

Article 5. ENFORCEMENT PROVISIONS**84151 SERIOUS DEFICIENCIES****84151**

- (a) In addition to Section 80051, with the exception of Section 84051, the following are regulations which, if not complied with, nearly always result in a serious deficiency.
- (1) Sections 84164 and 84164.1 - related to the qualifications and duties of the administrator and mental health program director.
 - (2) Section 84165(b) - related to personnel requirements.
 - (3) Sections 84165.5 and .6 - related to staff/child ratios.
 - (4) Section 84168.1 - related to admission criteria.
 - (5) Section 84168.3 - related to the needs and services plan for the child.
 - (6) Section 84172 - related to personal rights.
 - (7) Section 84172.2 - related to complaint procedures.

NOTE: Authority cited: Sections 1530 and 1530.9, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

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Article 6. CONTINUING REQUIREMENTS**84161 REPORTING REQUIREMENTS****84161**

- (a) In addition to Section 84061, the following shall apply.
- (b) The licensee shall furnish a report to the licensing agency and the admitting parent(s), conservator, or the person designated by the court to manage the placement as specified in Section 80061(b) for all occurrences of a physical restraint as specified in Section 84175.2(a).
- (c) The licensee shall notify the child's parent(s), conservator or person designated by the court to manage placement before the child is transferred between the nonsecure and secure program, except in an emergency.
 - (1) In an emergency, notification shall occur within 24 hours if the child has been transferred between the nonsecure and secure program without the participation of the parent(s), conservator, or person designated by the court to manage placement.
- (d) The licensee shall notify the Department in writing, within 10 working days, of a change of mental health program director. The notification of a change shall include the following:
 - (1) Name, residence, and mailing address of the new employee.
 - (2) Effective date of position change.
 - (3) Description of the new employee's background and qualifications, including documentation of required education. A photocopy of the documentation shall be permitted.

NOTE: Authority Cited: Sections 1530 and 1530.9, Health and Safety Code. Reference: Sections 1531 and 1562, Health and Safety Code; and Section 11406(c), Welfare and Institutions Code.

84164 ADMINISTRATOR QUALIFICATIONS AND DUTIES**84164**

- (a) In addition to Sections 84064(a) and (f), with the exception of Sections 84064(b) through (e), the following shall apply.
- (b) All community treatment facilities shall have an administrator.
- (c) The administrator shall be on the premises for the number of hours necessary to manage and administer the facility in compliance with applicable law and regulation.
- (d) The administrator shall meet one of the following requirements:
 - (1) Have a master's degree in a behavioral science from an accredited college or university, and one year of full-time administrative or supervisory experience over social work, child care, and/or support staff providing direct services to children in an agency or in a community care facility with a licensed capacity of seven or more.
 - (2) Have a master's degree in a behavioral science from an accredited college or university, and two years of full-time employment as a mental health professional or social worker, as defined in Section 80001s.(4), in an agency serving children or in a group residential program serving children.
 - (3) Have a bachelor's degree from an accredited college or university, and three years of full-time administrative or supervisory experience over social work, child care, and/or support staff providing direct care services to children in an agency or in a community care facility with a licensed capacity of seven or more.
- (e) When the administrator is absent, there shall be coverage by a designated substitute whose qualifications are at minimum, a bachelor's degree from an accredited college or university, plus at least two years of full-time administrative experience or supervisory experience over social work, child care, and/or support staff providing direct services to children in an agency or in a community care facility with a licensed capacity of seven or more.
- (f) The administrator shall perform the duties as specified in Section 84064(f) and the following:
 - (1) Development of a plan for the orientation, development, and training of child care staff, as specified in Section 84165(f).

84164 ADMINISTRATOR QUALIFICATIONS AND DUTIES 84164
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- (2) Review of complaints made by children or on behalf of children, as specified in Section 84172.2(b), and the determination of the action to be taken to handle the complaint.

NOTE: Authority Cited: Sections 1522.41(j), 1530 and 1530.9, Health and Safety Code. Reference: Sections 1501, 1522.41(h), 1531, and 1562, Health and Safety Code.

84164.1 MENTAL HEALTH PROGRAM DIRECTOR QUALIFICATIONS AND DUTIES 84164.1

- (a) All community treatment facilities shall have a Mental Health Program Director that meets the qualifications and responsibilities as specified in Section 1920 of the California Code of Regulations, Title 9, Chapter 11.

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- (1) California Code of Regulations, Title 9, Section 1920 states:
- "(a) A CTF shall have a mental health program director who shall be a licensed mental health professional as defined in this chapter. The mental health program director shall have at least three years of post graduate direct clinical experience with seriously emotionally disturbed children, at least one year of which shall be in position of supervising direct staff.
- "(b) The mental health program director shall be responsible for the following:
- "(1) Ensuring the provision of appropriate mental health services to the children in the facility;
- "(2) Ensuring timely completion of all activities, documentation and reports as required by Section 1927(a-j) of this chapter;
- "(3) Assessing the facility's mental health services on a quarterly basis and providing a signed and dated report summary to the CTF certificate holder with any recommendations that address identified problems;

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**84164.1 MENTAL HEALTH PROGRAM DIRECTOR QUALIFICATIONS
AND DUTIES (Continued)****84164.1**

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- "(4) Supervising, or ensuring supervision by a qualified individual, of licensed mental health professionals and child care staff regarding specific roles and responsibilities in the delivering and monitoring mental health services for each child in a CTF;
- "(5) Reviewing all incidents of physical restraint and seclusion within the facility, including all necessary staff debriefings, staff meetings, individual supervision of staff, recommended changes in facility staffing patterns, recommended additional training, and each child's NSP, for the purpose of reducing physical restraint and seclusion.
- "(c) If the mental health program director is not a board eligible psychiatrist, the provider must employ or contract with a board eligible psychiatrist to assume medical responsibility for mental health services."

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NOTE: Authority Cited: Sections 1530 and 1530.9, Health and Safety Code. Reference: Sections 1501, 1531, and 1562, Health and Safety Code; and Section 4094(d), Welfare and Institutions Code.

84165 PERSONNEL REQUIREMENTS**84165**

- (a) In addition to Section 80065, Section 84065(k) shall apply.
- (b) The licensee shall employ administrative, child care, licensed mental health professional, and support staff necessary to perform the assigned duties specified in Sections 84164(f), 84164.1, and 84165.1.
- (c) The licensee shall designate at least one facility manager to be present at the facility at all times when children are present.

84165 PERSONNEL REQUIREMENTS (Continued)**84165**

- (1) The facility manager shall meet one of the following minimum requirements prior to employment:
 - (A) Have two years of full-time experience as a social work staff person in a group home performing those duties specified in Sections 84165.1(b)(1) through (3).
 - (B) Have an associate of arts or science degree from an accredited college or university and four years providing full-time direct care to children in an agency serving children or in a group residential program serving children.
 - (C) Have five years of full-time residential child care experience and completion, with a passing grade, of 18 college semester or equivalent quarter units in behavioral science from an accredited or approved college or university. Nine of those units must be in courses relating to children with behavioral problems which may be the result of abuse, neglect, or emotional trauma. The courses may include, but are not limited to, curriculums in corrections, psychology, social work, or social welfare.
- (d) The licensee shall ensure that all child care staff meet one of the following minimum qualifications prior to employment:
 - (1) Have two years of full-time residential child care experience and an associate of arts or science degree from an accredited or approved college or university, with a major or emphasis in behavioral science. Nine of those units must be in courses relating to children with behavioral problems which may be the result of abuse, neglect, or emotional trauma. The courses may include, but are not limited to, curriculums in corrections, psychology, social work, or social welfare.
 - (2) Have two years of full-time work experience in a program serving persons with mental disabilities and be currently a licensed psychiatric technician by the Board of Vocational Nurse and Psychiatric Technician Examiners.
- (e) Child care staff, employed by the facility prior to the effective date of these regulations, who do not have the required degree or semester units or equivalent quarter units relating to children with behavioral problems as specified in Section 84165(d), shall successfully complete the required units within one year of the effective date of these regulations.
- (f) The licensee shall develop, maintain, and implement a written plan for the orientation, continuing education, on-the-job training and development, supervision, and evaluation of all child care staff.

