing to the state department [licensing agency]. Upon receipt by the state department [licensing agency] of the petition in proper form, such petition shall be set for hearing. The proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the state department [licensing agency] has all the powers granted therein.

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- (e) Notwithstanding any appeal action, the facility is unlicensed and shall not operate pending adoption by the director of a decision on the denial action.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1520, 1520.11, 1523.1, 1525, 1526, 1547, 1548 and 1551, Health and Safety Code; and Section 11500 et seq., Government Code.

81042 REVOCATION OR SUSPENSION OF LICENSE**81042**

- (a) The Department shall have the authority to suspend or revoke any license on any of the grounds specified in Health and Safety Code sections 1550 and 1550.5.

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Health and Safety Code section 1550 provides:

The department may deny an application for, or suspend or revoke, any license, or any special permit, certificate of approval, or any administrator certificate, issued under this chapter upon any of the following grounds and in the manner provided in this chapter, or may deny a transfer of a license pursuant to paragraph (2) of subdivision (b) of Section 1524 for any of the following grounds:

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- (a) Violation of this chapter or of the rules and regulations promulgated under this chapter by the licensee or holder of a special permit or certificate.
- (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 the people of this state or an individual in, or receiving services from, the facility or certified family home.
- (d) The conviction of a licensee, holder of a special permit or certificate, 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, the holder of a special permit or certificate, 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 or certified family home, 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.

Health and Safety Code section 1550.5 provides in pertinent 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. The director shall serve the licensee with the temporary suspension order, a copy of available discovery and other relevant evidence in the possession of the department, including, but not limited to, affidavits, declarations, and any other evidence upon which the director relied in issuing the temporary suspension order, the names of the department's witnesses, and the effective date of the temporary suspension and at the same time shall serve the licensee with an accusation. . . .

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(b) Upon receipt of a notice of defense to the accusation by the licensee, the director shall, within 15 days, set the matter for a full evidentiary hearing, and the hearing shall be held as soon as possible but not later than 30 days after receipt of the notice. The temporary suspension shall remain in effect until the time the hearing is completed and the director has made a final determination on the merits, unless it is earlier vacated by interim decision of the administrative law judge or a superior court judge. However, the temporary suspension shall be deemed vacated if the director fails to make a final determination on the merits within 30 days after the original hearing has been completed.

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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.

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Health and Safety Code section 1551 provides:

(a) Proceedings for the suspension, revocation, or denial of a license, registration, special permit, or any administrator certificate under this chapter, or denial of transfer of a license pursuant to paragraph (2) of subdivision (c) of Section 1524, shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the 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.

(b) In all proceedings conducted in accordance with this Section, the standard of proof to be applied shall be by the preponderance of the evidence.

(c) If the license, special permit, certificate of approval, or administrator certificate 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. When the matter has been set for hearing only the administrative law judge may grant a continuance of the hearing. The administrative law judge may, but need not, grant a continuance of the hearing only upon finding the existence of one or more of the following:

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- (1) The death or incapacitating illness of a party, a representative or attorney of a party, a witness to an essential fact, or of the parent, child, or member of the household of such person, when it is not feasible to substitute another representative, attorney, or witness because of the proximity of the hearing date.
- (2) Lack of notice of hearing as provided in Section 11509 of the Government Code.
- (3) A material change in the status of the case where a change in the parties or pleadings requires postponement, or an executed settlement or stipulated findings of fact obviate the need for hearing. A partial amendment of the pleadings shall not be good cause for continuance to the extent that the unamended portion of the pleadings is ready to be heard.
- (4) A stipulation for continuance signed by all parties or their authorized representatives, including, but not limited to, a representative, which is communicated with the request for continuance to the administrative law judge no later than 25 business days before the hearing.
- (5) The substitution of the representative or attorney of a party upon showing that the substitution is required.
- (6) The unavailability of a party, representative, or attorney of a party, or witness to an essential fact due to a conflicting and required appearance in a judicial matter if when the hearing date was set, the person did not know and could neither anticipate nor at any time avoid the conflict, and the conflict with request for continuance is immediately communicated to the administrative law judge.
- (7) The unavailability of a party, a representative or attorney of a party, or a material witness due to an unavoidable emergency.
- (8) Failure by a party to comply with a timely discovery request if the continuance request is made by the party who requested the discovery.

Chapter 5 commencing with Section 11500 of Part 1, Division 3, Title 2 of the Government Code provides in pertinent part:

11505(a) Upon filing of the accusation the agency shall serve a copy thereof on the respondent...

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11506(a) Within 15 days after service of the accusation the respondent may file with the agency a notice of defense....

11509 The agency shall deliver or mail a notice of hearing to all parties at least 10 days prior to the hearing...

Health and Safety Code section 1550.5 provides in pertinent part:

(a)(1) The department shall notify the licensee, upon service of an order of temporary license suspension, of the licensee's right to an interim hearing on the order. The department shall also provide the licensee with a form and appropriate information for the licensee's use in requesting an interim hearing. The department shall also notify the licensee, upon service, of the licensee's independent right to seek review of the order by the superior court pursuant to Section 1085 of the Code of Civil Procedure.

(2)(A) ...The licensee shall mail or deliver the request within five days after service of the order. Upon receipt of a timely request for an interim hearing, the Office of Administrative Hearings shall set a hearing date and time which shall be within 10 working days of the office's receipt of the request...

(6) The department may proceed with the accusation as otherwise provided by this Section and Section 1551 notwithstanding an interim decision by the administrative law judge that vacates the order of temporary license suspension.

(b) Upon receipt of a notice of defense to the accusation by the licensee, the director shall, within 15 days, set the matter for a full evidentiary hearing, and the hearing shall be held as soon as possible but not later than 30 days after the receipt of the notice.

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(c) The Department shall initiate revocation action against the license of a Social Rehabilitation Facility when it is found that the program certification has been withdrawn by the California Department of Health Care Services.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1501, 1502(a)(7), 1550, 1550.5 and 1551, Health and Safety Code; and Sections 11500 et seq., Government Code.

81043 LICENSEE/APPLICANT COMPLAINTS**81043**

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- (a) Each licensee/applicant shall have the right, without prejudice, to notify the Department of 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.

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NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1501 and 1531, Health and Safety Code.

81044 INSPECTION AUTHORITY OF THE LICENSING AGENCY**81044**

- (a) The licensing agency shall have the inspection authority specified in Health and Safety Code sections 1526.5, 1533(a), 1534 and 1538.

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Health and Safety Code section 1526.5(a) and (b) provides in pertinent part:

(a) Within 90 days after a facility accepts its first client for placement following the issuance of a license or special permit pursuant to Section 1525, the department shall inspect the facility. The licensee shall, within five business days after accepting its first client for placement, notify the department that the facility has commenced operating. . . .

(b) The inspection required by subdivision (a) shall be conducted to evaluate compliance with the rules and regulations and to assess the facility's continuing ability to meet regulatory requirements. The department may take appropriate remedial action as authorized by this chapter.

Health and Safety Code section 1533(a) provides in pertinent part:

. . . 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

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Health and Safety Code section 1534 provides in pertinent part:

(a)(1)(A) Except for foster family homes, every licensed community care facility shall be subject to unannounced visits by the department.

(2)(A) The department may inspect these facilities as often as necessary to ensure the quality of care provided.

(B) The department shall conduct an annual unannounced inspection of 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 inspection.

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

(iv) When a facility requires an annual inspection 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.

(C)(i) The department shall conduct annual unannounced inspections of no less than 20 percent of facilities, except for foster family homes, not subject to an inspection under subparagraph (B)...

Health and Safety Code section 1538(c) provides:

Upon receipt of a complaint, other than a complaint alleging denial of a statutory right of access to a community care facility or certified family home, 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. In either event, the complainant shall be promptly informed of the state department's proposed course of action.

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81044 INSPECTION AUTHORITY OF THE LICENSING AGENCY (Continued) 81044

- (b) The licensing agency shall have the authority to interview clients, including children, or staff members without prior consent.
- (1) The licensee shall ensure that provisions are made for private interviews with any clients, including children, 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 81066(e) and 81070(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 that could indicate abuse, neglect, or inappropriate placement, and to have a licensed medical professional physically examine the client.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1501, 1526.5, 1531, 1533, 1534 and 1538, Health and Safety Code.

81045 EVALUATION VISITS**81045**

- (a) A social rehabilitation facility shall be evaluated as specified in Health and Safety Code sections 1534 and 1548.

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Health and Safety Code section 1534 provides in pertinent part:

- (a)(1)(A) Except for foster family homes, every licensed community care facility shall be subject to unannounced inspections by the department.
- (2)(A) The department may inspect these facilities as often as necessary to ensure the quality of care provided.
- (B) The department shall conduct an annual unannounced inspection of a facility under any of the following circumstances:
- (i) When a license is on probation...

HANDBOOK CONTINUES

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- (iii) When an accusation against a licensee is pending.
- (iv) When a facility requires an annual inspection 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.
- (C)(i) The department shall conduct annual unannounced inspections of no less than 20 percent of facilities, except for foster family homes, not subject to an inspection under subparagraph (B)...
- (iii) These inspections shall be conducted based on a random sampling methodology developed by the department.
- (iv) If the total citations issued by the department to facilities exceed the previous year's total by 10 percent, the following year the department shall increase the random sample by an additional 10 percent of the facilities not subject to an inspection under subparagraph (B). The department may request additional resources to increase the random sample by 10 percent.
- (v) The department shall not inspect a licensed community care facility less often than once every five years.

Health and Safety Code section 1548 provides in pertinent part:

- (a) In addition to the suspension, temporary suspension, or revocation of a license issued under this chapter, the department may levy a civil penalty.
- (b) 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 per violation.

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- (b) The licensing agency shall have the authority to make any number of other visits to a facility in order to determine compliance with applicable law and regulation.

NOTE: Authority Cited: Sections 1530 and 1548, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1533, 1534, 1538 and 1548, Health and Safety Code.

81046 EXCLUSIONS**81046**

- (a) An individual can be prohibited from serving as a member of a board of directors, executive director, or officer; from being employed or being present in a licensed facility, as specified in Health and Safety Code sections 1558 and 1558.1.

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Health and Safety Code section 1558 provides:

(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 certified family home, or allowing contact with clients of a licensed facility or certified family home 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 the people of this state or an individual in or receiving services from the facility or certified family home.

(3) Been denied an exemption to work or to be present in a facility or certified family home, when that person has been convicted of a crime as defined in Section 1522.

(4) Engaged in any other conduct that would constitute a basis for disciplining a licensee or certified family home.

(5) Engaged in acts of financial malfeasance concerning the operation of a facility or certified family home, 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 or certified family home, 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.

HANDBOOK CONTINUES

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(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 or certified family home 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 or certified family home, the department shall serve an order of immediate exclusion upon the excluded person that 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. The department shall do the following upon receipt of a written appeal:

(A) Within 30 days of receipt of the appeal, serve an accusation upon the excluded person.

(B) Within 60 days of receipt of a notice of defense pursuant to Section 11506 of the Government Code by the excluded person to conduct a hearing on the accusation.

(4) An order of immediate exclusion of the excluded person from the facility shall remain in effect until the hearing is completed and the director has made a final determination on the merits. However, the order of immediate exclusion shall be deemed vacated if the director fails to make a final determination on the merits within 60 days after the original hearing has been completed.

(d) An excluded person who files a written appeal with the department pursuant to this Section shall, as part of the written request, provide his or her current mailing address. The excluded person shall subsequently notify the department in writing of any change in mailing address, until the hearing process has been completed or terminated.

(e) Hearings held pursuant to this Section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code. The standard of proof shall be the preponderance of the evidence and the burden of proof shall be on the department.

HANDBOOK CONTINUES

81046 EXCLUSIONS (Continued)

81046

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. The department may 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 prohibiting the excluded person's employment or presence in the facility or certified family home, 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.

(g) A licensee's or certified family home's failure to comply with the department's exclusion order after being notified of the order shall be grounds for disciplining the licensee pursuant to Section 1550.

(h)(1) (A) In cases where the excluded person appealed the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or from being a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

(B) The excluded individual may petition for reinstatement one year after the effective date of the decision and order of the department upholding the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the decision and order.

(2)(A) In cases where the department informed the excluded person of his or her right to appeal the exclusion order and the excluded person did not appeal the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

(B) The excluded individual may petition for reinstatement after one year has elapsed from the date of the notification of the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the exclusion order.

HANDBOOK CONTINUES

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Health and Safety Code section 1558.1 provides:

(a)(1) If the department determines that a person was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.2 (commencing with Section 1569), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) 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 pursuant to this chapter and as follows:

(1) In cases where the applicant petitioned for a hearing, 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 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 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 until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

HANDBOOK CONTINUES

81046 EXCLUSIONS (Continued)

81046

HANDBOOK CONTINUES

(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 pursuant to this chapter and as follows:

(1) In cases where the applicant petitioned for a hearing, 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 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 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 until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(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.

(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.

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NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1558 and 1558.1, Health and Safety Code.

Article 5. ENFORCEMENT PROVISIONS**81051 SERIOUS DEFICIENCIES****81051**

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- (a) The following are examples of regulations that, if not complied with, nearly always result in a serious deficiency.
- (1) Section 81010 relating to limitations on the capacity or ambulatory status of facility clients.
 - (2) Section 81019 relating to criminal record clearance.
 - (3) Section 81020 relating to fire clearance.
 - (4) Section 81021 relating to water supply.
 - (5) Sections 81068.4(a)(1) and (a)(2) and Section 81075(c) relating to persons with active communicable tuberculosis and persons requiring inpatient health care.
 - (6) Section 81072 relating to personal rights.
 - (7) Section 81073 relating to telephone service.
 - (8) Section 81075 relating to storing and dispensing medications.
 - (9) Section 81076 relating to food storage, preparation and service.
 - (10) Section 81087 relating to safety of client accommodations, buildings and grounds.
 - (11) Section 81088(e)(1), (e)(2), and (e)(3) relating to hot water temperature and bathroom facilities.
 - (12) Section 81088(f) relating to storage and disposal of solid wastes.
 - (13) Section 81094.5 relating to a licensee forwarding to the Department a client's request for an interdisciplinary team (IDT) review of a health condition relocation order.
 - (14) Any other regulation the violation of which is deemed by the licensing agency to constitute a serious deficiency as defined in Section 81001(s)(1).

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NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1501, 1502(a)(7), 1507, 1531 and 1534, Health and Safety Code.

81052 DEFICIENCIES IN COMPLIANCE**81052**

- (a) When a licensing evaluation is conducted and the evaluator determines that a deficiency exists the evaluator shall issue a notice of deficiency, unless the deficiency is not serious and is corrected during the visit.
- (b) Prior to completion of an evaluation or other licensing visit, the licensee, administrator, operator, or other person in charge of the facility 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 evaluator shall provide the notice of deficiency to the licensee by one of the following:
 - (1) Personal delivery to the licensee, at the completion of the visit.
 - (2) If the licensee is not at the facility site, leaving the notice with the person in charge of the facility at the completion of the visit.
 - (A) Under such circumstances, a copy of the notice shall also be mailed to the licensee.
 - (3) If the licensee or the person in charge of the facility refuses to accept the notice a notation of the refusal shall be written on the notice and a copy left at the facility.
 - (A) Under such circumstances, a copy of the notice shall also 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 that 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 facility in which it occurred.
 - (3) The plan developed, as specified in (b) above, for correcting each deficiency.

