

Smoke Free and Carbon Monoxide Detector Regulations Section 100 Changes (Editorial)

Justification for Changes without Regulator Effect:

This is an editorial package to be filed pursuant to California Code of Regulations (CCR), Title 1, section 100. These changes make the regulations consistent with Health and Safety (H&S) Code sections 1530.7 and 1503.2 and, otherwise, do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any CCR provisions. The changes made are without regulatory effect because they either (1) delete a regulatory provision for which all statutory authority has been repealed, (2) make a regulatory provision consistent with changes to California statutes, (3) change authority or reference citations or (4) revise grammar or syntax errors [1 CCR sections 100 (a)(2),(a)(4),(a)(5) and (a)(6)].

These amendments are necessary to comply with Assembly Bill (AB) 352 (Chapter 292, Statutes of 2013) and AB 2386 (Chapter 503, Statutes of 2014).

Effective January 1, 2014, AB 352 (Chapter 292, Statutes of 2013) added Section 1530.7 to the H&S Code, mandating smoke-free environments for children's residential facilities. While all licensed and certified facilities prohibit smoking, not all had the same requirements. The AB 352 requires group homes, foster family agencies, small family homes, transitional housing placement providers and crisis nurseries to maintain a smoke-free environment in the facility [H&S Code section 1530.7(a)]. The H&S Code section 1530.7 clarifies the existing prohibition on smoking in group homes and on transitional housing placement providers while imposing smoking prohibitions on homes certified by foster family agencies and foster family homes. This bill extends this prohibition and prevents persons licensed or certified to provide residential care in a foster family home or a certified family home from smoking or permitting any other person from smoking inside of the home and, when a child is present, on the outdoor grounds of the home [H&S Code section 1530.7(b)]. Additionally, this bill prohibits a person licensed or certified to provide residential foster care from smoking in any vehicle regularly used to transport a foster child [H&S Code section 1530.7(c)].

Additionally, effective January 1, 2015, AB 2386 added Section 1503.2 to the H&S Code, mandating carbon monoxide detectors for all licensed facilities and certified family homes. All residence must be equipped with functioning carbon monoxide detectors. To comply with the provisions of this bill, the Community Care Licensing Division (CCLD) will revise regulations to require all licensed facilities and certified family homes to have one or more carbon monoxide detectors in each facility/home that meet specific standards established by H&S Code, Chapter 8, commencing with Section 13260. In addition, the bill requires the Department to account for their presence during inspections.

It is the intent of the Department based on its statutory authority to promulgate regulations that ensure children in foster care have the right to be accorded safe, healthful and comfortable home accommodation free from toxic exposure to carbon monoxide and the right to be free of the risks and toxic exposure of secondhand smoke from all tobacco products while at home and when being transported by care providers.

In order to comply with the provisions of these statutes and bring the regulations into conformity with the law, CCLD is revising the regulations, specifically:

Health and Safety Code section 1530.7

Amendments have been made to Transportation sections 83074 (Small Family Homes), 84074 (Group Homes), 86074 (Transitional Housing Placement Providers), 86574 (Crisis Nurseries) and 89374 (Foster Family Homes), conforming to new statutory requirements prohibiting the use of tobacco products in all motor vehicles regularly used to transport children, whether the child is in the vehicle or not.

Additionally, amendments have been made to Buildings and Grounds section 89387 (Foster Family Homes) that conform to new statutory requirements prohibiting the use of tobacco products, not only inside the home at any time, but anywhere on the grounds when a child is present.

Health and Safety Code section 1503.2

Amendments have been made to Buildings and Grounds sections 83087 (Small Family Homes), 84087 (Group Homes), 86087 (Transitional Housing Placement Providers), 86587 (Crisis Nurseries) and 89387 (Foster Family Homes) conforming to new statutory requirements to have one or more carbon monoxide detectors in each home/facility that meet specific standards which the Department will account for during inspections.