84165 PERSONNEL REQUIREMENTS (Continued)**84165**

- (1) The plan shall require child care staff to receive and document a minimum of 20 hours of continuing education during the first 12 months of employment and during each year thereafter.
 - (A) Continuing education shall include completion of courses related to the principles and practices of child care, mental health and care of the mentally ill including, but not limited to, workshops, seminars, and academic classes.
 - (B) Continuing education, training, and classes may be provided at the facility.
 - (C) Proof of course attendance and completion shall be limited to official grade slips, transcripts, certificates, or signed documentation from a college, adult education department, a bona fide educational institution/organization, or licensee association.
- (2) The on-the-job training and development program shall include training in the following areas:
 - (A) Assaultive behavior management and preventing assaultive behavior training course which shall be approved by the Department of Mental Health. Staff shall complete at least 16 hours of a basic assaultive behavior and prevention training course prior to their participation in the containment, seclusion, and/or restraint of a child. The staff shall also participate in a four- hour semiannual review course.
 1. The behavior management training courses shall be pre-approved by the Department of Mental Health.
 - (B) Recognition of possible side effects of psychotropic medication.
 - (C) Children's personal rights, including the child's right to fair and equal access to all available services, placement, care, treatment and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.
 - (D) Due process rights and procedures for accessing due process and personal rights.
 - (E) Staff responsibilities.
 - (F) The facility's emergency and safety procedures including, but not limited to, fire drills and disaster plan procedures.
- (g) During orientation or when changes are made which affect job assignments, and upon request to placement agencies, all employees shall be given a copy of the job description and staff assignment information specified in Sections 84066(b)(1) and (2) which is relevant to their duties. All employees shall have access to all other job descriptions.

84165 PERSONNEL REQUIREMENTS(Continued)**84165**

- (h) Upon employment, staff shall receive copies of the discharge policies and procedures specified in Section 84168.5, due process procedures specified in Section 84172(c), complaint procedures specified in Section 84172.2, and the restraint policies specified in Section 84175.2.

NOTE: Authority Cited: Sections 1530 and 1530.9, Health and Safety Code. Reference: Section 51, Civil Code; Sections 1501, 1522.4, 1531, and 1562, Health and Safety Code; Section 16001.9, Welfare and Institutions Code.

84165.1 PERSONNEL DUTIES**84165.1**

- (a) In addition to Section 84065.1, with the exception of Section 84065.1(c), the following shall apply.
- (b) Licensed mental health professional staff shall complete or perform the following for each child:
- (1) An intake report and admission assessment as specified in Sections 84168.2(c) and (d)(1).
 - (2) A needs and services plan, as specified in Sections 84168.3 and 84168.4.
 - (3) A discharge plan, discharge summary, and discharge report as specified in Section 84168.5.
 - (4) The medication report and Monthly Clinical Review report as specified in Section 84175.1.
 - (5) The required procedures for denying a child's personal right as specified in Section 1934 of the California Code of Regulations, Title 9, Chapter 11.
 - (6) An authorization to initiate and document any form of restraint and/or seclusion as specified in Section 84175.2.
 - (7) Progress notes or descriptions documenting the client's participation and responses to the implementation of prescribed mental health treatment services.
 - (8) Administration and monitoring of the mental health treatment services.
 - (9) Develop and record the information necessary for the completion of Sections 84165.1(b)(1) through (8) as specified in Section 84170.

NOTE: Authority Cited: Sections 1530 and 1530.9, Health and Safety Code. Reference: Sections 1501, 1522.4, and 1531, Health and Safety Code.

84165.5 STAFF/CHILD RATIOS**84165.5**

- (a) Section 84065.5 is not applicable to community treatment facilities.
- (b) In community treatment facilities, there shall be one child care person awake and on duty for each five children, or fraction thereof, present from 7 a.m. to 10 p.m.
- (c) If the children require special care and supervision because of age, problem behavior, or other factors, the number of on-duty child care staff shall be increased to meet the needs of the children in accordance with Section 80065(a).
- (d) Each community treatment facility shall meet mental health treatment full-time staffing to client census ratio as specified in Sections 1921(a) and (e) of the California Code of Regulations, Title 9.

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- (1) California Code of Regulations, Title 9, Sections 1921(a) and (e) state:

- "(a) A certificate holder shall employ sufficient numbers of licensed mental health professionals and licensed nursing staff."

- "(e) Each CTF shall have qualified nursing staff in the facility on a twenty-four (24) hour basis."

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NOTE: Authority Cited: Sections 1530 and 1530.9, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

84165.6 NIGHT SUPERVISION**84165.6**

- (a) Section 84065.7 is not applicable to community treatment facilities.
- (b) In community treatment facilities providing care and supervision to 10 or fewer children, there shall be one child care staff person awake and on duty from 10 p.m. to 7 a.m.
 - (1) Another staff person shall be on call and capable of arriving at the facility site within 30 minutes.

84165.6 NIGHT SUPERVISION (Continued)**84165.6**

- (c) In community treatment facilities providing care and supervision to 11 or more children, there shall be two child care staff persons awake and on duty from 10 p.m. to 7 a.m. for the first 20 children, and one child care staff person awake and on duty for each additional 20 children or fraction of that amount.
- (d) In facilities required to have a signal system as specified in Section 84088(d), at least one staff person shall be responsible for responding to such system.

NOTE: Authority Cited: Sections 1530 and 1530.9, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

84168.1 ADMISSION CRITERIA**84168.1**

- (a) The licensee shall develop, maintain, and implement admission procedures which only admit children who meet the criteria specified in this section.
- (b) Prior to admitting a child, the facility shall obtain and keep in each child's record the following documentation which substantiates that the appropriate requirements have been met:
 - (1) A written statement, signed by an appropriate licensed mental health professional, certifying that the child is seriously emotionally disturbed, as defined in Section 84111(s)(3); requires periods of containment to participate in and benefit from mental health treatment; that a proposed treatment program is reasonably expected to improve the child's mental disorder; and meets one of the following requirements:
 - (A) The child's records must indicate that the child has participated in other less restrictive mental health interventions.
 - 1. Less restrictive interventions include, but are not limited to, outpatient therapy, family counseling, case management, family preservation efforts, special education classes, or nonpublic schooling.
 - (B) The child is currently placed in a psychiatric or state hospital or a facility outside the state for mental health treatment.