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

(c)(1) Subsequent to initial licensure, a person . . . shall obtain either a criminal record clearance or an exemption from disqualification . . . prior to employment, residence, or initial presence in the facility. A person specified in subdivision (b) who is not exempt from fingerprinting shall be fingerprinted and shall sign a declaration under penalty of perjury regarding any prior criminal convictions. The licensee shall submit fingerprint images and related information to . . .the Department of Justice, for a state and federal level criminal offender record information search, or comply with paragraph (1) of subdivision (h). . . A licensee's failure to prohibit the employment, residence, or initial presence of a person... who is not exempt from fingerprinting and who has not received either a criminal record clearance or an exemption from disqualification . . . shall result in the citation of a deficiency and the immediate assessment of civil penalties . . . The department may assess civil penalties for continued violations as permitted by Section 1548. The fingerprint images and related information shall then be submitted to the Department of Justice for processing. . .

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- (4) A date by which each deficiency shall be corrected.
- (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 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.

81052 DEFICIENCIES IN COMPLIANCE (Continue)**81052**

- (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 penalties are assessed pursuant to Sections 81054(c), (d) and (e).
- (5) The amount of penalty being assessed and the date the penalty begins.
 - (6) The address and the telephone number of the licensing office responsible for reviewing notices of deficiencies for the area in which the facility is located.

NOTE: Authority Cited: Sections 1530 and 1548, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1534 and 1548, Health and Safety Code.

81053 FOLLOW-UP VISITS TO DETERMINE COMPLIANCE**81053**

- (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 ten 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 (a) and (a)(1) above.
- (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 the 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 81054(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 and 1548, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1533, 1534 and 1548, Health and Safety Code.

81054

PENALTIES

81054

- (a) A penalty of \$50 per day, per cited violation, shall be assessed for serious deficiencies that are not corrected by the date specified in the notice of deficiency, up to a maximum of \$150 per day.
- (b) Notwithstanding Section 81054(a) above, 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 been approved for a transfer of an exemption as specified in Section 81019(e) prior to working, residing or volunteering in the facility.
- (1) Subsequent violations within a twelve (12) month period will 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.
- (3) Progressive civil penalties specified in Sections 81054(d) and (e) below shall not apply.
- (c) Notwithstanding Section 81054(a) above, an immediate penalty of \$150 per day shall be assessed for any of the following:
- (1) Sickness, injury or death of a client that has occurred as a result of the deficiency.
- (d) When a facility is cited for a deficiency and violates the same regulation subsection within a 12-month period, the facility shall be cited and an immediate penalty assessment of \$150 per cited violation shall be assessed for one day only. Thereafter, a penalty of \$50 per day, per cited violation, shall be assessed until the deficiency is corrected.
- (e) When a facility that was cited for a deficiency subject to the immediate penalty assessment in Section 81054(d) above, violates the same regulation subsection within a 12-month period of the last violation, the facility shall be cited and an immediate penalty of \$150 per cited violation shall be assessed for one day only. Thereafter, a penalty of \$150 per day per cited violation shall be assessed until the deficiency is corrected.
- (1) For purposes of Sections 81054(d) and (e) above, a regulation subsection is the regulation denoted by a lower-case letter after the main regulation number.

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An example of the same regulation subsections are Sections 87218(a)(2) and 87218(a)(5). Sections 87218(a) and 87218(b) are not the same regulation subsection.

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81054 PENALTIES**81054**

- (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 (c), (d) and (e) above, shall begin on the day the deficiency is cited.
- (g) If a licensee or his/her representative reports 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.
- (h) If necessary, a site visit shall be made immediately or within five working days to confirm that 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) Unless otherwise ordered by the Department, all penalties are due and payable upon receipt of notice for payment, and shall be paid only by check or money order made payable to the agency indicated in the notice.
- (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 81054(j) above.

NOTE: Authority Cited: Section 1530 and 1548, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1522, 1534 and 1548, Health and Safety Code.

81055 ADMINISTRATIVE REVIEW**81055**

- (a) A licensee or his/her representative 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(s).
- (1) If the deficiency has not been corrected, civil penalties shall continue to accrue during the review process.

81055 ADMINISTRATIVE REVIEW (Continued)**81055**

- (b) The review shall be conducted by a higher-level staff person than the evaluator who issued the notice(s).
- (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: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Section 1534, Health and Safety Code.

81055.1 DENIAL OR REVOCATION OF LICENSE FOR FAILURE TO PAY CIVIL PENALTIES**81055.1**

- (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.
- (b) The Department shall have the authority to deny or revoke any license for failure to pay civil penalty assessments.
 - (1) The Department shall have the authority to approve payment arrangements acceptable to the Department.
 - (2) The Department shall have the authority to approve the form of payment.
 - (3) The licensee's failure to pay civil penalty assessments pursuant to a payment plan approved by the Department may result in the denial or the revocation of any license, and/or any other appropriate action.
- (c) Any denial or revocation of the license for failure to pay civil penalties may be appealed as provided by Health and Safety Code section 1551.

NOTE: Authority Cited: Section 1530 and 1548, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1522, 1534, 1548 and 1551, Health and Safety Code.

81056 EXEMPTION FROM CIVIL PENALTIES**81056**

- (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: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Section 1534, Health and Safety Code.

81058 UNLICENSED FACILITY PENALTIES**81058**

- (a) A penalty of \$200 per day shall be assessed for the operation of an unlicensed facility under either of the following conditions:
- (1) The operator has not submitted a completed application for licensure within 15 calendar days of issuance of the Notice of Operation in Violation of Law pursuant to Section 81006, and continues to operate.
 - (A) For purposes of this section, an application shall be deemed completed if it includes the information required in Section 81018.
 - (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, facility operation must cease within 10 calendar days of the mailing of the notice of denial or upon receipt of the denial notice by the operator, whichever occurs first.
- (b) The \$200 per day penalty shall be assessed for the continued operation of an unlicensed facility as follows:
- (1) On the 16th calendar day after the operator has been issued the Notice of Operation in Violation of Law, 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 81058(a)(1)(A) and (a)(1)(B).
 - (2) Within 10 calendar days of the mailing of the notice of denial or upon receipt of the denial notice by the operator, whichever occurs first.
 - (A) The \$200 per day penalty shall continue until the operator ceases operation.

81058 UNLICENSED FACILITY PENALTIES (Continued)**81058**

- (c) If the unlicensed operator or his/her representative reports to the licensing agency that unlicensed operation, as defined in Section 1503.5 of the Health and Safety Code, 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 facility operation has ceased.
 - (2) Notwithstanding Section 81058(c) above, if the unlicensed facility 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 a court of competent jurisdiction or to take other appropriate action for failure to pay penalties as specified in Section 81058(d) above.

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Payment of civil penalties or application for licensure in response to a citation under this Section does not permit the operation of a community care facility without a license.

Section 1508 of the Health and Safety Code provides in pertinent part:

No person, firm, partnership, association, or corporation within the state and no state or local public agency shall operate, establish, manage, conduct, or maintain a community care facility in this state, without a current valid license therefore as provided in this chapter.

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NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1503.5, 1508, 1520, 1533, 1538, 1540, 1540.1, 1541, 1547 and 1549, Health and Safety Code.

81059 UNLICENSED FACILITY ADMINISTRATIVE APPEAL**81059**

- (a) An unlicensed facility operator or his/her representative shall have the right to appeal the penalty assessment within 10 working days after service of the penalty assessment.
 - (1) If the unlicensed facility 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: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1503.5, 1508, 1547 and 1548, Health and Safety Code.

Article 6. CONTINUING REQUIREMENTS**81060 BASIC SERVICES****81060**

- (a) For SSI/SSP recipients who are residents, the basic services shall be provided and/or made available at the basic rate with no additional charge to the resident.
- (1) This shall not preclude the acceptance by the facility of voluntary contributions from relatives or others on behalf of an SSI/SSP recipient.

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- (A) The Social Security Administration has interpreted Federal Regulations (20 CFR 416.1102, 416.1103, and 416.1145) to mean that any contribution given directly to the facility on behalf of an SSI/SSP recipient will not count as income (i.e., will not reduce the recipient's SSI/SSP check) if the payment is used for items other than food, clothing or shelter (e.g., care and supervision).

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- (2) An extra charge to the resident shall be allowed for a private room if a double room is made available but the resident prefers a private room, provided the arrangement is documented in the admissions agreement and the charge is limited to 10% of the Board and Room portion of the SSI/SSP grant.
- (3) An extra charge to the resident shall be allowed for provision of special food services or products beyond that specified in Section 81076(a)(2) and (a)(4) when the resident wishes to purchase the services and agrees to the extra charge in the admissions agreement.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670, 5671 and 12350, Welfare and Institutions Code; Sections 1501 and 1502(a)(7), Health and Safety Code.

81061 REPORTING REQUIREMENTS**81061**

- (a) Each licensee or applicant shall furnish to the licensing agency reports as required by the Department, including, but not limited to, those specified in this section.
- (b) Upon the occurrence, during the operation of the facility, of any of the events specified in Section 81061(b)(1) below, 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 81061(b)(2) below shall be submitted to the licensing agency within seven days following the occurrence of such event.

81061 REPORTING REQUIREMENTS (Continued)**81061**

- (1) Events reported shall include the following:
 - (A) Death of any client from any cause.
 - (B) In a residential facility, death of any client as a result of injury, abuse, or other than natural causes, regardless of where the death occurred. This includes a death that occurred outside the facility such as at a day program, workshop, job, hospital, en route to or from a hospital, or visiting away from the facility.
 1. The licensee shall obtain a certified copy of the client's death certificate as soon as it is available, maintain it in the client's file, and shall send a copy to the Department as soon as it is obtained.
 2. For Regional Center clients, the licensee shall also send a copy of the death certificate to the Regional Center.
 - (C) The use of an Automated External Defibrillator.
 - (D) Any injury to any client which requires medical treatment.
 - (E) Any unusual incident or client absence which threatens the physical or emotional health or safety of any client.
 - (F) Any suspected physical or psychological abuse of any client.
 - (G) Epidemic outbreaks.
 - (H) Poisonings.
 - (I) Catastrophes.
 - (J) Fires or explosions which occur in or on the premises.
- (2) Information provided shall include the following:
 - (A) Client's name, age, sex, and date of admission.
 - (B) Date and nature of event.
 - (C) Attending physician's name, findings, and treatment, if any.
 - (D) Disposition of the case.

81061 REPORTING REQUIREMENTS (Continued)**81061**

- (c) The items below shall be reported to the licensing agency within 10 working days following the occurrence.
- (1) The organizational changes specified in Section 81034(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 81019(d).
 - (4) Any changes in the plan of operation which affect the services to clients.
- (d) The items specified in Section 81061(b)(1)(A) through Section 81061(b)(1)(H) above shall also be reported to the client's authorized representative, if any.
- (e) The items specified in Section 81061(b)(1)(E) through Section 81061(b)(1)(G) above shall also be reported to the local health officer when appropriate pursuant to Title 17, California Administrative Code, Sections 2500, 2502 and 2503.

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California Code of Regulations Title 17. Public Health, Division 1. State Department of Health Services, Chapter 4. Preventive Medical Service, Subchapter 1. Reportable Diseases and Conditions, Article 1. Reporting, Section 2500. Reporting to the Local Health Authority provides in pertinent part:

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81061 REPORTING REQUIREMENTS (Continued)

81061

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(j) Health care providers shall submit reports for the following diseases or conditions.

- | | |
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| Acquired Immune Deficiency syndrome (Aids) | Hepatitis B (specify acute case or chronic) |
| + Amebiasis | Hepatitis C (specify acute case or chronic) |
| ◆ Anaplasmosis/Ehrlichiosis | Hepatitis D (Delta) (specify acute case or chronic) |
| + Anthrax, human or animal | Hepatitis E, acute infection |
| + Babesiosis | ◆ Influenza, deaths in laboratory - confirmed cases for ages 0-64 years |
| ◆ Botulism (Infant, Foodborne, Wound, Other) | ◆ Influenza, novel strains (human) |
| ◆ Brucellosis human | Legionellosis |
| Brucellosis, animal (except infections due to <i>Brucella canis</i>) | Leprosy (Hansen Disease) |
| Campylobacteriosis | Leptospirosis |
| + Campylobacteriosis | + Listeriosis |
| Chancroid | Lyme Disease |
| + Chickenpox (Varicella) (only hospitalizations and deaths) | + Malaria |
| <i>Chlamidia trachomatis</i> infections, including lymphogranuloma verum (LGV) | ◆ Measles (Rubeola) |
| ◆ Cholera | + Meningitis, Specify Etiology: Viral, Bacterial, Fungal, Parasitic |
| ◆ Ciguatera Fish Poisoning | ◆ Meningococcal Infections |
| Coccidioidomycosis | Mumps |
| Creutzfeldt-Jacob Disease (CJD) and other Transmissible Spongiform Encephalopathies (TSE) | ◆ Paralytic Shellfish Poisoning |
| + Cryptosporidiosis | Pelvic Inflammatory Disease (PID) |
| Cyclosporiosis | + Pertussis (Whooping Cough) |
| Cysticercosis or taeniasis | ◆ Plague, human or animal |
| ◆ Dengue | + Poliovirus Infection |
| ◆ Diphtheria | + Psittacosis |
| ◆ Domoic Acid Poisoning (Amnesic Shellfish Poisoning) | + Q Fever |
| + Encephalitis, Specify Etiology: Viral, Bacterial, Fungal, Parasitic | ◆ Rabies, human or animal |
| ◆ <i>Escherichia coli</i> : shiga toxin producing (STEC) including E. coli 0157 | + Relapsing Fever |
| + • Foodborne Disease | Rickettsial Diseases (non-Rocky Mountain Spotted Fever), including Typhus and Typhus-like Illnesses |
| Giardiasis | Rocky Mountain Spotted Fever |
| Gonococcal Infections | Rubella (German Measles) |
| + <i>Haemophilus influenzae</i> , invasive disease (report an incident of less than 15 years of age) | Rubella Syndrome, Congenital |
| ◆ Hantavirus Infections | + Salmonellosis (Other than Typhoid Fever) |
| ◆ Hemolytic Uremic Syndrome | ◆ Scombroid Fish Poisoning |
| + Hepatitis A, acute infection | ◆ Severe Acute Respiratory Infection (SARS) |
| | ◆ Shiga toxin (detected in feces) |
| | + Shigellosis Infections |
| | ◆ Smallpox (Variola) |

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81061 REPORTING REQUIREMENTS (Continued)

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| <ul style="list-style-type: none"> + Staphylococcus aureus infection (only a case resulting in death or admission to an intensive care unit of a person who has not been hospitalized or had surgery, dialysis, or residency in a long-term care facility in the past year, and did not have an indwelling catheter or percutaneous medical device at the time of culture.) + Streptococcal Infections (Outbreaks of Any type and Individual Cases in Food Handlers and Dairy Workers Only) + Syphilis Tetanus Toxic Shock Syndrome + Trichinosis + Tuberculosis ◆ Tularemia, human Tularemia, animal + Typhoid fever, cases and carriers + <i>Vibrio</i> Infections ◆ Viral Hemorrhagic Fevers, human or animal (e.g., Crimean-Congo, Ebola, Lassa and Marburg viruses) + West Nile virus infection ◆ Yellow Fever + Yersiniosis | <ul style="list-style-type: none"> ◆ OCCURRENCE of ANY UNUSUAL DISEASE ◆ OUTBREAKS of ANY DISEASE (Including diseases not listed in Section 2500). Specify if institutional and/or open community. <p>-----</p> <p>(◆) = to be reported immediately by telephone</p> <p>(+) = to be reported by mailing a report, telephoning, or electronically transmitting a report within one (1) working day of identification of the case or suspected case.</p> <p>(No diamond or cross symbol) = to be reported within seven (7) calendar days by mail, telephone, or electronic report from the time of identification.</p> <p>(•) = when two (2) or more cases or suspected cases of foodborne disease from separate households are suspected to have the same source of illness, they should be reported immediately by telephone.</p> |
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- (f) The item specified in Section 81061(b)(1)(H) shall also 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.
- (g) Licensees shall send copies of all substantiated complaints to board members of the licensed facility, parents, legal guardians, conservators, client rights advocates or placement agencies, as designated in each client's placement agreement in accordance with Health and Safety Code section 1538.5

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Health and Safety Code section 1538.5 reads in pertinent part:

(a)(1) Not less than 30 days prior to the anniversary of the effective date of a residential community care facility license, except licensed foster family homes, the department may transmit a copy to the board members of the licensed facility, parents, legal guardians, conservators, client's rights advocate, or placement agency, as designated in each resident's placement agreement, of all inspection reports given to the facility by the state department during the past year as a result of a substantiated complaint regarding a violation of this chapter relating to resident abuse and neglect, food, sanitation, incidental medical care, and residential supervision. During that one-year period the copy of the notices transmitted and the proof of the transmittal shall be open for public inspection...

