

NOTICE OF PROPOSED CHANGES IN REGULATIONS OF THE
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (CDSS)

ITEM #1 Administrator Certification Program of Community Care Licensing

The CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held on September 16, 2015, as follows:

Office Building # 8
744 P St. Room 103
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The purpose of the hearing is to receive public testimony, not to engage in debate or discussion. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on September 16, 2015.

Following the public hearing CDSS may thereafter adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below:

CONTACT: Office of Regulations Development
California Department of Social Services
744 P Street, MS 8-4-192
Sacramento, California 95814
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CHAPTERS

Title 22, Chapters 5 (Group Homes - GH), 6 (Adult Residential Facilities - ARF) and 8 (Residential Care Facilities for the Elderly- RCFE).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current CDSS regulations provide for an Administrator Certification Program (ACP) of Community Care Licensing (CCL) to certify facility administrators in three areas, Group Homes (GH), Adult Residential Facilities (ARF), and Residential Care Facilities for the Elderly (RCFE). There is also a CCL program to certify vendors who offer training to the administrators. These programs include application processes, examinations, resolution procedures and Department review processes, among other things.

This rulemaking action clarifies existing regulations and adds regulations to make specific additional requirements for administrator certification and the related educational programs per recently enacted legislation: Assembly Bill (AB) 2675 (Chapter 421, Statutes of 2006); AB 1856 (Chapter 639, Statutes of 2012); AB 663 (Chapter 675, Statutes of 2013); AB 1570 (Chapter 698, Statutes of 2014); and Senate Bill (SB) 911 (Chapter 705, Statutes of 2014).

These statutes require potential residential facility administrators to obtain certification from CDSS before employment as an administrator, and to renew such certification after completing required continuing education. Recent amendments to statute provide for online education, add subject areas to the required "core of knowledge" for each program, and expand the initial training hours required of administrators in RCFEs.

Further, these statutes authorize CDSS to adopt regulations to establish conditions for the certification of administrators and for the approval of vendors of initial and continuing education programs for administrators.

Anticipated Benefits of the Proposed Regulation

The objectives of this rulemaking are to bring the existing regulations into conformity with recent statutory changes as described herein and into consistency across the three program areas (GH, ARF, RCFE), and to make other changes to clarify and strengthen requirements to address problems identified over the history of the program (e.g., cheating on administrator exams, vendor deficiency corrections), thus better protecting the vulnerable populations in these many residential facilities. The anticipated benefits of this rulemaking to the health and welfare of California residents, worker safety, and the state's environment are as follows: The proposal will benefit Californians, including program participants (i.e., facility administrators and training course vendors), by clarifying existing regulations and program processes in accordance with current statutes, thus providing for greater openness and transparency in the government-business interactions of the program. The clarifications should also result in more complete applications received by the Department from administrators and vendors and thus result in more timely processing and conclusions by Department staff [e.g., (non)certifying of administrators, (non)approval of vendors and their training programs]. The action should also result in more timely resolution of problems with training programs (e.g., when identified due to monitoring, changes in courses) and result in more consistent quality of education for facility administrators and thus improved facility worker safety and improved facility

resident health and safety, which is the ultimate public purpose of the Administrator Certification Program. There is no specific anticipated benefit to the state's environment.

Forms to be Adopted, Repealed or Amended

The proposed rulemaking repeals the old versions of forms in Section 85002 as listed:

LIC 9139 (2/01) – Renewal of Continuing Education Course Approval, Administrator Certification Program.

LIC 9140 (6/01) – Request for Course Approval, Administrator Certification Program.

LIC 9141 (5/01) – Vendor Application/Renewal, Administrator Certification Program.

LIC 9142a (2/01) – Roster of Participants – For Vendor Use Only – 35/40-Hour Initial Or CEU Courses, Administrator Certification Program.

The proposed rulemaking incorporates by reference the following amended or new forms in the noted sections below. Incorporated forms are not printed in the CDSS Manual of Policies and Procedures because it would be cumbersome and impractical; however, they are readily available from CDSS, including accessible on line at <http://www.cclcd.ca.gov/pg471.htm>.

Section 84002:

Core of Knowledge Guideline (01/16) – GH 40-Hour Initial Certification.

Section 85002:

Core of Knowledge Guideline (01/16) – ARF 35-Hour Initial Certification.

Section 87102:

LIC 9139 (1/16) - Renewal of Continuing Education Course Approval, Administrator Certification Program.

LIC 9140 (1/16) - Request for Course Approval, Administrator Certification Program.

LIC 9140A (1/16) - Request to Add or Replace Instructor, Administrator Certification Program.

LIC 9141 (1/16) - Vendor Application/Renewal, Administrator Certification Program.

LIC 9142A (1/16) – Roster of Participants - for Vendor Use Only, Administrator Certification Program.

LIC 9142B (1/16) – Roster of Participants – for Exam Proctoring Only, Administrator Certification Program.

LIC 9163 (3/11) – Request for Live Scan Service – Community Care Licensing.

LIC 508 (3/11) Criminal Record Statement.

LIC 9214 (1/16) – Application for Administrator Certification, Administrator Certification Program.

Core of Knowledge Training Standards (1/16) - RCFE 80-Hour Initial Certification replacing the Core of Knowledge Guidelines - RCFE 40-Hour Initial Certification Rev. 6/1/01.