84168.1 ADMISSION CRITERIA (Continued)**84168.1**

- (2) A written consent to treatment on behalf of each child in one of the following forms:
- (A) An application for a child of any age under the jurisdiction of juvenile court and the court's consent to treatment shall be documented by a copy of the juvenile court ruling making the findings specified in Section 6552 of the Welfare and Institutions Code, together with the child's application for treatment.
 - (B) An application made by the conservator for a child of any age in custody of a conservator appointed in accordance with Section 5350 of the Welfare and Institutions Code, shall be documented by the court papers appointing the conservator and delineating the conservator's authorization to place the child in a community treatment facility as well as any other powers that may be relevant in this setting along with the conservator's written consent for treatment.
 - (C) An application made by the parent(s) of a child under the age of 14 shall be documented by a written consent to treatment signed by both parents or the admitting parent must submit a court order demonstrating that they have sole legal custody and control of the child.
 - (D) An application for a child 14 through 17 years of age not within the jurisdiction of the juvenile court shall be documented by a written consent to treatment signed by both parents or the admitting parent must submit a court order demonstrating that they have sole legal custody and control of the child and one of the following:
 - 1. A statement signed by the child and the child's attorney or patients' rights advocate that the child has made a knowing and voluntary waiver of his or her right to a pre-admission administrative hearing after being advised by the attorney or notified by the advocate of his or her rights to a pre-admission hearing in accordance with *In re Roger S.* (1977) 19 Cal. 3d 921. If the child waives his or her right to a pre-admission hearing based on the notification of rights by the advocate the child's statement must also indicate that he or she has been notified of his or her right to receive the advice of an attorney and has made a knowing and voluntary waiver of that right; or

84168.1 ADMISSION CRITERIA (Continued)**84168.1**

2. The findings and order from a pre-admission hearing conducted in accordance with Section 1923(b)(4)(B) of the California Code of Regulations, Title 9, Chapter 11, pursuant to Section 4094(g) of the Welfare and Institutions Code that specifies all of the following findings:
 - (i) The child suffers a mental disorder;
 - (ii) There is a substantial probability that treatment will significantly improve the minor's mental disorder;
 - (iii) The proposed placement is the least restrictive setting necessary to achieve the purposes of the treatment; and
 - (iv) There is no suitable alternative to the community treatment facility placement.

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3. Title 9, California Code of Regulations Section 1923(b)(4)(B) states in pertinent part:

"...A hearing held in accordance with this provision shall include but not be limited to the following:

 - "(1) A neutral and detached fact finder and decision maker who shall have no personal, administrative or financial ties to any parties represented at the hearing nor to the proposed placement facility;
 - "(2) Adequate written notice to the child before the hearing stating the basis for the proposed admission to a CTF;
 - "(3) An informal setting to minimize the anxiety of both parents and children and to promote cooperation and communication between all parties. All parties shall speak in terms the child understands and shall explain any terminology with which he is unfamiliar;

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- "(4) The stipulation that formal rules of evidence are not applicable and that the standard for decision shall be by a preponderance of the evidence;
- "(5) The requirement that the hearing shall be closed to anyone other than the child, his parents or parent, the child's attorney, the person conducting the hearing, the professional person presenting evidence in favor of the commitment, and other persons requested to be in attendance by the child, or by the child's attorney;
- "(6) Assistance provided by an attorney to the child who shall be allowed to call witnesses, examine evidence, present evidence on his own behalf and question persons presenting evidence in support of the admission; and
- "(7) Maintenance of a record of the proceedings adequate to permit meaningful judicial or appellate review which shall be confidential in accordance with Section 5328 of the Welfare and Institutions Code."

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- (3) A written authorization from the placing county's Interagency Placement Committee certifying that the child is in need of the level of care and services provided by the community treatment facility and to the appropriateness of the following documentation:
 - (A) The written statement by a licensed mental health professional demonstrates that the child meets the requirements of Section 84168.1(b)(1).
 - (B) Informed consent is given by the child, the child's parents, or the parent having sole legal custody and control of the child or conservator as specified in Sections 84168.1(b)(2)(A) through (D)(1).
 - (C) The findings and order by the pre-admission administrative hearing officer specifying that all of the findings specified in Sections 84168.1(b)(2)(D)2.(i) through (iv) have been made for a child 14-17 years of age under parental custody who has not waived their right to a pre-admission hearing.

NOTE: Authority Cited: Sections 1530 and 1530.9, Health and Safety Code. Reference: Section 1502.4, Health and Safety Code; and Sections 4094(f) and (g), 4094.5(a) and (e)(1), Welfare and Institutions Code.

84168.2 INTAKE PROCEDURES**84168.2**

- (a) Section 84068.1 is not applicable to community treatment facilities.
- (b) The licensee shall develop, maintain, and implement intake procedures which meet the requirements specified in this section.
- (c) Before a child can be admitted to a community treatment facility, the facility must obtain sufficient information to determine whether the facility can provide the services necessary to meet the child's needs. This information shall be recorded in the intake report. Admission decisions shall be made by the licensed mental health professional who shall sign and date the intake report. The intake report shall be typed and include at a minimum:
 - (1) The child's name, birth date, and sex;
 - (2) The name, address, and telephone numbers of the parents, conservator, or if applicable, the person and agency designated by the court to manage the child's placement;
 - (3) A medical assessment, including ambulatory status as specified in Section 80069.
 - (4) The child's presenting problems;
 - (5) The child's current Diagnostic and Statistical Manual of Mental Disorders (DSM) diagnosis;
 - (6) An assessment of the child's danger to self and others;
 - (7) Medications;
 - (8) The child's immediate educational, service, and treatment needs;
 - (9) Certification that the child is seriously emotionally disturbed and meets the requirements as specified in Section 84168.1(b)(1);
 - (10) Consent to treatment as specified in Section 84168.1(b)(2); and
 - (11) Authorization from the placing county's Interagency Placement Committee as specified in Section 84168.1(b)(3).

84168.2 INTAKE PROCEDURES (Continued)**84168.2**

(d) When the child is accepted for placement, the following requirements shall be met:

- (1) An admission assessment shall be completed and signed as specified in Sections 1927(c) and (d) of the California Code of Regulations, Title 9, Chapter 11.

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(A) California Code of Regulations, Title 9, Sections 1927(c) and (d) state:

"(c) The admission assessment shall be a typed document which shall be completed and signed by a member of the facility's licensed mental health professional staff person within five (5) calendar days of admission. A typed copy of the admission assessment shall be provided to the child's parents, conservator, or person designated by the court to manage the placement within ten (10) working days of assessment completion and it shall be included in the child's facility record. The admission assessment shall contain a prognosis and estimated length of stay based upon and including:

- "(1) The reasons for referral;
- "(2) A statement of presenting problems;
- "(3) Precipitating events;
- "(4) Factors relating to presenting problems;
- "(5) Psychiatric history including onset of symptoms and progressions;
- "(6) Medical history;
- "(7) Psychological history including the review and summary of existing psychological evaluation material;
- "(8) Academic and school history;
- "(9) Social history;

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- "(10) Family history;
 - "(11) Work history if applicable;
 - "(12) Developmental status;
 - "(13) DSM Diagnosis;
 - "(14) A summary of the child's strengths and weaknesses as related to his family, school and social relationships.
- "(d) A psychiatric evaluation shall be completed by a psychiatrist within five (5) calendar days of admission but may be performed up to sixty (60) calendar days prior to admission unless CTF mental health professionals admitting the child feel it is no longer accurate. It shall be part of the admission assessment and shall include:
- "(1) A mental status examination;
 - "(2) Indications and contradictions for medications; and
 - "(3) Therapeutic response to medications, including an assessment of side effects, if available, and the child's compliance with medications when appropriate."

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- (2) An admission agreement shall be completed and signed as specified in Section 80068.
- (3) The administrator or his/her designee, the child, and his/her parent(s), conservator, or person designated to manage the placement shall sign copies of documentation of the following:
 - (A) Procedures regarding the continuing stay criteria as specified in Section 84168.2(e);
 - (B) Procedures regarding transfer of a child to and from secure and nonsecure portions of the facility as specified in Section 84122(b)(1)(A);

84168.2 INTAKE PROCEDURES (Continued)**84168.2**

- (C) Due process rights procedures as specified in Section 84172(c);
 - (D) Discharge procedures as specified in Section 84168.5;
 - (E) Discipline policies and procedures as specified in Section 84072.1;
 - (F) Complaint procedures as specified in Section 84172.2; and
 - (G) Informed consent of prescribed psychotropic medications as specified in Section 84175.1.
- (4) Any other information specified in Sections 80070 and 84170 necessary to complete the child's record shall be obtained.
- (e) Continuing stay criteria shall be met as specified in Section 1924 of the California Code of Regulations, Title 9, Chapter 11.