(b) The facility operator, at the expense of the facility, shall transmit a copy of all substantiated complaints, by certified mail, to those persons described pursuant to paragraph (1) of subdivision (a) in the following cases:

(1) In the case of any substantiated complaint relating to resident physical or sexual abuse, the facility shall have three days, from the date the facility receives the licensing report from the state department to comply.

(2) In the case in which a facility has received three or more substantiated complaints relating to the same violation during the past 12 months, the facility shall have five days from the date the facility receives the licensing report to comply.

(c) A residential facility shall retain a copy of the notices transmitted pursuant to subdivision (b) and proof of their transmittal by certified mail for a period of one year after their transmittal.

(d) If a residential facility to which this section applies fails to comply with the provisions of this section, as determined by the state department, the state department shall initiate civil penalty action against the facility in accordance with the provisions of Article 3 (commencing with Section 1530) and the related rules and regulations...

(e) The department shall notify the residential community care facility of its obligation when it is required to comply with this section.

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81061 REPORTING REQUIREMENTS (Continued)**81061**

- (h) The licensee shall notify the licensing agency, in writing, within 10 working days of a change of administrator or program director. Such notification shall include the following:
- (1) Name, residence and mailing address of the new administrator/program director.
 - (2) Date he/she assumed his/her position.
 - (3) Description of his/her background and qualifications, including documentation of required education and related experience.

NOTE: Authority cited: Sections 1530 and 1538.5, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1501, 1502(a)(7), 1507, 1531, 1538.5 and 1797.196, Health and Safety Code.

81062 FINANCES**81062**

- (a) The licensee shall meet the following financial requirements:
- (1) Development and maintenance of a financial plan which ensures resources necessary 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 department or licensing agency.
 - (A) Such request shall explain the necessity for disclosure.
 - (B) The licensing agency shall have the authority to reject any financial report, and to request and examine additional information including interim financial statements. The reason(s) for rejection of the report shall be in writing.

NOTE: Authority cited: Sections 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1501, 1520 and 1531, Health and Safety Code.

81063 ACCOUNTABILITY**81063**

- (a) The licensee, whether an individual or other entity, is accountable for the general supervision of the licensed facility, 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: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1501 and 1531, Health and Safety Code.

81064 ADMINISTRATOR - QUALIFICATIONS AND DUTIES**81064**

- (a) All social rehabilitation facilities shall have an administrator.
- (b) The administrator shall have the following qualifications prior to employment:
- (1) One year of full-time work experience in a management or administrative position; and
- (2) Completion, with a passing grade, of 15 college or continuing education semester or equivalent quarter units, of which 9 units shall be in administration and/or management.
- (A) Three years of full-time work experience in a management or administrative position may be substituted to meet the requirement of Section 81064(b)(2) above.
- (c) The administrator shall have the following qualifications:
- (1) Attainment of at least 18 years of age.
- (2) Knowledge of the requirements for providing the type of care and supervision needed by clients, including the ability to communicate with such clients.
- (3) Knowledge of and ability to comply with applicable law and regulation.
- (4) Ability to maintain, or supervise the maintenance of, financial and other records.
- (5) Ability to direct the work of others, when applicable.
- (6) Ability to establish the facility's policy, program and budget.
- (7) Ability to recruit, employ, train, and evaluate qualified staff, and to terminate employment of staff, if applicable to the facility.
- (d) Each licensee shall make provision for continuing operation and carrying out of the administrator's responsibilities during any absence of the administrator.

81064 ADMINISTRATOR - QUALIFICATIONS AND DUTIES**81064**

- (e) The administrator of the facility shall be responsible for the following:
- (1) Communication with the licensee concerning the administrative operations of the facility.
 - (2) Development of an administrative plan and procedures to define lines of responsibility, workloads, and staff supervision.
 - (3) Recruitment, employment, and training of qualified staff, and termination of staff.
- (f) Any person designated as an administrator shall be required to complete at least 20-clock-hours of continuing education per year in areas relating to mental health and the care of the mentally ill, and/or administration.
- (g) Persons employed as the administrator in an Adult Residential Facility serving clients who meet the definition of "mental illness" as contained in sSection 81001(m)(3) as of the effective date of this section, shall not be required to meet the education/experience requirements specified in Section 81064(b) above.
- (h) If the administrator is also the program director, he/she shall also meet the requirements of the program director set forth in California Code of Regulations, Title 9, Division 1, Chapter 3, Article 3.5, Sections 532.6(f), (g), and (i).

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Refer to Section 81064.1(e)(1) for additional qualifications of a director.

Title 9, Division 1, Chapter 3, Article 3.5, Section 532.6 provides in pertinent part:

- (f) The program director of a certified Short-Term Crisis Residential Treatment Program shall have the following qualifications prior to employment.
- (1) A Bachelor's Degree in Psychology, Social Work or any other major which includes at least 24 semester college units in one or more of the following subject areas:
 - (A) Psychology
 - (B) Social Work
 - (C) Sociology
 - (D) Behavioral Sciences
 - (E) Psychiatric Nursing; and
 - (2) Two (2) years of full-time work experience in a community program that serves clients who have a mental illness. Such experience must be in the direct provision of services to clients, of which one (1) year must be in the position of supervising direct care staff, or

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81064 ADMINISTRATOR - QUALIFICATIONS AND DUTIES**81064**

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(3) As an alternative to the Bachelor Degree and experience required in paragraph (1) and (2) of this subsection, a total of four (4) years of experience in a community program providing direct services to persons with mental disabilities, of which one (1) year must be in the position of supervising direct care staff, and graduation from high school or possession of a GED may be substituted.

(g) The program director of a certified Transitional Residential Treatment Program or a certified Long-Term Residential Treatment Program shall have the following qualifications prior to employment.

(1) A Bachelor's Degree in Psychology, Social Work or any other major which includes at least 24 semester college units in one or more of the following subject areas:

- (A) Psychology
- (B) Social Work
- (C) Sociology
- (D) Behavioral Sciences
- (E) Psychiatric Nursing; and

(2) One (1) year of full-time work experience in a community program that serves clients who have a mental illness. Such experience must be in the direct provision of services to clients, of which four (4) months must be in a position of supervising direct care staff.

(3) As an alternative to the Bachelor's Degree and experience required in paragraphs (1) and (2) of this subsection, a total of three years of experience in providing direct services in the community to persons with mental illnesses, of which six (6) months must be in a position of supervising direct care staff, and graduation from high school or possession of a GED may be substituted.

(i) Program directors and all direct care staff of social rehabilitation programs as of the date that this section is adopted shall be considered as meeting all of the requirements of this section until two (2) years after the effective date of this section, at which time the requirements of this section shall be met in full.

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- (i) 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 Chapter.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1501, 1502(a)(7) and 1531, Health and Safety Code.

81064.1 PROGRAM DIRECTOR QUALIFICATIONS AND DUTIES**81064.1**

- (a) All social rehabilitation facilities shall have a program director.
- (b) The program director shall be on the premises the number of hours necessary to manage and administer the treatment program of the facility in compliance with California Code of Regulations, Title 9, Division 1, Chapter 3, Article 3.5, Sections 531 through 535 and Title 22, Division 6, Chapter 2, Sections 81001(1)(5), (s)(2) and (t)(2).
- (c) When the program director is temporarily absent from the facility, there shall be coverage by a substitute program director designated in writing by the licensee.
 - (1) If the absence is for more than 14 consecutive calendar days, excluding emergency leave, sick leave or vacation of the program director, the designated substitute shall meet the qualifications of a program director set forth by the Department of Health Care Services.
- (d) The program director shall meet the minimum qualifications set forth in California Code of Regulations, Title 9, Division 1, Chapter 3, Article 3.5, Sections 532.6(f), (g), and (i).

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California Code of Regulations, Title 9, Sections 532.6(f) provides:

- (f) The program director of a certified Short-Term Crisis Residential Treatment Program shall have the following qualifications prior to employment.
 - (1) A Bachelor's Degree in Psychology, Social Work or any other major which includes at least 24 semester college units in one or more of the following subject areas:
 - (A) Psychology
 - (B) Social Work
 - (C) Sociology
 - (D) Behavioral Sciences
 - (E) Psychiatric Nursing; and
 - (2) Two (2) years of full-time work experience in a community program that serves clients who have a mental illness. Such experience must be in the direct provision of services to clients, of which one (1) year must be in the position of supervising direct care staff, or

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(3) As an alternative to the Bachelor Degree and experience required in paragraph (1) and (2) of this subsection, a total of four (4) years of experience in a community program providing direct services to persons with mental disabilities, of which one (1) year must be in the position of supervising direct care staff, and graduation from high school or possession of a GED may be substituted.

California Code of Regulations, Title 9, Section 532.6(g) provides:

The program director of a certified Transitional Residential Treatment Program or a certified Long-Term Residential Treatment Program shall have the following qualifications prior to employment.

(1) A Bachelor's Degree in Psychology, Social Work or any other major which includes at least 24 semester college units in one or more of the following subject areas:

- (A) Psychology
- (B) Social Work
- (C) Sociology
- (D) Behavioral Sciences
- (E) Psychiatric Nursing; and

(2) One (1) year full-time work experience in a community program that serves clients who have a mental illness. Such experience must be in the direct provision of services to clients, of which four (4) months must be in a position of supervising direct care staff.

(3) As an alternative to the Bachelor's Degree and experience required in paragraphs (1) and (2) of this subsection, a total of three years of experience in providing direct services in the community to persons with mental illness, of which six (6) months must be a position of supervising direct care staff, and graduation from high school or possession of a GED may be substituted.

California Code of Regulations, Title 9, Section 532.6(i) provides:

(i) Program directors and all direct care staff of social rehabilitation programs as of the date that this section is adopted shall be considered as meeting all of the requirements of this section until two (2) years after the effective date of this section, at which time the requirements of this section shall be met in full.

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81064.1 PROGRAM DIRECTOR QUALIFICATIONS AND DUTIES (Continued) 81064.1

- (e) The program director shall ensure the following:
- (1) Communication with the licensee concerning the operation of the facility.
 - (2) Provision of the services identified in each client's individual needs and services plan or required by California Code of Regulations, Title 9, Division 1, Chapter 3, Article 3.5, Sections 531 through 535 or Title 22, Division 6, Chapter 2.
 - (3) Arrangements for clients to attend available community programs, when clients have needs, identified in the needs and services plan, which cannot be met by the facility but can be met by community programs.
 - (A) Such arrangements shall include, but not be limited to, arranging for transportation.
 - (1) This requirement does not exempt the licensee from providing transportation when public transportation is not practical or when the client is unable to use public transit.
 - (4) Arrangements for special provision of services to clients with disabilities including visual and auditory deficiencies.

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Such provisions may include additional staff, safety and emergency information printed in braille, and lights to alert the deaf to emergencies.

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- (5) Development of an employee work schedule as required in Section 81066(a).
- (6) Provision of staff support to clients in the planning, preparing, and serving of meals.
 - (A) If clients are unable to plan, prepare, and serve meals, the program director shall initiate and carry out the program plan pursuant to Section 81022(b)(17) to ensure the requirements of Section 81076 are met.
- (7) Provision of staff support to clients in performing facility maintenance and/or cleaning activities as designated in the client's treatment/rehabilitation plan.
 - (A) If clients are unable to perform facility maintenance and/or cleaning activities, the program director shall initiate and carry out the plan developed pursuant to Section 81022(b)(17) to ensure the requirements of Section 81087(a) are met.

81064.1 PROGRAM DIRECTOR QUALIFICATIONS AND DUTIES (Continued) 81064.1

- (f) Any person designated as a program director shall be required to complete at least 20-clock-hours of continuing education per year in areas relating to mental health and the care of the mentally ill, and/or administration.
- (g) If the program director is also the administrator, he/she shall also meet the requirements of the administrator set forth in section 81064(b).

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1501 and 1502(a)(7), Health and Safety Code.

81065 PERSONNEL REQUIREMENTS 81065

- (a) Facility 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.

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

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

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

Except for persons specified in subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted.

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- (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 clients.
 - (2) Extent of the services provided by the facility.
 - (3) Physical arrangements of the particular facility.
 - (4) Existence of a state of emergency or disaster.

81065 PERSONNEL REQUIREMENTS (Continued)**81065**

- (c) The licensee shall be permitted to utilize volunteers provided that such volunteers are supervised, and are not included in the facility staffing plan.
- (d) The following facility personnel 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 facility.
 - (1) An adult other than a client shall be present at all times while clients are 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.
- (f) All personnel shall be given on-the-job training or shall have related experience which provides 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.
 - (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 81001(u)(1).
 - (A) Training in Universal Precautions may be provided in the facility or staff may attend training provided by a local health facility, county health department, or other local training resources.

81065 PERSONNEL REQUIREMENTS (Continued)**81065**

- (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) Except as specified in Section 81065(g)(3) below, good physical health shall be verified by a health screening, including a test 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.
 - (2) A health screening report signed by the person performing such screening shall be made on each person specified above, and shall indicate the following:
 - (A) The person's physical qualifications to perform the duties to be assigned.
 - (B) The presence of any health condition that would create a hazard to the person, clients or other staff members.
 - (3) The good physical health of each volunteer who works in the facility shall be verified by:
 - (A) A statement signed by each volunteer affirming that he/she is in good health.
 - (B) A test for tuberculosis performed not more than one year prior to or seven days after initial presence in the facility.
- (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 facility, 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 81019(f) or
 - (3) Request and be approved for a transfer of a criminal record exemption, as specified in Section 81019.1(r), unless, upon request for the transfer, the Department permits the individual to be employed, reside or be present at the facility.

81065 PERSONNEL REQUIREMENTS (Continued)**81065**

- (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 household duties and other tasks suited to the client's needs and abilities.
 - (1) Such duties and tasks shall be specified in the client's needs and services plan as specified in this chapter.
- (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 81072 and/or any of the personal rights provisions of this chapter.
- (n) All direct care staff shall meet the minimum qualifications as set forth in California Code of Regulations, Title 9, Division 1, Chapter 3, Article 3.5, Sections 532.6(h) and (i).