Determination of Inconsistency/Incompatible with Existing State Regulations

The CDSS has made an initial determination that this proposed regulation is not inconsistent or incompatible with existing regulations. These are the only regulations that concern Title 22 certification of administrators of CDSS-licensed residential facilities in California.

COST ESTIMATE

1. Costs or Savings to State Agencies: Although there may be costs in the current State Fiscal Year (FY) 2015-16, these costs will be absorbed within their existing budgets and resources. Any anticipated small savings (e.g., reduced time to review consistent forms) will likely be offset by small costs (e.g., review of lengthier training program outlines). State Operations is funded by fees deposited to the Certification Fund (0271).
2. Costs to Local Agencies or School Districts Which Must Be Reimbursed in Accordance With Government Code Sections 17500 - 17630: None
3. Nondiscretionary Costs or Savings to Local Agencies: None
4. Federal Funding to State Agencies: None

LOCAL MANDATE STATEMENT

These regulations do not impose a mandate on local agencies or school districts. There are no state-mandated local costs in these regulations which require state reimbursement under Section 17500 et seq. of the Government Code.

STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

The CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This determination was made based on the fact that this rulemaking primarily serves to clarify existing regulations which have been in effect for over 20 years. It also brings the regulations into alignment with recently enacted statutes as listed in this notice. As such, CDSS foresees no new impacts to individuals and businesses, including small businesses, who opt to become certified administrators or to become vendors of training courses for administrators. This rulemaking does not impact the ability of California businesses to compete with businesses from other states as all must fulfill the same requirements to be a certified administrator or training course vendor in California.

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The CDSS is not aware of any significant cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action as discussed in the Economic Impact Assessment. The adoption of the proposed amendments will not have any significant cost impact because they either clarify existing regulations or effectuate existing statutes.

SMALL BUSINESS IMPACT STATEMENT

The CDSS has made an initial determination that there is no significant impact on small businesses as a result of filing these regulations. The proposal largely clarifies existing regulations under which individual administrators and small businesses already operate if they elect to participate in this program's activities. This determination was based on the fact that these regulations have been in effect for over 20 years so the amendments to clarify them, or detail new training content required by statute, have no significant impact on the affected businesses as discussed in the Economic Impact Assessment.

STATEMENT OF RESULTS OF ECONOMIC IMPACT ASSESSMENT

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California. As the proposal primarily clarifies long-existing regulations, CDSS concludes that it is: (1) unlikely that the proposal will eliminate any jobs for facility administrators or training providers, (2) unlikely that the proposal will create additional jobs for facility administrators or training providers, (3) unlikely that the proposal will create new businesses providing training for administrators, (4) unlikely that the proposal will eliminate any existing businesses and (5) unlikely that the proposal will result in the expansion of businesses currently doing business in the state. The Economic Impact Assessment is detailed in Section (f) of the Initial Statement of Reasons.

The benefits of the regulatory action to the health and welfare of California residents, worker safety, and the state's environment are as follows: The objectives of this rulemaking are to bring the existing regulations into conformity with recent statutory changes as described herein and into consistency across the three program areas (GH, ARF, RCFE), and to make other changes to clarify and strengthen requirements to address problems identified over the history of the program (e.g., cheating on administrator exams, vendor deficiency corrections), thus better protecting the vulnerable populations in these many residential facilities. The anticipated benefits of this rulemaking to the health and welfare of California residents, worker safety, and the state's environment are as follows: The proposal will benefit Californians, including program participants (i.e., facility administrators and training course vendors), by clarifying existing regulations and program processes in accordance with current statutes, thus providing for greater openness and transparency in the government-business interactions of the program. The clarifications should also result in more complete applications received by the Department from administrators and vendors and thus result in more timely processing and conclusions by Department staff [e.g., (non)certifying of administrators, (non)approval of vendors and their training programs]. The action should also result in more timely resolution of problems with training programs (e.g., when identified due to monitoring, changes in courses) and result in more consistent quality of education for facility administrators and thus improved facility worker safety and improved facility resident health and safety, which is the ultimate public purpose of the Administrator Certification Program. There is no specific anticipated benefit to the state's environment.

STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

STATEMENT OF ALTERNATIVES CONSIDERED

The CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

While this regulatory action has been in development for several years, in developing this regulatory action, no reasonable alternatives were brought to the attention of CDSS.

AUTHORITY AND REFERENCE CITATIONS

Authority: Section 1522.08, 1522.41(h)(1), 1530, 1531, 1562.3(h)(1), 1569.23(d), 1569.3 and 1569.616(i)(1), Health and Safety Code

Reference: Sections 1520(b), 1520.3, 1522, 1522.08, 1522.41, 1523.1, 1534, 1549, 1550, 1551, 1558, 1562.3, 1562.4, 1568.092, 1569.16, 1569.17, 1569.171, 1569.185, 1569.23, 1569.33, 1569.495, 1569.50, 1569.51, 1569.58, 1569.613 and 1569.616, Health and Safety Code; Sections 2105, 15909.02, 16959 and 17708.02, Corporations Code.

CDSS REPRESENTATIVE REGARDING THE RULEMAKING PROCESS OF THE PROPOSED REGULATION

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