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- (1) California Code of Regulations, Title 9, Section 1924 states:
- "(a) Continuing stay criteria used by a CTF shall include documentation by the CTF psychiatrist of the continuation of admission criteria in addition to written documentation from the appropriate interagency placement committee, or other designated external case manager, such as the probation department, county mental health department, or private insurance utilization review personnel, supporting the decision for continued placement of the child within a CTF. Continuing stay criteria shall be reviewed by a CTF in intervals not to exceed ninety (90) days. Findings shall be entered into each child's facility record.
 - "(b) Individuals who are special education pupils identified in paragraph (4) of subdivision (c) of Section 56026 of the Education Code and who are placed in a CTF prior to age eighteen pursuant to Chapter 26.5 of the Government Code may continue to receive services through age 21 provided the following conditions are met:

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84168.2 INTAKE PROCEDURES (Continued)**84168.2**

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- "(1) They continue to satisfy the requirements of subsection (a);
- "(2) They have not graduated from high school;
- "(3) They sign a consent for treatment and a release of information for CTF staff to communicate with education and county mental health professionals after staff have informed them of their rights as an adult.
- "(4) A CTF obtains an exception from the California Department of Social Services to allow for the continued treatment of the young adult in a CTF pursuant to Section 80024, Title 22, Chapter 6, Chapter 1 of the California Code of Regulations."

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NOTE: Authority Cited: Section 1530 and 1530.9, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code; and Section 4094.5, Welfare and Institutions Code.

84168.3 NEEDS AND SERVICES PLAN**84168.3**

- (a) The licensed mental health professional(s) shall complete the needs and services plan and include the information required by Section 84068.2 and Section 1927(e) of the California Code of Regulations, Title 9, Chapter 11.

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- (1) California Code of Regulations, Title 9, Section 1927(e) states in pertinent part:
 - "(e) Each child residing within a CTF shall have an NSP completed by a licensed mental health professional within fifteen (15) calendar days of admission which shall include:
 - "(1) Identified specific behavioral goals and specific actions to be undertaken by facility staff to assist the child in accomplishing these goals within a defined period of time through appropriate behavioral interventions and treatment modalities which shall include but not be limited to a determination of the expected duration of each use of secure containment;

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84168.3 NEEDS AND SERVICES PLAN (Continued)**84168.3**

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- "(2) Discharge goals that are general indicators of a child's readiness for transition to alternative treatment settings;
- "(3) Participation of the child, and, when appropriate, parent, conservator or person identified by the court to manage the child's placement in the development or modification of the NSP;
- "(4) A review at least every thirty (30) calendar days;..."

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NOTE: Authority Cited: Sections 1530 and 1530.9, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

84168.4 MODIFICATIONS TO NEEDS AND SERVICES PLAN**84168.4**

- (a) Section 84068.3 is not applicable to community treatment facilities.
- (b) The needs and services plan specified in Section 84168.3 shall be updated at least every 30 days to determine the following:
 - (1) The child's need for continuing services.
 - (2) The types and intensity of services provided to the child including the use of secure containment and the impact of these services upon treatment goals, changes in or continuation of treatment plan objectives.
 - (3) The progress of the child toward his or her discharge goals.

84168.4 MODIFICATIONS TO NEEDS AND SERVICES PLAN
(Continued)**84168.4**

- (c) The licensee shall ensure that the child and his or her admitting parent, conservator, or person authorized by the court to manage the placement are offered the opportunity to participate in the modification of the child's needs and services plan.
- (1) Modifications to the needs and services plan shall not be implemented until written approval is provided by the child's admitting parent, conservator, or person designated by the court to manage the placement.

NOTE: Authority Cited: Sections 1530 and 1530.9, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code; and Section 5699.3, Welfare and Institutions Code.

84168.5 DISCHARGE PROCEDURES**84168.5**

- (a) In addition to Section 84068.4, the following are applicable.
- (b) If it is determined that the facility cannot meet the needs of the child, the licensee shall notify the child's parent(s), conservator, or person designated by the court to manage the placement of the determination and shall request that the child be placed elsewhere.
- (c) When it is deemed clinically appropriate, a child shall be discharged after completing normal discharge procedures.
- (d) When it is not deemed clinically appropriate for a child to be discharged from the facility, a child shall be released as specified in Section 1925(b) of the California Code of Regulations, Title 9, Chapter 11.

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- (1) California Code of Regulations, Title 9, Section 1925(b) states:
- "(b) When it is not deemed clinically appropriate for a child to be discharged from a CTF a child shall be released under the following circumstances:
- "(1) A child admitted to the facility pursuant to Subsection (b)(1) of Section 1923 is deemed to be a voluntary patient and may revoke the voluntary status by giving notice of his desire to leave the facility to any member of the CTF staff. The child may make this notification directly or through an attorney or advocate. When staff is notified of a child's desire to revoke his voluntary consent to treatment, the court shall be notified no later than within one working day by a CTF staff person pursuant to Section 6552 of the Welfare and Institutions Code, and arrangements shall be made to return the child to the court. If the child leaves the care and custody of a CTF without permission prior to being discharged by a CTF, the court shall be notified immediately;
- "(2) A child admitted to a CTF pursuant to subsection (b)(2) of Section 1923 is deemed to be a voluntary patient and the child's conservator, appointed in accordance with Section 5350 of the Welfare and Institutions Code, may revoke the voluntary status by giving notice to the facility;
- "(3) A child admitted to a CTF pursuant to Subsection (b)(3) or (b)(4) of Section 1923 and the child's parents, or the parent entitled to the custody of the minor may remove the child from a CTF after completing normal CTF discharge procedures."
- "(4) A special education pupil over the age of eighteen who is continuing to receive treatment pursuant to Section 1924(b) need only withdraw consent to be discharged if he is not a ward of the court or under the care and custody of a conservator."

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- (e) The licensed mental health professional staff shall complete and provide to the child's parent, conservator, or person designated by the court to manage the placement a typed discharge summary and discharge report as specified in Sections 1927(i) and (j) of the California Code of Regulations, Title 9, Chapter 11.

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(1) California Code of Regulations, Title 9, Section 1927(i) states:

"(i) The typed discharge summary for a child shall be completed and signed by a member of the facility's licensed mental health professional staff and provided to the child's parent, conservator, or the person identified by the court to manage the placement on the date of discharge which shall include:

"(1) Demographic information as specified in Section 84168.2(c)(1) of Title 22, California Code of Regulations;

"(2) Date of admission;

"(3) DSM diagnosis;

"(4) Current emotional and/or behavioral problems;

"(5) Continuing therapeutic and educational needs;

"(6) Medications;

"(7) Reason for discharge."

(2) California Code of Regulations, Title 9, Section 1927(j) states:

"(j) A typed discharge report shall be completed and signed by a member of the facility's licensed mental health professional staff within fourteen (14) calendar days of the date of discharge for each child, and a copy provided to the parent, conservator or the person identified by the court to manage the placement. It shall include:

"(1) The reason for admission;

"(2) The reason for discharge, referencing the child's discharge planning goals, or the reason for removal;

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84168.5 DISCHARGE PROCEDURES (Continued)**84168.5**

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- "(3) The course of treatment, including medications and the child's response;
- "(4) The child's discharge diagnosis according to the current edition of the DSM;
- "(5) Medical and dental services received while in the CTF;
- "(6) The child's prognosis and recommendations for further mental health treatment, educational programs or placement;
- "(7) A signed written approval of discharge or removal from the child's parent, conservator, or the person identified by the court to manage the placement, and the name, address and relationship to the child of the person to whom the child was released. If the written approval cannot be secured, the child's record shall include an explanation of why the written approval was not obtained."