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Title 9, California Code of Regulations, Sections 532.6(h) and (i) provide:

- (h) "All direct care staff shall have graduated from high school or possess a GED and have a minimum of one (1) year of full-time experience, or its part-time equivalent, working in a program serving persons with mental disabilities. Such experience shall be in direct services to clients. If the employee does not have the required experience, the program shall document a specific plan of supervision and in-service training for the employee which will guarantee the ongoing qualification of the employee to perform the job. The plan should include but not be limited to the frequency and number of hours of training, the subjects to be covered, and a description of the supervision to be provided."
- (i) "Program directors and all direct care staff of social rehabilitation programs as of the date that this section is adopted shall be considered as meeting all the requirements of this section until two (2) years after the effective date of this section, at which time the requirements of this section must be met in full."

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81065 PERSONNEL REQUIREMENTS (Continued)**81065**

- (o) The licensee shall hire support staff as necessary to perform office work, and maintenance of buildings, equipment, and grounds.
- (p) The licensee shall ensure that a direct service to a client shall be provided by a person with the appropriate license or certificate when required by law.
- (q) The licensee shall develop, maintain, and implement a written plan for the orientation, continuing education, on-the-job training, supervision, and evaluation of all direct care staff.
- (r) All direct care staff shall receive a minimum of 20-clock-hours of continuing education per year, which shall provide the staff with the knowledge and skills as appropriate to their job assignment.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1501, 1502(a)(7), 1507, 1522, 1531 and 1562, Health and Safety Code; and Section 42001, Vehicle Code.

81065.5 DAY STAFF-CLIENT RATIO**81065.5**

- (a) A licensee shall ensure that sufficient direct care staff are at the facility whenever clients are present.
 - (1) There shall be at least one direct care staff person on duty, on the premises, any time clients are in the facility.
 - (A) Any time there is only one direct care staff person on duty on the premises, another direct care staff person shall be on call and capable of responding within 30 minutes.
 - (2) Short Term Crisis Residential Programs shall have at least two direct care staff persons on duty, on the premises, any time clients are in the facility.
 - (3) All facilities shall employ staff and have staffing patterns and ratios as indicated on the facility certification document.
 - (A) The facility shall notify the California Department of Health Care Services when staff qualifications, positions or staffing patterns change.

81065.5 DAY STAFF-CLIENT RATIO (Continued)**81065.5**

- (b) 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, but no less than one direct care staff to three such clients.
 - (2) For all other clients, there shall be a staff-client ratio of no less than one direct care staff to three such clients.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code, and Sections 1501, 1502(a)(7), 1507 and 1562, Health and Safety Code.

81065.6 NIGHT SUPERVISION**81065.6**

- (a) In addition to Section 81065.5(a), the following shall apply.
- (b) In facilities providing care to seven or more clients who rely upon others to perform all activities of daily living, there shall be at least one person on duty, on the premises and awake.
- (1) For every additional 14 such clients, there shall be one additional person on duty, on the premises and awake.
- (c) In facilities providing care to regional center clients who rely upon others to perform all activities of daily living, night supervision shall be maintained as required by the regional center, but no less than specified in Section 81065.6(b) and (b)(1) above.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code, and Sections 1501, 1502(a)(7), 1507 and 1562, Health and Safety Code.

81066 PERSONNEL RECORDS**81066**

- (a) An employee work schedule shall be developed at least monthly, shall be displayed conveniently for employee reference, and shall contain the following information for each employee:
- (1) Name;
 - (2) Job title;
 - (3) Dates, days and hours of work; and
 - (4) Days off.

81066 PERSONNEL RECORDS (Continued)**81066**

- (b) Staff training as required by Section 81065(r) shall be documented. Documentation shall include the subject of the training, who conducted the training, and the date(s) of the training.
- (c) 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, training and/or experience specified in licensing regulations for the type of facility in which the employee works.
 - (7) Past experience, including types of employment and former employers.
 - (8) Duties of the employee.
 - (9) Termination date if no longer employed by the facility.
 - (10) A health screening as specified in Section 81065(g).
 - (11) Tuberculosis test documents as specified in Section 81065(g).
 - (12) For employees that are required to be fingerprinted pursuant to Section 81019:
 - (A) A signed statement regarding their criminal record history as required by Section 81019(d).
 - (B) Documentation of either a criminal record clearance or exemption as required by Section 81019(e).
 1. For Certified Administrators, a copy of their current and valid Administrator Certification meets this requirement.

81066 PERSONNEL RECORDS (Continued)**81066**

- (d) Personnel records shall be maintained for all volunteers and shall contain the following:
- (1) A health statement as specified in Section 81065(g)(3).
 - (2) Tuberculosis test documents as specified in Section 81065(g).
 - (3) For volunteers that are required to be fingerprinted pursuant to Section 81019:
 - (A) A signed statement regarding their criminal record history as required by Section 81019(d).
 - (B) Documentation of either a criminal record clearance or exemption as required by Section 81019(e).
- (e) 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.
 - (3) Licensing representatives shall return the records undamaged and in good order within three business days following the date the records were removed.
- (f) All personnel records shall be retained for at least three years following termination of employment.
- (g) All personnel records shall be maintained at the facility site.
- (1) The licensee shall be permitted to retain such records in a central administrative location provided that they are readily available to the licensing agency at the facility site as specified in Section 81066(e).
- (h) In all cases, personnel records shall document the hours actually worked.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1501, 1502(a)(7) and 1531, Health and Safety Code.

81068 ADMISSION AGREEMENTS**81068**

- (a) The licensee shall complete an individual written admission agreement with each client and the client's authorized representative, if any.
- (1) Prior to admitting a developmentally disabled adult recommended by a Regional Center, the licensee shall obtain from the Regional Center written certification which states that there was no objection to the placement by any persons specified in Welfare and Institutions Code section 4803.
 - (2) The licensee shall maintain a copy of the certification in the client's file.

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Welfare and Institutions Code section 4803 provides:

If a regional center recommends that a person be admitted to a community care facility . . . as a developmentally disabled resident, the employee or designee of the regional center responsible for making the recommendations shall certify in writing that neither the person recommended for admission to a community care facility . . . nor the parent of a minor or conservator of an adult, if appropriate, nor the person or agency appointed pursuant to subdivision (d) of Section 4548 or subdivision (e) of Section 4705 [and responsible for protecting the rights of persons with developmental disabilities, including representatives of area boards on developmental disabilities or clients' rights advocates assigned to the regional centers] has made an objection to the admission to the person making the recommendation. The regional center shall transmit the certificate, or a copy thereof, to the community care facility . . .

A community care facility . . . shall not admit any adult as a developmentally disabled patient on recommendation of a regional center unless a copy of the certificate has been transmitted pursuant to this section.

Any person who, knowing that objection to a community care facility . . . admission has been made, certifies that no objection has been made, shall be guilty of a misdemeanor.

Objections to proposed placements shall be resolved by a fair hearing procedure pursuant to [Welfare and Institutions Code] Section 4700.

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- (b) The licensee shall complete and maintain in the client's file a Telecommunications Device Notification - LIC 9158 (5/97) for each client whose pre-admission appraisal or medical assessment indicates that he/she is deaf, hearing-impaired, or otherwise disabled.

81068 **ADMISSION AGREEMENTS (Continued)****81068**

- (c) 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.
 - (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.
 - (A) It shall be acceptable for agreements involving clients whose care is funded at government-prescribed rates to specify that the effective date of a government rate change shall be considered the effective date for basic-service rate modifications and that no prior notice is necessary.
 - (5) Refund Conditions.
 - (6) Right of the licensing agency to perform the duties authorized in Section 81044(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 Restricted Health Condition Care Plan as specified in Section 81092.2, if any, and his/her Needs and Services Plan, as specified in Section 81068.2 or 81068.3, must be one of the conditions.
 - (8) The facility's policy concerning family visits and other communication with clients, pursuant to Health and Safety Code section 1512.

81068 ADMISSION AGREEMENTS (Continued)

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Section 1512 of the Health and Safety Code provides in pertinent part:

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

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- (9) Facility policies that are intended to ensure that no client, in the exercise of his/her personal rights, infringes upon the personal rights of any other client.
 - (10) Those actions, circumstances, or conditions that may result in the client's eviction from the facility as specified in Section 81068.5.
 - (11) An indication of whether the client is either receiving or is eligible to receive Short/Doyle payments pursuant to Welfare and Institutions Code sections 5700 through 5750.
 - (12) If a client has a restricted health condition, as specified in Section 81092, the admission agreement must contain a statement that he/she agrees to comply with the Restricted Health Condition Care Plan developed for him/her as specified in Section 81092.2.
- (d) Such 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.
 - (e) 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 81068(c) above.
 - (f) 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.
 - (g) The licensee shall comply with all terms and conditions set forth in the admission agreement.
 - (h) The admission agreement shall be automatically terminated by the death of the client. No liability or debt shall accrue after the date of death.

81068 **ADMISSION AGREEMENTS (Continued)****81068**

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This does not preclude contractual arrangements such as life-care contracts or payments ordered by a court of competent jurisdiction.

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NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 4803, 5670, 5671 and 5713.1, Welfare and Institutions Code; Sections 1501, 1507(a)(7), 1512, 1524.7 and 1531, Health and Safety Code; and Section 2881, Public Utilities Code.

81068.1 **ADMISSION PROCEDURE****81068.1**

- (a) The licensee shall develop, maintain, and implement admission procedures which shall meet the requirements specified in this section.
- (b) No client shall be admitted prior to a determination of the facility's ability to meet the needs of the client, which shall include an appraisal of his/her individual service needs as specified in Section 81068.2.
- (c) Prior to accepting a client for treatment, the program director or an experienced staff person who has received training in developing a needs and services plan shall:
 - (1) Interview the prospective client, and his/her authorized representative, if any.
 - (A) The interview shall provide the prospective client with information about the facility, including the information contained in the Admission Agreement and any additional policies and procedures, house rules, and activities.
 - (2) Obtain and review documents as specified in sections 81068.2(b)(1) and (2).
 - (A) This information may not be readily available for clients accepted in a short-term residential crisis program. If this information is not available at the time of admission, this fact must be documented in the client's file. This information must be obtained within three days of admission to the program.
- (d) The facility shall obtain the medical assessment, performed as specified in Section 81069.

81068.1 ADMISSION PROCEDURE (Continued)**81068.1**

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- (1) See Section 81069 for requirement exceptions.

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- (e) If terms of admission are mutually agreeable, the facility shall obtain the signature of the client, or his/her authorized representative, if any, on the Admission Agreement.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1501, 1502(a)(7), 1507 and 1531, Health and Safety Code.

81068.2 NEEDS AND SERVICES PLAN**81068.2**

- (a) Prior to admission, the licensee shall determine whether the facility's program can meet the prospective client's service needs.
- (b) If the client is to be admitted, then prior to admission, the licensee shall complete a written Needs and Services Plan, that must include:
- (1) A written assessment as required in California Code of Regulations, Title 9, Division 1, Chapter 3, Article 3.5, Section 532.2(b).

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California Code of Regulations, Title 9, Section 532.2(b) provides:

There shall be a written assessment of each client on admission which includes at least:

- (1) Health and psychiatric histories;
- (2) Psycho-social skills;
- (3) Social support skills;
- (4) Current psychological, educational, vocational and other functional limitations;
- (5) Medical needs, as reported; and
- (6) Meal planning, shopping and budgeting skills.

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81068.2 NEEDS AND SERVICES PLAN (Continued)**81068.2**

- (2) Any needs appraisal or individual program plan completed by a placement agency or consultant.
- (3) A written treatment/rehabilitation plan as required by California Code of Regulations, Title 9, Subchapter 3, Article 3.5, Section 532.2(c).

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- (A) Title 9, California Code of Regulations, Section 532.2(c) provides:

The program and client shall together develop a written treatment/rehabilitation plan specifying goals and objectives and the staff and client's responsibilities for their achievement. Clients shall be involved in an ongoing review of progress towards reaching established goals and be involved in the planning and evaluation of their treatment goals. The plan shall contain at least the following elements:

- (1) Statement of specific treatment needs and goals.
- (2) Description of specific services to address identified treatment needs.
- (3) Documentation of reviews by staff and client of the treatment/rehabilitation plan adhering to the following schedule:
 - (A) Short-Term Crisis Residential Treatment Program: at least weekly.
 - (B) Transitional Residential Treatment Program: at least once every 30 days.
 - (C) Long-Term Residential Treatment Program: at least once every 60 days.
- (4) Anticipated length of stay needed to accomplish identified goals, and methods to evaluate the achievement of these goals.

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- (4) If the client has a restricted health condition, as specified in Section 81092, a written Restricted Health Condition Care Plan as specified in Section 81092.2.

81068.2 NEEDS AND SERVICES PLAN (Continued)**81068.2**

- (c) 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 the 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.
- (d) The written Needs and Services Plan specified in Section 81068.2(b) shall be maintained in the client's file.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1501, 1502(a)(7), 1507 and 1531, Health and Safety Code.

81068.3 MODIFICATIONS TO NEEDS AND SERVICES PLAN**81068.3**

- (a) The program director or an experienced staff person who has been trained in the development and modification of a needs and services plan shall, with the client's participation, update the needs and services plan specified in Section 81068.2.
- (b) The licensee shall ensure that each client's written Needs and Services Plan is updated as often as necessary to assure its accuracy, but at least annually. These modifications shall be maintained in the client's file.
- (c) 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 to a facility that can provide the needed services.
- (1) If the client refuses to relocate, the licensee may evict in accordance with Section 81068.5
- (d) The program director or staff person specified in (a) above shall, with the client's participation, review the treatment/rehabilitation plan according to the schedule set forth in California Code of Regulations, Title 9, Division 1, Chapter 3, Article 3.5, Section 532.2(c).

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California Code of Regulations, Title 9, Division 1, Chapter 3, Article 3.5, Section 532.2(c)(3) provides in pertinent part:

The program and client shall together develop a written treatment/rehabilitation plan specifying goals and objectives and the staff and client's responsibilities for their achievement. Clients shall be involved in an on-going review of progress towards reaching established goals and be involved in the planning and evaluation of their treatment goals. The plan shall contain at least the following elements:

- (1) Statement of specific treatment needs and goals.
- (2) Description of specific services to address identified treatment needs.
- (3) Documentation of reviews by staff and client of the treatment/rehabilitation plan adhering to the following schedule:
 - (A) Short-Term Crisis Residential Treatment Program: at least weekly.
 - (B) Transitional Residential Treatment Program: at least once every 30 days.
 - (C) Long-Term Residential Treatment Program: at least once every 60 days.

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- (e) The program director shall ensure that the updated needs and services plan includes documentation of all changes in the client's physical, mental, emotional, and social functioning.
 - (1) The program director shall ensure that all changes are considered when modifying the needs and services plan.
 - (2) The program director shall ensure that all changes are brought to the attention of the client's physician, mental health professional, or authorized representative, if any.
- (f) If modifications to the plan identify an individual client need which is not being met by the program of services, the following requirements shall apply:
 - (1) The program director shall secure consultation from a dietitian, physician, social worker, psychologist, or other consultant as necessary to assist in determining if such needs can be met by the facility within the facility's program of services.

81068.3 MODIFICATIONS TO NEEDS AND SERVICES PLAN (Continued)**81068.3**

- (2) If it is determined that the needs can be met, the program director, in conjunction with the consultant, shall develop and maintain in the facility a written services plan which shall include the following:
 - (A) Objectives, within a time frame, which relate to the client's problems and/or needs;
 - (B) Plans for meeting the objectives;
 - (C) Identification of any individuals or agencies responsible for implementing and evaluating each part of the plan; and
 - (D) Method of evaluating progress.
- (3) If it is determined that the needs cannot be met, the licensee shall bring this fact to the attention of the client and/or his/her authorized representative or mental health professional, if any, and request that the client relocate.
 - (A) If the client refuses to relocate, the licensee shall be permitted to evict the client in accordance with Section 81068.5.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1501, 1502(a)(7), 1507 and 1531, Health and Safety Code.

81068.4 ACCEPTANCE AND RETENTION LIMITATIONS**81068.4**

- (a) The licensee shall not accept or retain the following:
 - (1) Persons with active communicable tuberculosis.
 - (2) Persons who require inpatient care in a health facility.
 - (3) Persons who have needs which are in conflict with other clients or the program of services offered.
 - (4) Persons who require more care and supervision than is provided by the facility.
- (b) A client's length of stay shall not exceed 18 months.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1501, 1502(a)(7), and 1507, Health and Safety Code.

81068.5 EVICTION PROCEDURES**81068.5**

- (a) The licensee shall be permitted to evict a client with 30 days' written notice for any of the following reasons:
- (1) Nonpayment of the rate for basic services within ten days of the due date.
 - (2) Failure of the client to comply with state or local law after receiving written notice of the alleged violation.
 - (3) Failure of the client to comply with the general facility policies that are documented in the facility agreement, and are for the purpose of making it possible for clients to live together.
 - (4) Failure of the client to participate in the services and activities specified in the treatment/rehabilitation plan to the extent of his/her ability.
 - (5) Inability to meet the client's needs.
 - (A) A Needs and Services Plan modification must have been performed, as specified in Section 81068.3, which determined that the client's needs cannot be met by the facility and the client has been given an opportunity to relocate as specified in Section 81068.3(f)(3).
 - (6) The client refuses to comply with his/her Restricted Health Condition Care Plan, if any, as specified in Section 81092.2.
 - (7) The program or facility type has changed and the client is no longer compatible with the population to be served.
 - (8) Change of use of the facility.
 - (9) Failure of the client to comply with the provisions of the Admission Agreement.
- (b) The licensee shall be permitted to evict a client with three days' prior written notice if the client has engaged in behavior since being admitted to the facility which is a threat to the mental health or physical safety of the client or other clients and the following requirement is met:
- (1) The licensee has received prior written and/or has documented telephone approval for the notice of eviction from the licensing agency.
 - (A) The licensing agency shall approve or deny the request within two working days of receipt.
 - (B) Failure of the Department to reply to the request for approval within two working days shall be considered approval.

81068.5 EVICTION PROCEDURES (Continued)**81068.5**

- (c) The licensee shall set forth in the notice the reasons for the eviction, with specific facts including the date, place, witnesses, and circumstances.
- (d) When serving the client with either a 30-day or a 3-day notification of eviction, the licensee shall, on the same day, overnight mail or fax a copy of the notice to the client's authorized representative, if any, or the client's responsible person if there is no authorized representative. The licensee shall, upon providing the client with notification of eviction, mail a copy of the eviction notice to the client's mental health professional.
- (e) The licensee shall mail or fax to the Department a copy of the 30-day written notice to quit in accordance with (a) above within five days of giving the notice to the client.
- (f) Upon request of a client or his/her authorized representative or responsible person, the Department will investigate the reasons for the eviction pursuant to the provisions of Section 1538 of the Health and Safety Code.
- (g) Nothing in this section is intended to preclude the licensee or client from invoking other remedies when eviction.

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Such remedies include voluntary relocation, relocation by the client's authorized representative, hospitalization for mental or physical conditions, and arrest.

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NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1501, 1502(a)(7), 1531 and 1770 et seq., Health and Safety Code.

81069 CLIENT MEDICAL ASSESSMENTS**81069**

- (a) Notwithstanding Section 81069(b), the licensee must obtain a medical assessment prior to or within 3 days following acceptance of a client into a short-term crisis program.
 - (1) Assessments completed by a referring medical or mental health agency may be accepted by the facility; however, the licensee must ensure all information required in Section 81069(c) is either contained in the assessment or is obtained by the licensee within three days following acceptance of a client.

81069 CLIENT MEDICAL ASSESSMENTS (Continued)**81069**

- (b) Prior to accepting a client into care, the licensee shall obtain and keep on file documentation of the client's medical assessment.
- (1) Such assessment shall be performed by a licensed physician, or a designee, who is also a licensed professional, and the assessment shall not be more than one year old when obtained.
- (c) 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 a prescribed medications being taken by the client.
 - (4) A determination of the client's ambulatory status, as defined in Section 81001(n)(2).
 - (5) Identification of physical restrictions, including any medically necessary diet restrictions, to determine the client's capacity to participate in the licensee's program.
 - (6) A physical examination of the person, indicating the physician's primary diagnosis and secondary diagnosis, if any.
 - (7) Identification of other medical conditions, including those described in Section 81092, which are restricted, and in Section 81091, which would preclude care of the person by the licensee.
 - (8) Documentation of prior medical services and history.
 - (9) Current medical status including, but not limited to, height, weight, and blood pressure.
 - (10) Identification of the client's needs as a result of any medical information contained in the report.
- (d) 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: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1501, 1502(a)(7), 1530 and 1531, Health and Safety Code.

81069.2 FUNCTIONAL CAPABILITIES ASSESSMENT**81069.2**

- (a) In order to determine whether the facility's program meets a client's service needs, the licensee shall assess the client's need for personal assistance and care by determining his/her functional capabilities. The assessment shall be in writing, shall be used in developing the Needs and Service Plan, and shall include, but not be limited to the following activities:
- (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.

81069.2 FUNCTIONAL CAPABILITIES ASSESSMENT (Continued)**81069.2**

- (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 devices, such as a catheter.
 - (D) Complete bowel and bladder control.

- (9) Eating:
 - (A) Does not feed self.
 - (B) Feeds self with assistance from another person.
 - (C) Feeds self completely.

81069.2 FUNCTIONAL CAPABILITIES ASSESSMENT (Continued)**81069.2**

- (b) Assessment of the client's need for assistance shall include consideration of his/her physical condition affecting participation in his/her own care, including:
- (1) Vision:
 - (A) Severe/profound impairment.
 - (B) Mild/moderate impairment.
 - (C) No vision impairment.
 - (2) Hearing:
 - (A) Severe/profound loss.
 - (B) Mild/moderate loss.
 - (C) No hearing loss.
 - (3) 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.
 - (4) Walking:
 - (A) Does not walk.
 - (B) Walks with support.
 - (C) Walks well alone.
 - (5) Medical history and conditions.
 - (6) Need for prescribed and non-prescribed medications.

81069.2 FUNCTIONAL CAPABILITIES ASSESSMENT (Continued)**81069.2**

- (c) Assessment of the client's need for assistance and care shall include consideration of the following:
- (1) Mental and emotional conditions.
 - (2) Socialization and cognitive status.
 - (3) Propensity for behaviors that result in harm to self or others and that require supervision.
 - (4) Ability to manage his/her own finances and cash resources.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1250, 1501, 1502, 1507, 1530, 1531 and 1557.5, Health and Safety Code.

81070 CLIENT RECORDS**81070**

- (a) The licensee shall ensure that a separate, complete, and current record is maintained in the facility for each client.
- (b) Each client record shall contain the following information including, but not limited to, the following:
- (1) Name of client.
 - (2) Birthdate.
 - (3) Sex.
 - (4) Last known address.
 - (5) Date of admission.
 - (6) Name, address, and telephone number of the client's authorized representative(s), if any.
 - (7) A signed copy of the admission agreement specified in Section 81068.
 - (8) Name, address and telephone number of the client's physician and dentist, and other medical and mental health providers, if any.
 - (9) Medical assessment, including ambulatory status, as specified in Section 81069.
 - (10) Record of any illness or injury requiring treatment by a physician or dentist and for which the facility provided assistance to the client in meeting his/her necessary medical and dental needs.

81070 CLIENT RECORDS (Continued)**81070**

- (11) Record of current medications, including the name of the prescribing physician, and instructions, if any, regarding control and custody of medications.
 - (12) Restricted Health Condition Care Plan, if required for the client by Section 81092.2.
 - (13) Functional assessment as specified in Section 81069.2.
 - (14) Religious preference, and name and address of clergyman or religious advisor, if any.
 - (15) Needs and services plan and any modifications thereto, as specified in Sections 81068.2 and 81068.3.
 - (16) An account of the client's cash resources, personal property, and valuables entrusted as specified in Section 81026.
 - (17) Date of termination of services.
- (c) All information and records obtained from or regarding clients shall be confidential.
- (1) The licensee shall be responsible for safeguarding the confidentiality of record contents.
 - (2) Except as specified in Section 81070(d) below, 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 client's authorized representative(s) as specified in Section 81070(b)(6).
 - (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 81070(b)(8).
 - (C) Medical assessment, including ambulatory status, as specified in Section 81070(b)(9).
 - (D) Record of any current illness or injury as specified in Section 81070(b)(10).
 - (E) Record of current medications as specified in Section 81070(b)(11).

81070 CLIENT RECORDS (Continued) 81070

- (F) Restricted Health Condition Care Plan as specified in Section 81070(b)(12).
 - (G) Functional assessment as specified in Section 81070(b)(13).
 - (H) 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 be open to inspection by the client's authorized representative(s), if any.
 - (f) The information specified in Section 81070(b)(1) through (b)(17) above must be updated as necessary to ensure the accuracy of the client's record.
 - (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: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1501, 1502(a)(7), 1507 and 1531, Health and Safety Code.

81071 REGISTER OF CLIENTS 81071

- (a) In all licensed facilities, the following shall apply:
 - (1) The licensee shall maintain in the facility a register of all clients. The register shall be immediately available to, and copied for, licensing staff upon request, and must contain current information on the following:
 - (A) Client's name and ambulatory status as specified in Sections 81070(b)(1) and 81070(b)(9).
 - (B) Name, address and telephone number of client's attending physician.
 - (C) Authorized representatives information as specified in Section 81070(b)(6).
 - (D) Client's restricted health condition(s), if any, as specified in Section 81092(b).
 - 1. The licensee may keep a separate client register with this information.

81071 REGISTER OF CLIENTS (Continued)**81071**

- (2) The licensee shall keep the register in a central location at the facility.
- (A) Registers are confidential, as specified in Section 81070(c).

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1507 and 1557.5, Health and Safety Code.

81072 PERSONAL RIGHTS**81072**

- (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.
 - (4) To be informed, and to have his/her authorized representative, if any, informed, by the licensee of the provisions of law regarding complaints including, but not limited to, the address and telephone number of the complaint receiving unit of the licensing agency, and of information regarding confidentiality.

HANDBOOK BEGINS HERE

Provisions regarding inspection requests are found in Health and Safety Code section 1538:

- (a) Any person may request an inspection of any community care facility in accordance with the provisions of 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....

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.

81072 PERSONAL RIGHTS (Continued) 81072

- (A) Attendance at religious services, in or outside of the facility, shall be on a completely voluntary basis.
- (6) To leave or depart the facility at any time.
 - (A) The licensee shall not be prohibited by this provision from setting curfews or other house rules for the protection of clients.
 - (B) This provision may not apply to clients for whom a guardian, conservator, or other legal authority has been appointed.
- (7) Not to be locked in any room, building, or facility premises by day or night.
 - (A) The licensee shall not be prohibited by this provision from locking exterior doors and windows or from establishing house rules for the protection of clients provided the clients are able to exit the facility.
 - (B) The licensee shall be permitted to utilize means other than those specified in 81072(a)(7)(A) above for securing exterior doors and windows only with the prior approval of the licensing agency.
- (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 the postural support 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 that permits quick release by the client.
 - (D) Prior to the use of postural supports that cause the client to become non-ambulatory, the licensee shall ensure that a fire clearance, as required by Section 81020, has been secured.

81072 PERSONAL RIGHTS (Continued)

81072

- (E) Under no circumstances shall postural supports include tying of, or depriving or limiting the use of, a client's hands or feet.
1. A bed rail that extends from the head half the length of the bed and used only for assistance with mobility shall be allowed. Bed rails that extend the entire length of the bed are prohibited except for clients who are currently receiving hospice care and have a hospice care plan that specifies the need for full bed rail.
- (F) Protective devices including, but not limited to, helmets, elbow guards, and mittens which 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 specified below.
1. All requests to use protective devices shall be in writing and include a written order of a physician indicating the need for such 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.
 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 guardian, conservator, or other legal authority has been appointed.
- (10) To be informed of the facility's policy concerning family visits and other communication with clients, as specified in Health and Safety Code section 1512.

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Section 1512 of the Health and Safety Code provides in pertinent part:

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

HANDBOOK ENDS HERE

81072 PERSONAL RIGHTS (Continued)**81072**

- (11) To visit the facility with his/her relatives, mental health professional or authorized representative prior to admission.
 - (12) To have the facility inform his/her relative, mental health professional, or authorized representative, if any, of activities related to his/her care and supervision, including but not limited to notification of any modifications to the needs and services plan.
 - (A) This may only be done with prior written permission from the client.
 - (13) To have communications to the facility from his/her relatives, mental health professional, or authorized representative answered promptly and completely.
 - (14) To have visitors, including advocacy representatives, visit privately during waking hours, provided that such visitations do not infringe upon the rights of other clients.
 - (15) To wear his/her own clothes.
 - (16) To possess and use his/her own personal items, including his/her own toilet articles.
 - (17) To possess and control his/her own cash resources.
 - (18) To have access to individual storage space for his/her private use.
 - (19) To have access to telephones in order to make and receive confidential calls, provided that such calls do not infringe upon the rights of other clients and do not restrict availability of the telephone during emergencies.
 - (A) The licensee shall be permitted to require reimbursement from the client or his/her authorized representative for long distance calls.
 - (B) The licensee shall be permitted to prohibit the making of long distance calls upon documentation that requested reimbursement for previous calls has not been received.
 - (20) To mail and receive unopened correspondence.
 - (21) To receive assistance in exercising the right to vote.
 - (22) To move from the facility.
- (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 Section 81072(a)(1) through (22).

81072 PERSONAL RIGHTS (Continued)**81072**

- (c) The information specified in Section 81072(b) above including the visiting policy 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: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1501, 1502(a)(7), 1512 and 1531, Health and Safety Code.

81073 TELEPHONES**81073**

- (a) A social rehabilitation facility shall have telephone service on the premises.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1501, 1531 and 1539, Health and Safety Code.

81074 TRANSPORTATION**81074**

- (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: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1501 and 1531, Health and Safety Code.

81075 HEALTH-RELATED SERVICES**81075**

- (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) Facility staff who receive training may assist clients with metered-dose inhalers, and dry powder inhalers if the following requirements are met:

81075 HEALTH-RELATED SERVICES (Continued)**81075**

- (A) Facility staff must receive training from a licensed professional.
1. The licensee shall obtain written documentation from the licensed professional outlining the procedures and the names of facility staff who have been trained in those procedures.
 2. The licensee ensures that the licensed professional reviews staff performance as the licensed professional deems necessary, but at least once a year.
- (B) All staff training shall be documented in the facility personnel files.
- (2) Facility 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.
- (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.
- (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, facility 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, facility staff designated by the licensee shall be permitted to assist the client with self-administration, provided all of the following requirements are met:
- (A) There is written direction from a physician, on a prescription blank, specifying the name of the client, the name of the medication, all of the information specified in Section 81075(e), 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.