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NOTE: Authority Cited: Sections 1530 and 1530.9, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

84170 CHILDREN'S RECORDS**84170**

- (a) In addition to Section 84070, the following shall apply.
- (b) The following information regarding the child shall be obtained and maintained in the child's record:
 - (1) Signed copies of the facility's policies and procedures regarding the child's transfer to and from secure and nonsecure portions of the facility, due process rights, and the continued stay criteria as specified in Section 84168.2(d)(3).
 - (2) A complete mental health record as specified in Section 1927(a) of the California Code of Regulations, Title 9, Chapter 11.

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(A) California Code of Regulations, Title 9, Section 1927(a) states:

"(a) The certificate holder of a CTF shall ensure that the required child facility records are kept on each child residing within the facility. Required child facility records include:

"(1) A signed and dated copy of the interagency placement committee's placement authorization letter from the child's county of residence;

"(2) Documentation of the child's and his parents' or conservator's voluntary consent to treatment, when applicable;

"(3) The intake report;

"(4) The admission assessment;

"(5) A psychiatric evaluation;

"(6) A needs and services plan;

"(7) Daily progress notes;

"(8) Monthly clinical review reports;

"(9) Written informed consent by the child for prescribed psychotropic medication, and, when applicable, by the parents, conservator or judge pursuant to Section 851 of Chapter 4;

"(10) A copy of the court order for conservatorship if the child is conserved;

"(11) A copy of the administrative hearing ruling if the child contested placement and a pre-admission administrative hearing was held or a copy of the form waiving this right signed by the child;

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84170 CHILDREN'S RECORDS (Continued)**84170**

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- "(12) A discharge summary;
- "(13) A discharge report."
- "(14) A Welfare and Institutions Code Section 6552 order if the child is a ward or dependent of the court."

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- (3) A copy of a child's request for release and any notification documents to the superior court as specified in Section 84172(c).

NOTE: Authority Cited: Sections 1530 and 1530.9, Health and Safety Code. Reference: Sections 1501, 1507, and 1531, Health and Safety Code.

84172 PERSONAL RIGHTS**84172**

- (a) Sections 80072 and 84072 are not applicable to community treatment facilities.
- (b) The licensee shall ensure that every child admitted to a community treatment facility is informed and afforded the personal rights as specified in Sections 5325, 5325.1, 5325.2, 5326, and 16001.9 of the Welfare and Institutions Code; Section 1530.91 of the Health and Safety Code; Sections 862 through 865 and 867 of the California Code of Regulations, Title 9, Chapter 4; and Sections 1934, 1935, 1936, and 1937 of the California Code of Regulations, Title 9, Chapter 11.

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- (1) Welfare and Institutions Code Section 5325 states in pertinent part:

"Each person involuntarily detained for evaluation or treatment under provisions of this part, each person admitted as a voluntary patient for psychiatric evaluation or treatment to any health facility, as defined in Section 1250 of the Health and Safety Code, in which psychiatric evaluation or treatment is offered, and each mentally retarded person committed to a state hospital pursuant to Article 5 (commencing with Section 6500) of Chapter 2 of Part 2 of Division 6 shall have the following rights, a list of which shall be prominently posted in the predominant languages of the community and explained in a language or modality accessible to the patient in all facilities providing such services and otherwise brought to his or her attention by such additional means as the Director of Mental Health may designate by regulation:

- "(a) To wear his or her own clothes; to keep and use his or her own personal possessions including his or her toilet articles; and to keep and be allowed to spend a reasonable sum of his or her own money for canteen expenses and small purchases.
- "(b) To have access to individual storage space for his or her private use.
- "(c) To see visitors each day.
- "(d) To have reasonable access to telephones, both to make and receive confidential calls or to have such calls made for them.
- "(e) To have ready access to letterwriting materials, including stamps, and to mail and receive unopened correspondence.
- "(f) To refuse convulsive treatment including, but not limited to, any electroconvulsive treatment, any treatment of the mental condition which depends on the induction of a convulsion by any means, and insulin coma treatment.
- "(g) To refuse psychosurgery. Psychosurgery is defined as those operations currently referred to as lobotomy, psychiatric surgery, and behavioral surgery and all other forms of brain surgery if the surgery is performed for the purpose of any of the following:
 - "(1) Modification or control of thoughts, feelings, actions, or behavior rather than the treatment of a known and diagnosed physical disease of the brain.

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- "(2) Modification of normal brain function or normal brain tissue in order to control thoughts, feelings, actions, or behavior.
- "(3) Treatment of abnormal brain function or abnormal brain tissue in order to modify thoughts, feelings, actions or behavior when the abnormality is not an established cause for those thoughts, feelings, actions, or behavior...."
- "(h) To see and receive the services of a patient advocate who has no direct or indirect clinical or administrative responsibility for the person receiving mental health services.
- "(i) Other rights, as specified by regulation.

"Each patient shall also be given notification in a language or modality accessible to the patient of other constitutional and statutory rights which are found by the State Department of Mental Health to be frequently misunderstood, ignored, or denied.

"Upon admission to a facility each patient shall immediately be given a copy of a State Department of Mental Health prepared patient's rights handbook.

"The State Department of Mental Health shall prepare and provide the forms specified in this section and in Section 5157.

"The rights specified in this section may not be waived by the person's parent, guardian, or conservator."

- (2) Welfare and Institutions Code Section 5325.1 states:

"Persons with mental illness have the same legal rights and responsibilities guaranteed all other persons by the Federal Constitution and laws and the Constitution and laws of the State of California, unless specifically limited by federal or state law or regulations. No otherwise qualified person by reason of having been involuntarily detained for evaluation or treatment under provisions of this part or having been admitted as a voluntary patient to any health facility, as defined in Section 1250 of the Health and Safety Code, in which psychiatric evaluation or treatment is offered shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity, which receives public funds.

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"It is the intent of the legislature that persons with mental illness shall have rights including, but not limited to, the following:

- "(a) A right to treatment services which promote the potential of the person to function independently. Treatment should be provided in ways that are least restrictive of the personal liberty of the individual.
 - "(b) A right to dignity, privacy, and humane care.
 - "(c) A right to be free from harm, including unnecessary or excessive physical restraint, isolation, medication, abuse, or neglect. Medication shall not be used as punishment, for the convenience of staff, as a substitute for program, or in quantities that interfere with the treatment program.
 - "(d) A right to prompt medical care and treatment.
 - "(e) A right to religious freedom and practice.
 - "(f) A right to participate in appropriate programs of publicly supported education.
 - "(g) A right to social interaction and participation in community activities.
 - "(h) A right to physical exercise and recreational opportunities.
 - "(i) A right to be free from hazardous procedures."
- (3) Welfare and Institutions Code Section 5325.2 states:

"Any person who is subject to detention pursuant to Section 5150, 5250, 5260, or 5270.15 shall have the right to refuse treatment with antipsychotic medication subject to provisions set forth in this chapter."

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- (4) Welfare and Institutions Code Section 5326 states:

"The professional person in charge of the facility or his or her designee may, for good cause, deny a person any of the rights under Section 5325, except under subdivision (g) and (h) and the rights under subdivision (f) may be denied only under the conditions specified in Section 5326.7. To ensure that these rights are denied only for good cause, the Director of Mental Health shall adopt regulations specifying the conditions under which they may be denied. Denial of a person's rights shall in all cases be entered into the person's treatment record."