81075 HEALTH-RELATED SERVICES (Continued)**81075**

- (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, facility staff designated by the licensee, shall be permitted to assist the client with self-administration, provided all of the following requirements are met:
- (A) Facility staff shall contact the client's physician 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, and the physician's directions, shall be documented and maintained in the client's facility 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 facility record.
 - (D) For every prescription and nonprescription PRN medication for which the licensee provides assistance, there shall be a signed, dated written order from a physician on a prescription blank, maintained in the client's file, and a label on the medication. Both the physician's order and the label shall contain at least all of the following information:
 - 1. The specific symptoms which indicate the need for the use of the medication.
 - 2. The exact dosage.
 - 3. The minimum number of hours between doses.
 - 4. The maximum number of doses allowed in each 24-hour period.
- (c) The isolation room or area specified in Section 81087(i) shall be used where separation from others is required.
- (d) There shall be privacy for first aid treatment of minor injuries and for examination or treatment by a physician 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:

81075 HEALTH-RELATED SERVICES (Continued) 81075

- (A) Ensuring that an adequate number of facility staff persons are designated to operate and care for the equipment and that those staff persons receive.
 - 1. The licensee shall comply with all of the requirements for training in Sections 81075(b)(1)(A) through (B).
- (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 facility.
 - (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 cannula (mask) to the oxygen source is long enough to allow the client movement within his/her room but does not constitute a hazard to the client or others.
 - (G) Clients use oxygen from a portable source when they are outside of their rooms or when walking in a day care setting.
 - (H) Equipment is operable.
 - (I) Facility staff have knowledge and ability to operate and care for the oxygen equipment.
 - (J) Equipment is removed from the facility when no longer in use by the client.
- (f) Staff responsible for providing direct care and supervision shall receive training in first aid from persons qualified by agencies including but not limited to the American Red Cross.
- (g) If the facility has no medical unit on the grounds, first aid supplies shall be maintained and be readily available in a central location in the facility.
 - (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.

81075 HEALTH-RELATED SERVICES (Continued)**81075**

- (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 capable of and responsible for communicating with emergency personnel in the facility at all times. The following information shall be readily available:
- (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 fire department, crisis center or paramedical 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.

HANDBOOK BEGINS HERE

It is recommended that the licensee obtain consent forms to permit the authorization of medical care.

HANDBOOK ENDS HERE

- (i) 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.
- (j) 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.

81075 HEALTH-RELATED SERVICES (Continued)**81075**

- (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 facility, the medications are determined by either the administrator or by the licensing agency to be a safety hazard.
- (k) 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 Section 81075(k)(7)(A) through (G) below.
 - (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.
 - (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.

81075 HEALTH-RELATED SERVICES (Continued)**81075**

- (l) 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 facility 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.
- (m) The facility administrator shall ensure the development and implementation of a plan which insures assistance is provided to the clients in meeting their medical and dental needs.
- (n) The facility administrator shall ensure the isolation of a client suspected of having a contagious or infectious disease and shall ensure that a physician is contacted to determine suitability of the client's retention in the facility.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1501, 1502, 1502(a)(7), 1507, 1530 and 1531, Health and Safety Code.

81075.1 AUTOMATED EXTERNAL DEFIBRILLATORS (AEDs)**81075.1**

- (a) The licensee is permitted to maintain and operate an AED at the facility if all of the following requirements are met:
- (1) The licensee shall notify the licensing agency in writing that an AED is in the facility 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 facility the following:
 - (A) A copy of the required physician's prescription for the AED.

81075.1 AUTOMATED EXTERNAL DEFIBRILLATORS (AEDs) (Continued) 81075.1

- (B) A training manual from an American Heart Association - or American Red Cross-recognized AED training class.
 - (C) A log of checks of operation of the AED containing the dates checked and the name of person checking.
 - (D) 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.
 - (E) A log of quarterly proficiency demonstrations for each holder of an AED operator's certificate who is authorized by the licensee to operate the AED. The log shall contain the dates of the demonstrations and the manner of demonstration.
- (4) A supply kit shall be maintained at the facility 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.
 - (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).
- (5) Use of an AED shall be reported as specified in Section 81061.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507, 1530, 1531 and 1797.196, Health and Safety Code.

81076 FOOD SERVICE

81076

- (a) In a social rehabilitation facility providing meals to clients, the following shall apply:
- (1) All food shall be safe and of the quality and in the quantity necessary to meet the needs of the clients. Each meal shall meet at least 1/3 of the servings recommended in the USDA Basic Food Group Plan - Daily Food Guide for the age group served. All food shall be selected, stored, prepared and served in a safe and healthful manner.

HANDBOOK BEGINS HERE

U.S. Department of Agriculture Dietary Guidelines for Americans 2005

The following is the U.S. Department of Agriculture's Food Guide for a 2,000 calorie level diet. For additional calorie level diets please see the entire Food Guide chart available in the Dietary Guidelines for Americans 2005 (appendix A-2).

Daily Amount of Food From Each Group (vegetable subgroup amounts are per week)

Food Group Food group amounts shown in cup (c) or ounce-equivalents (oz-eq), with number of servings (srv) in parentheses when it differs from the other units. See note for quantity equivalents for foods in each group. Oils are shown in grams (g).

Fruits	2 c (4 srv)/day
Vegetables	2.5 c (5 srv)/day
Dark Green Veg	3 c/wk
Orange Veg	2 c/wk
Legumes	3 c/wk
Starchy Veg	3 c/wk
Other Veg	6.5 c/wk
Grains	6 oz-eq/day
Whole Grains	3 oz-eq/day
Other Grains	3 oz-eq/day
Lean Meat and Beans	5.5 oz-eq/day
Milk	3 c/day
Oils	27 g/day
Discretionary Calorie Allowance	267 calories/day

Note: One serving of fruits and vegetables is equivalent to 1/2 cup.

HANDBOOK ENDS HERE

81076 FOOD SERVICE (Continued) 81076

- (2) Where all food is provided by the facility, arrangements shall be made so that each client has available at least three meals per day.
 - (A) Not more than 15 hours shall elapse between the third meal of one day and first meal of the following day.
- (3) Where meal service within a facility is elective, arrangements shall be made to ensure availability of a daily food intake meeting the requirements of Section 81076(a)(1) above for all clients who, in their admission agreement, elect meal service.
- (4) Between meal nourishment or snacks shall be available for all clients unless limited by dietary restrictions prescribed by a physician.
- (5) 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.
- (6) 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.
- (7) 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.
- (8) Where indicated, food shall be cut, chopped or ground to meet individual needs.
- (9) Powdered milk shall not be used as a beverage but shall be allowed in cooking and baking. Raw milk, as defined in Division 15 of the California Food and Agricultural Code shall not be used. Milk shall be pasteurized.
- (10) 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.
- (11) All home canned foods shall be processed in accordance with standards of the University of California Agricultural Extension Service. Home canned foods from outside sources shall not be used.

81076 FOOD SERVICE (Continued)**81076**

- (12) If food is prepared off the facility premises, the following shall apply:
- (A) The preparation source shall meet all applicable requirements for commercial food services.
 - (B) The facility shall have the equipment and staff necessary to receive and serve the food and for cleanup.
 - (C) The facility shall maintain the equipment necessary for in-house preparation, or have an alternate source for food preparation, and service of food in emergencies.
- (13) All persons engaged in food preparation and service shall observe personal hygiene and food services sanitation practices which protect the food from contamination.
- (14) 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.
- (15) 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.
- (16) Soaps, detergents, cleaning compounds or similar substances shall be stored in areas separate from food supplies.
- (17) 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.
- (18) All food shall be protected against contamination. Contaminated food shall be discarded immediately.
- (19) All equipment, fixed or mobile, dishes, and utensils shall be kept clean and maintained in safe condition.
- (20) 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) Facilities not using dishwashing machines shall clean and sanitize dishes and utensils by an alternative comparable method.

81076 FOOD SERVICE (Continued) 81076

- (21) Equipment necessary for the storage, preparation and service of food shall be provided, and shall be well-maintained.
 - (22) Tableware and tables, dishes, and utensils shall be provided in the quantity necessary to serve the clients.
 - (23) 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 facility 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) The following requirements shall be met when serving food:
- (1) Meals served on the premises shall be served in one or more dining rooms or similar areas in which the furniture, fixtures, and equipment necessary for meal service are provided.
 - (A) Such dining areas shall be located near the kitchen so that food may be served quickly and easily.
 - (2) Tray service shall be provided in case of emergency need.
- (d) The licensee shall meet the following 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 temperature specified in (2) and (3) above.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1501, 1502(a)(7), 1530, 1530.5 and 1531, Health and Safety Code.

81077.2 CARE FOR CLIENTS WHO RELY UPON OTHERS TO PERFORM ALL ACTIVITIES OF DAILY LIVING**81077.2**

- (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 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 81022(g).
 - (2) A Needs and Services Plan, as required by Section 81068.2 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.
 - (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 non-emergency 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 facility staff will receive.
 - 1. The training must be provided by the client's health care provider (physician or nurse), the client's physical or mental health therapist, social worker, and 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.

81077.2 CARE FOR CLIENTS WHO RELY UPON OTHERS TO PERFORM ALL ACTIVITIES OF DAILY LIVING (Continued) 81077.2

- (H) An agreement, signed by the placement agency, or authorized representative, to review the client's care at least once a month. A copy of the agreement shall be maintained in the client's file.
 - (I) 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 in the facility 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: Section 1530, Health and Safety Code. Reference: Sections 1501, 1507 and 1530, Health and Safety Code.

81077.3 CARE FOR CLIENTS WHO LACK HAZARD AWARENESS OR IMPULSE CONTROL 81077.3

- (a) If a client requires protective supervision because of running/wandering away, supervision may be enhanced by fencing yards, using self-closing latches and gates, and installing operational bells, buzzers, or other auditory devices on exterior doors to alert staff when the door is opened. The fencing and devices must not substitute for appropriate staffing.
 - (1) The licensee may use wrist bands and other client egress-alert devices with the prior written approval of the client or authorized representative, if the client is legally incapable of giving consent, provided that the devices do not violate Section 81072.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1507, 1530, 1531 and 1531.1, Health and Safety Code.

81077.4 CARE FOR CLIENTS WITH INCONTINENCE 81077.4

- (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 the client are used whenever they are needed.

81077.4 CARE FOR CLIENTS WITH INCONTINENCE (Continued)**81077.4**

- (2) Ensuring that clients who can benefit from scheduled toileting are assisted or reminded to go to the bathroom at regular intervals rather than being diapered.
- (3) Assisting the client with self-care.
- (4) Ensuring that clients with incontinence are kept clean and dry, and that the facility 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 clients are assisted with a structured bowel and/or bladder retraining program if one has been designed for the client.
 - (B) The licensee shall ensure that facility staff responsible for implementing the program receive training from the licensed professional or designee who designed the program.
 - (C) The licensee obtains from the licensed professional or designee written instructions to facility staff outlining the procedures and shall document the names of facility staff who received the training.
 - (D) The licensee shall ensure that the licensed professional or 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.
- (9) Ensuring that fluids are not withheld to control incontinence.
- (10) Ensuring that a client with incontinence is not catheterized to control incontinence for the convenience of the licensee or facility staff.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507, 1530 and Health and Safety Code.

81077.5 CARE FOR CLIENTS WITH CONTRACTURES**81077.5**

- (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 facility staff when the client is unable to provide self-care.
 - (A) The licensee shall ensure that facility 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 facility staff who received the training.
 - (C) The licensee shall ensure that the licensed professional reviews staff performance as the licensed professional deems necessary, but at least once a year.
- (c) In addition to Section 81077.5(b) the licensee shall ensure that there is a plan of care for the contractures that is developed by a licensed professional.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507 and 1530, Health and Safety Code.

81078 RESPONSIBILITY FOR PROVIDING CARE AND SUPERVISION**81078**

- (a) The licensee shall provide care and supervision as necessary to meet the client's needs
- (b) In any instance where the Department does not suspend the facility license and the licensing agency requires that a client be relocated, as specified in Section 81094, the licensee shall prepare a written relocation plan. The plan shall contain all necessary steps to be taken to reduce stress to the client which may result in transfer trauma.

81078

RESPONSIBILITY FOR PROVIDING CARE AND SUPERVISION

81078

(Continued)

- (1) The written relocation plan shall include, but not be limited to the following:
 - (A) A specific date for beginning and a specific date for completion of the process of safely relocating the client. The time frame for relocation may provide for immediate relocation but shall not exceed 30 days or 30 days after the date of the written conclusion of the client's appeal of the relocation order, if appealed.
 - (B) A specific date when the client and the client's authorized representative, if any, shall be notified of the need for relocation.
 - (C) A specific date when consultation with the client's physician shall occur to obtain a current medical assessment of the client's health needs, to determine the appropriate facility type for relocation and to ensure that the client's health care needs continue to be met at all times during the relocation process.
 - (D) The method by which the licensee shall participate in the identification of an acceptable relocation site with the client and the authorized representative if any. The licensee shall advise the client and/or the authorized representative that if the client is to be moved to another nonmedical community care facility, a determination must be made that the client's needs can be legally met in the new facility before the move is made. If the client's needs cannot be legally met in the new facility, the client must be moved to a facility licensed to provide the necessary care.
 - (E) A list of contacts made or to be made by the licensee with community resources, including but not limited to, social workers, family members, Long Term Care Ombudsman, clergy and others as appropriate to ensure that services are provided to the client before, during and after the move. The need for the move shall be discussed with the client and the client assured that support systems will remain in place.
 - (F) Measures to be taken until relocation to protect the client and/or meet the client's health and safety needs.
 - (G) An agreement to notify the licensing agency when the relocation has occurred, including the client's new address, if known.
- (2) The relocation plan shall be submitted in writing to the licensing agency within the time set forth in the written notice by the licensing agency that the client requires health services that the facility cannot legally provide.
- (3) Any changes in the relocation plan shall be submitted in writing to the licensing agency. The licensing agency shall have the authority to approve, disapprove or modify the plan.

81078 RESPONSIBILITY FOR PROVIDING CARE AND SUPERVISION 81078
(Continued)

- (4) If relocation of more than one (1) client is required, a separate plan shall be prepared and submitted in writing for each client.
 - (5) The licensee shall comply with all terms and conditions of the approved plan. No written or oral contract with any other person shall release the licensee from the responsibility specified in sections 81078(b) and (c) for relocating a client who has a health condition(s) which cannot be cared for in the facility and/or requires inpatient care in a licensed health facility, nor from taking necessary actions to reduce stress to the client.
 - (6) In cases where the licensing agency determines that the resident is in imminent danger because of a health condition(s) which cannot be cared for in the facility or which requires inpatient care in a licensed health facility, the licensing agency shall have the authority to order the licensee to immediately relocate the resident.
- (c) In all cases when a client or resident must be relocated, the licensee shall not obstruct the relocation process and shall cooperate with the licensing agency in the relocation in process. Such cooperation shall include, but not be limited to, the following activities:
- (1) Identifying and preparing for removal of the medications, Medi-Cal or Medicare or other medical insurance documents, clothing, safeguarded cash resources, valuables and other belongings of the client.
 - (2) Contacting the authorized representative of the client to assist in transporting him or her, if necessary.
 - (3) Contacting other suitable facilities for placement, if necessary.
 - (4) Providing access to client's files when required by the Department.
- (d) Notwithstanding 81078(a) through (c)(4) above, the licensee shall arrange for and/or provide those services identified in the client's needs and services plan as necessary to meet the client's needs.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1501, 1502(a)(7), 1511, 1528, 1531 and 1556, Health and Safety Code.