- (5) Welfare and Institutions Code Section 16001.9 states:

- (a) It is the policy of the state that all children in foster care shall have the following rights:
- (1) To live in a safe, healthy, and comfortable home where he or she is treated with respect.
 - (2) To be free from physical, sexual, emotional, or other abuse, or corporal punishment.
 - (3) To receive adequate and healthy food, adequate clothing, and, for youth in group homes, an allowance.
 - (4) To receive medical, dental, vision, and mental health services.
 - (5) To be free of the administration of medication or chemical substances, unless authorized by a physician.
 - (6) To contact family members, unless prohibited by court order, and social workers, attorneys, foster youth advocates and supporters, Court Appointed Special Advocates (CASA), and probation officers.
 - (7) To visit and contact brothers and sisters, unless prohibited by court order.
 - (8) To contact the Community Care Licensing Division of the State Department of Social Services or the State Foster Care Ombudsperson regarding violations of rights, to speak to representatives of these offices confidentially, and to be free from threats or punishment for making complaints.

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- (9) To make and receive confidential telephone calls and send and receive unopened mail, unless prohibited by court order.
- (10) To attend religious services and activities of his or her choice.
- (11) To maintain an emancipation bank account and manage personal income, consistent with the child's age and developmental level, unless prohibited by the case plan.
- (12) To not be locked in any room, building, or facility premises, unless placed in a community treatment facility.
- (13) To attend school and participate in extracurricular, cultural, and personal enrichment activities, consistent with the child's age and developmental level.
- (14) To work and develop job skills at an age-appropriate level that is consistent with state law.
- (15) To have social contacts with people outside of the foster care system, such as teachers, church members, mentors, and friends.
- (16) To attend Independent Living Program classes and activities if he or she meets age requirements.
- (17) To attend court hearings and speak to the judge.
- (18) To have storage space for private use.
- (19) To be involved in the development of his or her own case plan and plan for permanent placement.
- (20) To review his or her own case plan if he or she is over 12 years of age and to receive information about his or her out-of-home placement and case plan, including being told of changes to the plan.
- (21) To be free from unreasonable searches of personal belongings.
- (22) To confidentiality of all juvenile court records consistent with existing law.

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- (23) To have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.
- (24) At 16 years of age or older, to have access to existing information regarding educational options available, including, but not limited to, the coursework necessary for vocational and postsecondary educational programs, and information regarding financial aid for postsecondary education.
- (b) Nothing in this section shall be interpreted to require a foster care provider to take any action that would impair the health and safety of children in out-of-home placements.
- (6) Section 1530.91 of the Health and Safety Code states:
- (a) Except as provided in subdivision (b) any care provider that provides foster care for children pursuant to this chapter shall provide each school age child and his or her authorized representative, as defined in regulations adopted by the department, who is placed in foster care, with an age and developmentally appropriate orientation that includes an explanation of the rights of the child, as specified in Section 16001.9 of the Welfare and Institutions Code, and addresses the child's questions and concerns.
- (b) A facility licensed to provide foster care for six or more children pursuant to this chapter shall post a listing of a foster child's rights specified in Section 16001.9 of the Welfare and Institutions Code. The office of the State Foster Care Ombudsperson shall design posters and provide the posters to each facility subject to this subdivision. The posters shall include the telephone number of the State Foster Care Ombudsperson.
- (7) California Code of Regulations, Title 9, Section 862 states:
- "(a) A list of the rights set forth in Section 5325 of the Welfare and Institutions Code and in Section 861, as well as the complaint procedure, prescribed in Section 864, shall remain posted, in English and Spanish, in all wards and common living areas of facilities specified in Section 860.

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- "(b) Each person admitted to a facility specified in Section 860 shall be personally notified of his rights in writing, in language he can understand, or shall have his rights brought to his attention by other means if he is unable to read or understand the information provided him.
- "(c) A notation to the effect that notification, or an attempt to provide notification, has occurred, shall be entered in the patient's/resident's record within 24 hours of admission."
- (8) California Code of Regulations, Title 9, Section 863 states:
- "(a) The 'Patients' Rights Specialist' means the person in the Headquarters Office of the Department of Health delegated the responsibility for ensuring that mentally and developmentally disabled persons in facilities providing mental health services or residential care are afforded their statutory and constitutional rights.
- "(b) The 'Patients' Advocate' means the person in a local mental health program delegated the responsibility for ensuring that mentally disabled persons in facilities specified in Section 860 are afforded their statutory and constitutional rights.
- "(c) The Residents' Advocate' means the persons in a regional center program delegated the responsibility for ensuring that developmentally disabled residents in facilities specified in Section 860 are afforded their statutory and constitutional rights."

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(9) California Code of Regulations, Title 9, Section 863.1 states:

"(a) Each county mental health director shall assign a Patients' Advocate to handle complaints of mentally disabled patients and residents regarding the abuse, unreasonable denial, or punitive withholding of a right guaranteed under Section 861 of this article. Each regional center director shall assign a Residents' Advocate to handle similar complaints from developmentally disabled residents. If the person assigned to handle complaints is a member of the staff of a particular facility, he shall not be involved in the direct supervision of patients or residents of that facility.

"(b) The appointment of a Patients'/Residents' Advocate in a state hospital, as well as the complaint procedure to be observed there, shall be in accordance with Department of Health directives on the patient's rights program for state hospitals."

(10) California Code of Regulations, Title 9, Section 863.2 states:

"(a) The Patients'/Residents' Advocate shall:

"(1) Ensure that the rights listed in Section 5325 of the Welfare and Institutions Code and in Section 861 remain posted in all facilities where posting is required pursuant to Section 860.

"(2) Ensure that all incoming patients/residents are notified of these rights.

"(3) Assist in training staff of facilities specified in Section 860 regarding patients'/residents' rights.

"(4) Investigate complaints of patients/residents or their responsible relatives, and, if necessary, act as advocate for patients/residents.

"(5) Act as advocate in behalf of patients/residents who are unable to register a complaint because of their mental or physical condition.

"(6) Act as local consultant in the area of patients'/residents' rights.

"(7) Act as liaison to the Patient Rights Specialist, Department of Health."

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(11) California Code of Regulations, Title 9, Section 865 states:

"(a) (Reserved)

"(b) 'Professional person in charge of the facility' is defined in Section 822 of this Chapter, Title 9, California Administrative Code; in community care facilities it is the administrator of the facility. Prior to denying the rights, as listed in Section 861, of a resident for good cause, the administrator of a community care facility shall first obtain concurrence from the resident's physician or social worker that good cause for denial exists.

"(c) Notwithstanding the provisions of this article, good cause denial of that right listed under subdivision (f) of Section 5325 shall be in accordance with the provisions set forth in Article 7 (commencing with Section 5325) of Chapter 2 of Part 1 of Division 5 of the Welfare and Institutions Code, as interpreted by court decision.

"(d) Any person who has the lawful right on his own choice to discharge himself from a facility shall be informed of said right at the time of admission to the facility. If the person elects to discharge himself from the facility rather than voluntarily accepting any denial of his rights, such election shall be documented in this treatment record, and the person shall be permitted to leave the facility."

(12) California Code of Regulations, Title 9, Section 867 states:

"Information in a patient's/resident's treatment record pertaining to a denial of a right shall be available on request to the child, his attorney/conservator/guardian, the Department of Health, a member of the State Legislature, or a member of a county board of supervisors."

(13) California Code of Regulations, Title 9, Section 1934 states:

"(a) The rights listed in subsection (a) through (e) of Section 5325 of the Welfare and Institutions Code, and the right to participate in daily outdoor activities, weather permitting, may be denied a child in a CTF only upon the failure of all other means taken to resolve the behavior necessitating denial.

"(b) Agreements and negotiations between the child, administrator and social worker shall be the primary means of resolving problems regarding the rights of the child.

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"(c) If a CTF, after complying with subsections (a) and (b) of this section, wishes to deny one or more of the rights delineated in subsection (a), the procedures outlined in Section 1935 must be followed."

| (14) California Code of Regulations, Title 9, Section 1935 states:

"(a) The rights delineated in Subsection (a) of Section 1934 may be denied only for good cause. Good cause for denying a child a right exists when the professional person in charge of a CTF or his designee has good reason to believe:

"(1) That the exercise of the specific right would be injurious to the child;

"(2) That there is evidence that the specific right, if exercised, would seriously infringe on the rights of others;

"(3) That the facility would suffer serious damage if the specific right is not denied; and

"(4) That there is no less restrictive way of protecting the interests specified in (1), (2), or (3).

"(b) The reason used to justify the denial of a right to a child must be related to the specific right denied. A right shall not be withheld or denied as a punitive measure, nor shall a right be considered a privilege to be earned.

"(c) Treatment modalities shall not include denial of any right specified in Section 1931. Waivers signed by the child, parent, conservator or person appointed by the court to manage the placement shall not be used as a basis for denying rights prescribed in Section 1931 in any treatment modality."

| (15) California Code of Regulations, Title 9, Section 1936 states:

"(a) Each denial of a child's right shall be noted in his facility record. Documentation shall take place immediately whenever a right has been denied. The notation shall include:

"(1) Date and time the right was denied;

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- "(2) Specific right denied;
- "(3) Good cause for denial of the right;
- "(4) Date of review if denial was extended beyond 30 days;
- "(5) Signature of the professional person in charge of the facility or his designee authorizing denial of the right.

"(b) The child shall be told of the content of the notation.

"(c) Each denial of a right shall be documented regardless of the gravity of the reason for the denial or the frequency with which a specific right is denied in a particular facility or to a particular child."

| (16) California Code of Regulations, Title 9, Section 1937 states:

- "(a) A right shall not continue to be denied a child when the good cause for its denial no longer exists. When a right has been denied, staff shall employ the least restrictive means of managing the behavior problem which led to the denial. The date a specific right is restored shall be documented in the child's facility record.
- "(b) A child who has been denied a patients' right shall have the good cause for this denial reviewed every five (5) days after the denial by a CTF mental health program director or his designee. This review shall result in either the restoration of right to the child or continuation of the denial due to the determination that good cause for the denial of the right still exists. The results of the review will be documented in the child's facility record."

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84172 PERSONAL RIGHTS (Continued)**84172**

(c) Every child has a right to a hearing by writ of habeas corpus. The licensee shall develop, maintain and implement written procedures that shall meet the following requirements:

(1) Any member of the facility staff to whom a request is made shall promptly do the following:

(A) Provide the child making the request with a form for a request for release or mark a copy of the form for the child. The form shall be substantially as follows:

(Name of the Facility) _____ day of ___ 19

I, _____ (member of the community treatment facility staff) have today received a request for the release of _____ (name of patient) from the undersigned patient on his or her own behalf or from the undersigned person on behalf of the patient.

Signature or mark of patient making request for release

Signature or mark of patient making request for release on behalf of patient

Signature of staff person receiving request for release

- (B) Deliver the completed request form to the Administrator and note the request in the child's facility record.
- (2) Submit the request for release form to the superior court for the county in which the facility is located by the next working day of the request for release.
- (3) Inform the person who admitted the child of the request for release within 24 hours of the request for release.

84172 PERSONAL RIGHTS (Continued)**84172**

- (4) Maintain a copy of the child's request for release as specified in Section 84172(c)(1)(A) along with notification documents to the superior court in the child's record.
 - (5) The facility's administrator shall ensure that the child is informed as soon as possible of the date, time, and location of the hearing.
 - (6) The child shall be permitted to communicate with counsel confidentially and to prepare for and attend the judicial hearing demanding his or her release.
- (d) The facility's policy concerning family visits and other communications with clients shall be provided as specified in Section 1512 of the Health and Safety Code.

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- (1) Section 1512 of the Health and Safety Code states in pertinent part:

Each residential community care facility shall state, on its client information form or admission agreement, and on its patient's rights form, the facility's policy concerning family visits and other communication with resident clients and shall, except as otherwise provided in this section, promptly post notice of its visiting policy at a location in the facility that is accessible to residents and families.

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NOTE: Authority cited: Sections 1530 and 1530.9, Health and Safety Code. Reference: Sections 1501, 1530.91 and 1531, Health and Safety Code; Sections 4096(g), 4094.6, 5275, and 16001.9, Welfare and Institutions Code.

84172.2 COMPLAINT PROCEDURES**84172.2**

- (a) Section 84072.2 is not applicable to community treatment facilities.
- (b) The licensee of a community treatment facility shall develop, maintain, and implement written complaint procedures by which children or their authorized representatives are permitted to file, without fear of retaliation, complaints regarding facility staff or operations with the facility administrator or mental health program director, an advocate, and/or the Department.
- (c) The following information shall be posted, in English and Spanish, in all wards and common living areas of the facility.
 - (1) A list of the personal rights in Sections 5325, 5325.1, and 5325.2 of the Welfare and Institutions Code.

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Refer to Handbook Sections 84172(b)(1), (2), and (3) for Welfare and Institutions Code Sections 5325, 5325.1, and 5325.2.

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- (2) A statement that any child admitted to a community treatment facility has the right to a hearing by writ of habeas corpus pursuant to Section 4094.6 of the Welfare and Institutions Code.
- (3) The facility's complaint procedures which shall include the following:
 - (A) The name, address and telephone number for filing a complaint with the Department.
 - (B) The information on filing a complaint with a Patients' Advocate as specified in Section 1933 of California Code of Regulations, Title 9, Chapter 11.

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1. California Code of Regulations, Title 9, Section 1933 states:
 - "(a) The list of rights and resources that must be posted, provided or explained to the children in a CTF pursuant to Section 1932 shall contain:
 - "(1) Notification that any child who believes a right of his has been abused, punitively withheld or unreasonably denied may file a complaint with the Department [Mental Health] or the county patients' rights advocate;
 - "(2) The human rights unit of the Department [Mental Health] and the name of the county patients' rights advocate who has been assigned to handle such complaints, and his telephone number.
 - "(b) When a complaint is received by the county patients' rights advocate he or she shall, within two working days, take action to investigate and resolve it.
 - "(c) If the complainant expresses dissatisfaction to the county patients' rights advocate with the action taken, the matter shall be referred, within five (5) working days, to the local mental health director if the complaint originated in the mental disabilities program or to the regional center director if the complaint originated in the developmental disabilities program.
 - "(d) If the complaint cannot be satisfactorily resolved by the local mental health director within ten (10) working days, it shall be referred to the patients' rights specialist at the Department [of Mental Health] whose responsibility it shall be to resolve the complaint. Appeal of the resolution provided by the patients' rights specialist may be made to the Director of the Department [of Mental Health], or his designee."

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NOTE: Authority cited: Sections 1530 and 1530.9, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code; and Section 4094.6, Welfare and Institutions Code.

84175.1 MEDICATION CONTROL/MONITORING**84175.1**

- (a) The licensee shall develop, maintain, and implement medication control and monitoring procedures/protocols which meet the requirements specified in the California Code of Regulations, Title 9, Chapter 11, Section 1928.

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- (1) California Code of Regulations, Title 9, Section 1928 states:

"(a) A CTF shall have written protocols for psychotropic medication control and monitoring that require:

"(1) Examination of each child by the prescribing physician, prior to prescribing of any psychotropic medication which shall include screening for medical complications which may contribute to the child's mental disorder;

"(2) A written medication review by the treating physician at least every thirty (30) days as clinically appropriate, based upon actual observations of the child and a review of a child's progress notes recorded by treatment team staff. This review shall be included in the child's facility record and shall include:

"(A) Observations concerning the presence or absence of any side effects;

"(B) Response to each psychotropic medication currently prescribed;

"(C) Compliance with the medication plan;

"(D) Justification for continued medication use and/or any changes in the medication plan.