81079 ACTIVITIES**81079**

- (a) The licensee shall ensure that planned recreational activities, which include the following, are provided for the clients:
 - (1) Activities that require group interaction.
 - (2) Physical activities including but not limited to games, sports, and exercises.
- (b) Each client who is capable shall be given the opportunity to participate in the planning, preparation, conduct, clean-up and critique of the activities.
- (c) The licensee shall ensure that clients are encouraged to participate in and shall make available community activities including but not limited to the following:
 - (1) Worship services and activities of the client's choice.
 - (2) Community service activities.
 - (3) Community events including but not limited to concerts, tours, dances, plays and celebrations of special events.
 - (4) Self-help organizations.
 - (5) Senior citizen groups, sports leagues, and service clubs.
- (d) Notices of planned activities shall be posted in a central location readily accessible to clients, relatives, and representatives of placement and referral agencies.
- (e) Activities shall be encouraged through provision of the space, equipment, and supplies specified in Sections 81087.2, 81087.3 and 81088(1).

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1501 and 1502(a)(7), Health and Safety Code.

81080 RESIDENT COUNCILS**81080**

- (a) Each facility, at the request of a majority of its residents, shall assist its residents in establishing and maintaining a resident-oriented facility council.
 - (1) The licensee shall provide space for, and post notice of, meetings, and shall provide assistance in attending council meetings for those residents who request it.

81080**RESIDENT COUNCILS (Continued)****81080**

- (A) If residents are unable to read the posted notice because of physical or functional disabilities, the licensee shall notify the residents in a manner appropriate to that disability including but not limited to verbal announcements.
- (2) The licensee shall document notice of meetings, meeting times, and recommendations from council meetings.
- (3) In order to permit a free exchange of ideas, at least part of each meeting shall be conducted without the presence of any facility personnel.
- (4) Residents shall be encouraged, but shall not be compelled to attend council meetings.
- (b) The licensee shall ensure that in providing for resident councils the requirements of the Health and Safety Code section 1520.2 are observed.

HANDBOOK BEGINS HERE

Health and Safety Code section 1520.2 provides in pertinent part:

- "(a) ... The council shall be composed of residents of the facility and may include family members of residents of the facility. The council may, among other things, make recommendations to facility administrators to improve the quality of daily living in the facility and may negotiate to protect residents' rights with facility administrators.
- (b) A violation of subdivision (a) shall not be subject to the provisions of Section 1540 (misdemeanors) but shall be subject to the provisions of Section 1534 (civil penalties) and any other provisions of this chapter.
- (c) This section shall not apply to a community care facility ...licensed to provide care for six (6) or fewer individuals."

HANDBOOK ENDS HERE

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1501, 1502(a)(7) and 1520.2 Health and Safety Code.

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Article 7. PHYSICAL ENVIRONMENT**81086 ALTERATIONS TO EXISTING BUILDINGS OR NEW FACILITIES 81086**

- (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.

HANDBOOK BEGINS HERE

Prior to construction or alterations, state or local law requires that all facilities secure a building permit.

HANDBOOK ENDS HERE

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

81087 BUILDINGS AND GROUNDS 81087

- (a) The facility 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 facility free of flies and other insects.
 - (2) The licensee shall provide for the safe disposal of water and other chemicals used for cleaning purposes.
- (b) All clients shall be protected against hazards within the facility through the 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.

81087 BUILDINGS AND GROUNDS (Continued)**81087**

- (d) Stairways, inclines, ramps, open porches, and areas of potential hazard to clients whose balance or eyesight is poor shall not be used by clients unless such areas are well lighted and equipped with sturdy hand railings.
- (e) Bedrooms must meet, at a minimum, the following requirements:
- (1) No more than two clients shall sleep in a bedroom unless the program justifies a group living arrangement of more than two persons to a room and such arrangement is approved in writing by the licensing agency.
 - (2) Bedrooms must be large enough to allow for easy passage and comfortable use of any required client assistive devices, including, but not limited to, wheelchairs, walkers, or oxygen equipment, between beds and other items of furniture specified in Section 81088(i).
 - (3) No room commonly used for other purposes shall be used as a bedroom for any person.
 - (4) No client bedroom shall be used as a public or general passageway to another room, bath, or toilet.
- (f) Facilities shall meet the following requirements in laundry areas:
- (1) Space and equipment for washing, ironing and mending of personal clothing.
 - (2) Space used for soiled linen and clothing shall be separated from the clean linen and clothing storage and handling area.
- (g) The licensee shall have the authority to use a centralized service facility to provide laundry or food service to two or more licensed facilities if the use of the centralized facility does not result in a violation of Section 81076 or Section 81088 and the licensing agency has issued prior written approval.
- (h) There shall be space available in the facility to serve as an office for business, administration, and admission activities.
- (i) General permanent or portable storage space shall be available for the storage of facility equipment and supplies.
- (1) Facility equipment and supplies shall be stored in this space and shall not be stored in space used to meet other requirements specified in this Chapter.

81087 BUILDINGS AND GROUNDS (Continued)**81087**

- (j) All 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 be at least five feet high and shall be constructed so that the fence does not obscure the pool from view. The bottom and sides of the fence shall comply with Division 1, Appendix Chapter 4 of the 1994 Uniform Building Code. In addition to meeting all of the aforementioned requirements for fences, 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. 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.
- (A) If licensed prior to June 1, 1995, facilities with existing pool fencing shall be exempt from the fence requirements specified in Section 81087(j)(1) until such fence is replaced or structurally altered. If the licensee replaces or alters the fence, the licensee shall be required to meet the fence requirements specified in—Section 81087(j)(1).
- (2) 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 81087(j)(1).
- (k) All in-ground pools and above-ground pools which cannot be emptied after each use shall have an operative pump and filtering system.
- (l) Disinfectants, cleaning solutions, poisons and other items that could pose a danger if readily available to clients shall be stored where inaccessible to clients.
- (1) Storage areas for poisons shall be locked.
- (m) Notwithstanding Section 81087(l) above, firearms, weapons, and ammunition, assembled or unassembled, shall not be permitted in the facility or on the facility property.
- (n) Medicines shall be stored as specified in section 81075 (j) and (k) and separately from other items specified in 81087(l).
- (o) The items specified in Section 81087(l) shall not be stored in food storage areas or in storage areas used by or for clients.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1501, 1502(a)(7) and 1531, Health and Safety Code.

81087.2 OUTDOOR ACTIVITY SPACE**81087.2**

- (a) The licensee shall ensure that outdoor activity areas are provided, are easily accessible to clients and protected from traffic.
- (b) The licensee shall ensure that the outdoor activity areas are shaded, comfortable, and furnished for outdoor use.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1501 and 1502(a)(7), Health and Safety Code.

81087.3 INDOOR ACTIVITY SPACE**81087.3**

- (a) As a condition of licensure, there shall be common rooms, including a living room, dining room, den or other recreation/activity room, which provide the necessary space and/or separation to promote activity programs within the facility and to prevent such activities from interfering with other functions.
 - (1) At least one such room shall be available to clients for relaxation and visitation with friends and/or relatives.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1501 and 1502(a)(7), Health and Safety Code.

81088 FIXTURES, FURNITURE, EQUIPMENT AND SUPPLIES**81088**

- (a) A comfortable temperature for clients shall be maintained at all areas.
 - (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.
 - (2) Nothing in this section shall prohibit clients from adjusting individual thermostatic controls.
- (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.

HANDBOOK BEGINS HERE

The use of a fireplace screen or similar barrier will meet this requirement.

HANDBOOK ENDS HERE

- (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 facility.
- (e) Faucets used by clients for personal care such as shaving and grooming shall deliver hot water.
- (1) Hot water temperature controls shall be maintained to automatically regulate temperature of hot water delivered to plumbing fixtures used by clients 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 facilities 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 that are kept on the containers; shall be in good repair and shall be leakproof and rodent-proof.
 - (2) Solid waste containers, including movable bins, receiving putrescible waste shall be emptied at least once per week or more often if necessary to comply with Section 81088(f) above.
 - (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 program of services being offered by the facility and the requirements specified in this Chapter.

81088 **FIXTURES, FURNITURE, EQUIPMENT AND SUPPLIES (Continued)** **81088**

- (h) Toilet, washbasin, and bath and shower fixtures shall at a minimum meet the following requirements:
- (1) At least one toilet and washbasin shall be maintained for each six persons residing in the facility.
 - (2) At least one bathtub or shower shall be maintained for each six persons residing in the facility.
 - (3) Toilets and bathrooms shall be located near client bedrooms.
 - (4) Individual privacy shall be provided in all toilet, bath, and shower areas.
 - (5) The lock on bathroom doors shall allow for quick and easy opening from the outside.
- (i) The licensee shall ensure provision to each client of the following furniture, equipment and supplies necessary for personal care and maintenance of personal hygiene.
- (1) An individual bed, except that couples shall be allowed to share one double or larger size bed, maintained in good repair, and equipped with good bed springs, a clean mattress, and pillow(s).
 - (A) Fillings and covers for mattresses and pillows shall be flame retardant.
 - (B) No social rehabilitation facility shall have more beds for client use than required for the maximum capacity approved by the licensing agency.
 - (2) In addition to Subsection (c)(1) above, each client shall have a chair, a night stand, and a lamp or lights necessary for reading.
 - (A) Two clients sharing a bedroom shall be permitted to share one night stand.
 - (3) Permanent or portable closets and drawer space in each bedroom to accommodate the client's clothing and personal belongings.
 - (A) A minimum of two drawers or eight cubic feet (.2664 cubic meters) of drawer space, whichever is greater, shall be provided for each client.
 - (4) Clean linen in good repair, including lightweight, warm blankets and bedspreads; top and bottom bed sheets; pillow cases; mattress pads; rubber or plastic sheeting, when necessary; and bath towels, hand towels, and washcloths.

81088 FIXTURES, FURNITURE, EQUIPMENT AND SUPPLIES (Continued) 81088

- (A) The quantity of linen provided shall permit changing the linen at least once each week or more often when necessary to ensure that clean linen is in use by clients at all times.
- (B) The use of common towels and washcloths shall be prohibited.
- (5) Feminine napkins, nonmedicated soap, toilet paper, toothbrush, toothpaste, and comb.
- (j) If the facility maintains its own laundry equipment, necessary supplies shall be available and equipment shall be maintained in good repair.
 - (1) If the washing machine and/or dryer is coin operated, clients shall be provided with coins or tokens and laundry supplies.
 - (A) Coins and laundry supplies shall be provided to clients when public laundry equipment is used.
 - (B) The licensee shall be permitted to designate a safe location or locations, and/or times in which clients shall be permitted to iron.
- (k) Emergency lighting, which shall include at a minimum working flashlights or other battery-powered lighting, shall be maintained and readily available in areas accessible to clients and staff.
 - (1) An open-flame type of light shall not be used.
 - (2) Night lights shall be maintained in hallways and passages to nonprivate bathrooms.
- (l) The licensee shall provide and maintain the equipment and supplies necessary to meet the requirements of the planned activity program.
 - (1) Such supplies shall include but not be limited to daily newspapers, current magazines and a variety of reading materials.
 - (2) Special equipment and supplies necessary to accommodate physically handicapped persons or other persons with special needs shall be provided to meet the needs of handicapped clients.
 - (3) When not in use, recreational equipment and supplies shall be stored where they do not create a hazard to clients.

81088 FIXTURES, FURNITURE, EQUIPMENT AND SUPPLIES (Continued)**81088**

- (m) All social rehabilitation facilities, except facilities with sprinkling systems, shall have an approved, commercially manufactured and battery operated smoke detector installed in the hallway(s) in each sleeping area in the home. The smoke detectors shall be audible in each bedroom or sleeping room.
- (n) Facilities shall meet the following signal system requirements:
- (1) Any facility certified as a Short-Term Crisis Residential Program and/or a Long-Term Residential Treatment Program with a licensed capacity of 15 or more clients, or having separate floors or separate buildings without full-time staff present on each floor or in each separate building when clients are present, shall have a signal system or shall have facility staff visually check on all clients no less than on an hourly basis.
 - (2) If a signal system is used, it shall meet the following requirements.
 - (A) Operation from each client's sleeping unit.
 - (B) Transmission of a visual and/or auditory signal to a central location, or production of an auditory signal at the client's living unit which is loud enough to summon staff.
 - (C) Identification of the specific client's sleeping unit from which the signal originates.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 5670 and 5671, Welfare and Institutions Code; Sections 1501, 1502(a)(7) and 1531, Health and Safety Code.

Article 8. INCIDENTAL MEDICAL SERVICES**81090 HEALTH AND SAFETY SERVICES****81090**

- (a) Waivers or exceptions will not be granted to accept or retain clients who have health conditions prohibited by Section 81091.
- (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 81092 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 81068.2 and 81092.2.
 - (4) The client is able to care for all aspects of the condition for himself/herself or assistance in the care of the condition is provided either by an appropriately skilled and licensed professional or by facility staff who receive supervision and training from a licensed professional.
 - (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.
 - (5) The licensee agrees in writing to comply with all aspects of the client's care plans.

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

81091 PROHIBITED HEALTH CONDITIONS**81091**

- (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 dermal ulcers.
 - (5) Any other condition or care requirements which would require the facility to be licensed as a health facility as defined by Sections 1202 and 1250 of the Health and Safety Code.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507, 1530, 1531 and 1557.5, Health and Safety Code.

81092 RESTRICTED HEALTH CONDITIONS**81092**

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Health and Safety Code section 1502(a) reads in pertinent part:

"Community care facility" means any facility, place, or building that is maintained and operated to provide nonmedical residential care, day treatment, [or] adult day care...

Clients who require nursing care and/or monitoring generally may not be in a social rehabilitation facility, though there are exceptions (e.g. hospice care).

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- (a) A licensee may accept or retain clients who have the conditions listed in this section only if all requirements of Article 8 are met.
- (b) Care for the following health conditions must be provided only as specified in Sections 81092.1 through 81092.11.
 - (1) Use of inhalation-assistive devices as specified in Section 81092.3.

81092	RESTRICTED HEALTH CONDITIONS (Continued)	81092
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- (2) Colostomy/ileostomies as specified in Section 81092.4.
- (3) Requirement for fecal impaction removal, enemas, suppositories only as specified in Section 81092.5.
- (4) Use of catheters as specified in Section 81092.6.
- (5) Staph or other serious, communicable infections as specified in Section 81092.7.
- (6) Insulin-dependent Diabetes as specified in Section 81092.8.
- (7) Stage 1 and 2 dermal ulcers as specified in Section 81092.9.
- (8) Wounds as specified in Section 81092.9.
- (9) Gastrostomies as specified in Section 81092.10.
- (10) Tracheostomies as specified in Section 81092.11.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507 and 1530, Health and Safety Code.

81092.1	GENERAL REQUIREMENTS FOR RESTRICTED HEALTH CONDITIONS	81092.1
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- (a) A client with a restricted health condition specified in Section 81092 may be admitted or retained if all requirements in Sections 81092.1(b) through (o) are met.
- (b) The licensee is willing to provide the needed care.
- (c) Care is provided as specified in this article.
- (d) Either the client's medical condition is chronic and stable, or is temporary in nature and is expected to return to a condition normal for that client.
- (e) The client must be under the medical care of a licensed professional.
- (f) Prior to admission of a client with a restricted health condition specified in Section 81092, the licensee shall:
 - (1) Communicate with all other persons who provide care to that client to ensure consistency of care for the medical condition.