"(3) Appropriate documentation of informed consent from the child, and, when applicable, the parent, conservator, or judge pursuant to Title 9, Division 1, Chapter 4, Article 5.5, Section 851 of the California Code of Regulations;

"(A) Psychotropic medications for a child placed in a CTF shall only be prescribed by the attending physician with the written informed consent of the child, and, when applicable, the parents, conservator or judge pursuant to Title 9, Division 1, Chapter 4, Article 5.5, Section 851 of the California Code of Regulations.

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84175.1 MEDICATION CONTROL/MONITORING
(Continued)**84175.1**

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- "(B) No provisions included within the facility's written protocols shall allow for prior blanket consent for psychotropic medications to be prescribed for, administered to, or passed to a child.
- "(4) Procedures for monitoring psychotropic medications by a person licensed to prescribe or dispense prescription drugs, with the current name and qualifications of the person who shall conduct the monitoring.
- "(b) Any psychotropic medication control and/or monitoring practices employed by a designated CTF licensed mental health professional shall ensure that any use of prescribed psychotropic medications are consistent with the goals and objectives of the child's NSP."

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NOTE: Authority cited: Section 1530 and 1530.9, Health and Safety Code. Reference: Section 1501 and 1531, Health and Safety Code; and Section 4094(d), Welfare and Institutions Code.

84175.2 RESTRAINT AND SECLUSION**84175.2**

- (a) The licensee shall develop, maintain, and implement seclusion and restraint policies and procedures which meet the requirements specified Section 1929 of the California Code of Regulations, Title 9, Chapter 11.

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- (1) California Code of Regulations, Title 9, Section 1929 states:
- "(a) Physical restraint and seclusion shall be used only when alternative methods are not sufficient to protect the child or others from immediate injury.
- "(b) Physical restraint and seclusion shall not be used as aversive treatment, punishment, as a substitute for more effective programming, or for the convenience of the staff.

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- "(c) Physical restraint and seclusion shall only be used with a written order designed to lead to a less restrictive way of managing, and ultimately eliminating, the behavior for which the physical restraint or seclusion is applied.
- "(d) A CTF shall adhere to written policies and procedures concerning the use of physical restraints and seclusion that include:
- "(1) The medical evaluation of each child upon admission to the facility to determine the existence of any condition that would contraindicate the use of physical restraint or seclusion;
- "(2) A requirement that they be used only with a signed order of a physician or licensed psychologist, except in an emergency as defined in Section 1901(k). In such an emergency a child may be placed in physical restraint at the discretion of a registered nurse. An order shall be received by telephone within sixty (60) minutes of the application of physical restraint, and shall be signed by the prescriber within twenty-four (24) hours. Telephone orders shall be received only by authorized mental health professional staff, and be recorded immediately in the child's facility record;
- "(A) The order shall include reasons for the physical restraint or seclusion in specific behavioral terms, type and number of points, if applicable, conditions for release or termination of physical restraint, with specific directions for discussing with the child the conditions that required the application of the physical restraint, the level of nursing care the child is entitled to while in physical restraint and the types of behaviors that will meet the criteria for terminating the order for the physical restraint.
- "(B) Full documentation of the episode leading to the use of physical restraint, including the antecedent behaviors, and less restrictive means attempted by staff prior to the use of physical restraint, the type of physical restraint used, the length of effectiveness of the physical restraint time and the name of the individual(s) applying such measures shall be entered in the child's facility record.

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- "(C) At the time physical restraint or seclusion is initiated, or as soon as practical, but in every case within one (1) hour, information regarding the child's medical condition including vital signs, medications, current medical treatments and any relevant medical circumstances specific to the child shall be reviewed by the facility's on duty licensed nursing staff and noted in the child's facility record.
- "(D) All orders for physical restraint shall become invalid two (2) hours after the restraint or seclusion is initiated for children ages 9 to 17, one (1) hour for children under age 9, and four (4) hours for any special education pupils ages 18 through 21 remaining in the facility under continuing stay provisions. If continued physical restraint or seclusion is needed a new order shall be required.
- "(3) A prohibition that physical restraint shall not be allowed for longer than twenty-four (24) hours.
- "(4) A prohibition against as-needed, also known as "PRN" orders for physical restraint or seclusion.
- "(5) A description of acceptable forms of physical restraint or seclusion which shall be:
- "(A) Seclusion in either a designated seclusion room with a door which may be held shut to prevent a child's egress by a staff member or by a mechanism which releases upon removal of a staff person's foot and/or hand or any other room or part of the facility where the child is prevented from physically leaving for any period of time thus limiting their movement, activities and contact with the other children;
- "(B) Physical containment of the child by two or more trained staff persons utilizing methods approved by the Department [of Mental Health];
- "(C) The application of mechanical devices such as well padded belts and cuffs, mittens without thumbs which are securely fastened about the wrists with a small tie and vests consisting of sleeveless cloth webbing;

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- "(6) A requirement that restraints shall be applied in such a way as not to cause physical injury and to insure the least possible discomfort to the child;
- "(7) A requirement that restraints using mechanical devices shall be applied in such a manner that the device can be speedily removed in case of fire or other emergencies;
- "(8) A requirement that staff shall make provisions for regularly scheduled periods, at intervals not to exceed two (2) hours, for range of motion exercises, toileting, and access to liquids and meals;
- "(9) A requirement that staff shall make provisions for responding promptly and appropriately to a child's request for services and assistance, and for repositioning the child when appropriate;
- "(10) A requirement for staff to take precautions to insure the safety of children in restraints by insuring that they remain in staffs' line of vision, by isolating them from other children and by insuring that the restraints can be easily removed in case of fire or emergency;
- "(11) A requirement that staff shall make provisions to insure that a child placed in physical restraint shall be checked at a minimum of every fifteen (15) minutes by the licensed nursing staff to insure that the restraint remains properly applied and that the child has not harmed himself. A written record of each check shall be placed in the child's record and shall include:
- "(A) Vital signs which shall be measured at least every half hour, unless otherwise indicated by the prescribing professional;
 - "(B) Justification for continued physical restraint;
 - "(C) The child's responses to information regarding his behavioral criteria for termination of the physical restraint.
- "(e) A child's parent(s), conservator or person identified by the court to manage the placement shall be informed of a restraint or seclusion with twenty four (24) hours, excepting weekends.
- "(f) Under no circumstances shall physical restraints be used as a disciplinary action."

HANDBOOK ENDS HERE

84175.2 RESTRAINT AND SECLUSION (Continued)**84175.2**

NOTE: Authority cited: Sections 1530 and 1530.9, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code; and Section 4094(d), Welfare and Institutions Code.

Article 7. PHYSICAL ENVIRONMENT**84187 BUILDINGS AND GROUNDS****84187**

- (a) In addition to Section 84087, the following shall apply.
- (b) A room used for seclusion as defined in Section 84111(s)(1), shall meet the following requirements:
 - (1) No room door shall include locking or jamming devices.
 - (2) A control for the lighting shall be located outside the room.
 - (3) The room shall be absent of any hazards such as objects which can be broken or used by a child to inflict injury to himself/herself or others.
- (c) The licensee shall meet the local building code requirements for any fence enclosures of outside spaces and recreational areas that are associated with the facility.
- (d) The licensee shall secure and maintain a fire clearance approval for locking devices and their use on exterior doors, windows, and perimeter fence gates.

NOTE: Authority cited: Sections 1530 and 1530.9, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

84188 FIXTURES, FURNITURE, EQUIPMENT, AND SUPPLIES**84188**

- (a) In addition to Section 84088, the following shall apply.
- (b) No community treatment facility shall have more beds for children's use than required for the maximum license capacity except for the bed(s) made available for seclusion room(s) as specified in Section 84187(b).

NOTE: Authority cited: Sections 1530 and 1530.9, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

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