81092.1 GENERAL REQUIREMENTS FOR RESTRICTED HEALTH CONDITIONS (Continued)**81092.1**

- (2) Ensure that facility staff who will participate in meeting the client's specialized care needs complete training provided by a licensed professional sufficient to meet those needs.
- (A) Training shall include hands-on instruction in both general procedures and client-specific procedures.
- (g) All new facility staff who will participate in meeting the client's specialized care needs shall complete the training prior to providing services to the client.
- (h) The licensee shall ensure that facility staff receive instruction from the client's physician or other licensed professional to recognize objective symptoms observable by a lay person, and how to respond to that client's health problems, including who to contact.
- (i) 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 81092.2(a)(1) of that change.
- (j) 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.
- (k) If the licensed health professional delegates routine care, the following requirements must be met for health conditions specified in Sections 81092.3, 81092.4 and 81092.6 through 81092.11:
- (1) The licensee shall obtain written documentation from the licensed professional outlining the procedures and the names of the facility staff who have been trained in those procedures.
- (2) The licensee ensures that the licensed professional reviews staff performance as often as necessary, but at least annually.
- (l) All training shall be documented in the facility personnel files.
- (m) The licensee shall develop and maintain, as part of the Needs and Services Plan, a Restricted Health Condition Care Plan as specified in Section 81092.2.
- (1) The care plan shall neither require nor recommend that the licensee or any facility 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.

81092.1 GENERAL REQUIREMENTS FOR RESTRICTED HEALTH CONDITIONS (Continued)**81092.1**

- (n) The licensee shall ensure that the client's health-related service needs are met and shall follow the approved plan for each client.
- (o) 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.
- (p) The licensee shall demonstrate compliance with the restricted health condition care plan by maintaining in the facility all relevant documentation.
- (q) The licensee shall report any substantive deviation from the care plan to the client's authorized representative.
- (r) 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 81072.
 - (1) If a client refuses medical services specified in the care plan, the licensee shall immediately notify all persons identified in Section 81092.2(a)(1) and shall participate in developing a plan for meeting the client's needs.
 - (2) If unable to meet the client's needs, the licensee shall issue an eviction notice as specified in Section 81068.5.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507 and 1530, Health and Safety Code.

81092.2 RESTRICTED HEALTH CONDITION CARE PLAN**81092.2**

- (a) If the licensee chooses to care for a client with a restricted health condition, as specified in Section 81092, the licensee shall develop and maintain, as part of the Needs and Services Plan, a written Restricted Health Condition Care 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.

81092.2 RESTRICTED HEALTH CONDITION CARE PLAN**81092.2**

- (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.
- (3) Identification of a licensed professional who will perform procedures if the client needs medical assistance.
 - (4) Identification of the person 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 81092.2(a)(1).
 - (7) A signed statement from the client's attending 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 they have reviewed and approved the plan and that the placement agency will monitor implementation of the plan.
- (b) The Restricted Health Condition Care Plan shall neither require nor recommend that the licensee or any facility 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: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507 and 1530, Health and Safety Code.

81092.3 INHALATION-ASSISTIVE DEVICES**81092.3**

- (a) A licensee may accept or retain a client who requires the use of an inhalation-assistive device if all of the following conditions are met:
 - (1) The licensee is in compliance with Section 81092.1.

81092.3 INHALATION-ASSISTIVE DEVICES (Continued)**81092.3**

- (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:
 - (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.
 - (B) The device can legally be operated by an unlicensed person and is cared for by facility staff who receive training from a licensed professional as specified in Sections 81092.1(k) through (k)(2).
- (4) The licensee ensures that:
 - (A) The device is functional.
 - (B) The device is removed from the facility 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 facility staff have the knowledge of and ability to care for the device.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507 and 1530, Health and Safety Code.

81092.4 COLOSTOMY/ILEOSTOMY**81092.4**

- (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 81092.1.

81092.4 COLOSTOMY/ILEOSTOMY (Continued)**81092.4**

- (4) The licensee monitors the client's ongoing ability to provide care for his/her ostomy in accordance with the physician's instructions.
- (5) The licensee ensures that:
 - (A) A licensed professional provides ostomy care when the client is unable to provide self-care.
 - (B) The ostomy bag and adhesive may be changed by facility staff who receive training from the licensed professional as specified in Sections 81092.1(k) through (k)(2).
- (6) The licensee ensures that used bags are discarded as specified in Section 81088(f)(2).
- (7) The licensee ensures privacy when ostomy care is provided.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507 and 1530, Health and Safety Code.

81092.5 FECAL IMPACTION REMOVAL, ENEMAS, OR SUPPOSITORIES**81092.5**

- (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 81092.1.
 - (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: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507 and 1530, Health and Safety Code.

81092.6 INDWELLING URINARY CATHETER/CATHETER PROCEDURE 81092.6

- (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 81092.1.
 - (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 either catheter care is provided by a licensed professional when the client is unable to provide self-care, or the catheter bag and tubing are changed and bags are emptied by facility staff who receive training from the licensed professional as specified in Sections 81092.1(k) through (k)(2).
 - (5) The licensee ensures that insertion, removal and irrigation of the catheter, or any other required catheter care other than that specified in Section 81092.6(a)(4) are performed by a licensed professional.
 - (6) The licensee ensures that waste materials are disposed of as specified in Section 81088(f)(2).
 - (7) The licensee ensures privacy when care is provided.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507 and 1530, Health and Safety Code.

81092.7 STAPH OR OTHER SERIOUS, COMMUNICABLE INFECTIONS 81092.7

- (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 81092.1.
 - (2) The licensee has obtained a statement from the client's physician that the infection is not a risk to other clients.

81092.7 STAPH OR OTHER SERIOUS, COMMUNICABLE INFECTIONS 81092.7
(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 facility staff responsible for providing the care receive training from a licensed professional as specified in Sections 81092.1(k) through (k)(2) 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 protection of the client who has the infection, other clients and staff.
- (6) The licensee ensures that all aspects of care performed in the facility by the licensed professional and facility staff are documented in the client's file.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507 and 1530, Health and Safety Code.

81092.8 DIABETES 81092.8

- (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 81092.1.
 - (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 facility 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.

81092.8 DIABETES (Continued)**81092.8**

2. The licensee ensures that facility staff responsible for glucose testing receive training from a licensed professional as specified in Sections 81092.1(k) through (k)(2).
 3. Facility 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. Facility 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 facility staff are documented and maintained in the client's record in the facility.
- (3) The licensee ensures that sufficient amounts of medicines, testing equipment, syringes, needles, and other supplies are maintained and stored in the facility.
 - (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 California Code of Regulations, Title 8, Chapter 4, Subchapter 7, Group 16, Article 109, Section 5193.

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California Code of Regulations, Title 8, Section 5193(d)(3)(B) states:

Prohibited Practices.

1. Shearing or breaking of contaminated needles and other contaminated sharps is prohibited.
2. Contaminated sharps shall not be bent, recapped, or removed from devices. Exception: Contaminated sharps may be bent, recapped or removed from devices if:
 - a. The employer can demonstrate that no alternative is feasible or that such action is required by a specific medical or dental procedure; and
 - b. The procedure is performed using a mechanical device or a one-handed technique.

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3. Sharps that are contaminated with blood or OPIM shall not be stored or processed in a manner that requires employees to reach by hand into the containers where these sharps have been placed.
4. Disposable sharps shall not be reused.
5. Broken Glassware. Broken glassware which may be contaminated shall not be picked up directly with the hands. It shall be cleaned up using mechanical means, such as a brush and dust pan, tongs, or forceps.
6. The contents of sharps containers shall not be accessed unless properly reprocessed or decontaminated.
7. Sharps containers shall not be opened, emptied, or cleaned manually or in any other manner which would expose employees to the risk of sharps injury.
8. Mouth pipetting/suctioning of blood or OPIM is prohibited.
9. Eating, drinking, smoking, applying cosmetics or lip balm, and handling contact lenses are prohibited in work areas where there is a reasonable likelihood of occupational exposure.
10. Food and drink shall not be kept in refrigerators, freezers, shelves, cabinets or on countertops or bench tops where blood or OPIM are present.

California Code of Regulations, Title 8, Section 5193(d)(3)(C)2. states:

Immediately or as soon as possible after use, contaminated sharps shall be placed in containers meeting the requirements of subsection(d)(3)(D) as applicable.

California Code of Regulations, Title 8, Section 5193(d)(3)(D) provides:

1. Sharps containers shall be:
 - a. Rigid;
 - b. Puncture resistant;

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HANDBOOK CONTINUES

- c. Leak proof on the sides and bottom;
 - d. Portable, if portability is necessary to ensure easy access by the user as required by this section; and
 - e. Labeled in accordance with subsection (g)(1)(A)(2).
2. If discarded sharps are not to be reused, the sharps container shall also be closeable and sealable so that when sealed, the container is leak resistant and incapable of being reopened without great difficulty.

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- (6) The licensee provides a modified diet as prescribed by a client's physician, as specified in Section 81076(a)(6). Any substitutions shall be made by the facility dietitian or in consultation with a registered dietician or the client's physician or medical provider.
 - (7) The licensee ensures that all facility 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.
 - (2) Assist clients with self-administered medication, as specified in Section 81075.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507 and 1531, Health and Safety Code.

81092.9 WOUNDS**81092.9**

- (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 81092.1
 - (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 dermal ulcer and is expected by the physician or designated professional to completely heal.
 - (3) The licensee ensures that a licensed professional in accordance with the physician's instructions provides the wound care.
 - (A) The licensed professional may delegate simple dressing to facility staff who receive training from a licensed professional as specified in Sections 81092.1(k) through (k)(2).
 - (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 facility staff are documented in the client's file.
- (b) Non-serious 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: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507 and 1530, Health and Safety Code.

81092.10 GASTROSTOMY FEEDING, HYDRATION, AND CARE**81092.10**

- (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 81092.1.
 - (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.

81092.10 GASTROSTOMY FEEDING, HYDRATION, AND CARE (Continued) 81092.10

- (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 facility staff who receive training from a licensed professional as specified in Sections 81092.1(k) through (k)(2):
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.
 3. For PRN medications, trained staff may add medications through the gastrostomy in accordance with Sections 81075(b) through (e).

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507 and 1530, Health and Safety Code.

81092.11 TRACHEOSTOMIES 81092.11

- (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 81092.1.
 - (2) Either the client is mentally and physically capable of providing all routine care for his/her tracheostomy and the physician has documented that the tracheostomy opening (stoma) 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 facility staff who receive supervision and training from the licensed professional as specified in Sections 81092.1(k) through (k)(2).

 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: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507 and 1530, Health and Safety Code.

81093 DEPARTMENT REVIEW OF HEALTH-RELATED CONDITIONS**81093**

- (a) The Department may review actual or suspected health-related conditions, including those specified in Section 81092 to determine if a client is appropriately placed in the facility 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 81092, the licensee shall provide care to the client in accordance with conditions specified in Sections 81092.1 and applicable requirements in Sections 81092.3 through 81092.11. If the licensee is not able to provide adequate care, the client shall be relocated.
- (c) If the Department determines that the client has a prohibited health condition, as specified in Section 81091 or a health condition that cannot be cared for within the limits of the license or within the abilities of that specific facility, the Department will order relocation of the client as specified in Section 81094.
- (1) The notification to the licensee will include notice of all appeal rights, as specified in Section 81094.
- (d) 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: Section 1530, Health and Safety Code. Reference: Sections 1501, 1507 and 1530, Health and Safety Code.

81094 HEALTH CONDITION RELOCATION ORDER**81094**

- (a) The Department will order relocation of a client if the Department makes any of the following determinations:
- (1) The client has a prohibited health condition, as specified in Section 81091.
 - (2) The licensee has not met all of the requirements in Sections 81092.1 and applicable requirements in Sections 81092.3 through 81092.11.
 - (3) The client has a health condition that cannot be cared for within the limits of the license or within the abilities of that specific facility.
- (b) The Department will give written notice to the licensee ordering the relocation of the client and informing the licensee of the client's right to an Interdisciplinary Team review of the relocation order.
- (1) Concurrently the Department will give the notice of the health condition relocation order and information about the client's right to request review of the relocation order to the client. The Department will mail, by certified mail, or deliver a copy within one working day to the client's authorized representative, if any and responsible person.
 - (A) If the client has no authorized representative, as defined in Section 81001(a)(5), the relocation order shall be sent to the responsible person and representative payee, if any.
 - (2) The health condition relocation order will state the reason for the relocation order and cite the regulation(s) requiring the relocation.
 - (3) Upon receipt of the relocation order, the licensee shall prepare a written relocation plan in compliance with Section 81078.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1507, 1530, 1531 and 1556 Health and Safety Code.

81094.5 CLIENT'S REQUEST FOR REVIEW OF A HEALTH CONDITION RELOCATION ORDER BY THE INTERDISCIPLINARY TEAM (IDT) 81094.5

- (a) A client or the client's authorized representative, if any, may request a review of the Department's health condition relocation order by the Interdisciplinary Team.
- (b) The client or the client's authorized representative, if any, has 10 working days from receipt of the relocation order to submit to the licensee a written, signed, and dated request for a review and determination by the Interdisciplinary Team.
 - (1) For purposes of this section, a working day is any day except Saturday, Sunday, or an official state holiday.
- (c) The licensee shall mail or deliver such a request to the Department within two (2) working days of receipt.
 - (1) Failure or refusal to do so may subject the licensee to civil penalties, as provided in Section 81054.
- (d) Within five working days of receipt by the Department of the request for review, the Department will give written notification to the licensee, client and the client's authorized representative, if any, acknowledging receipt of the client's request for review of the relocation order.
- (e) Within twenty (20) working days from the date of the client's review request, the licensee shall submit to the Department the documentation specified in this section to complete the client's review request.
 - (1) If the information is not received within twenty (20) days, the request for review shall be considered withdrawn, the licensee shall be notified, and the relocation plan will be implemented.
- (f) The licensee shall cooperate with the client and the client's authorized representative, if any, in gathering the documentation to complete the client's review request.
- (g) The documentation to complete the client's review request shall include, but not be limited to, the following:
 - (1) The reason(s) for disagreeing that the client has the health condition identified in the relocation order and why the client believes he/she may legally continue to remain in a community care facility.

81094.5 CLIENT'S REQUEST FOR REVIEW OF A HEALTH CONDITION RELOCATION ORDER BY THE INTERDISCIPLINARY TEAM (IDT) **81094.5**
(Continued)

- (2) Current health and functional capabilities assessments, as specified in Sections 81069 and 81069.2.
 - (A) For purposes of this section, "current" means a medical assessment completed on or after the date of the relocation order.
- (3) A written statement from any placement agency currently involved with the client addressing the relocation order.
- (h) The Department will inform the licensee, client and the client's authorized representative, if any, in writing, of the Interdisciplinary Team determination and the reason for that determination not more than 30 days after the Department's receipt of the information required in this section.
- (i) A client does not have a right to a review under this section in any of the following circumstances:
 - (1) A health condition relocation order has been issued under Section 81078(b)(6).
 - (2) A client has been evicted under Section 81068.5.
 - (3) A temporary suspension order has been issued under Section 81042.
- (j) This section does not entitle the client to a right to a state hearing or any other administrative review beyond that set forth in this section.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 1507, 1530 and 1556, Health and Safety Code.

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