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Regulation Package No. 0316-04

CDSS MANUAL LETTER NO. CCL-16-08

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

**Regulation Package # 0316-04**

**Effective 7/7/16**

**Sections 84074, 84087**

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

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regulatory effect because they either (1) delete a regulatory provision for which all statutory authority has been repealed, (2) make a regulatory provision consistent with changes to California statutes, (3) change authority or reference citations or (4) revise grammar or syntax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

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

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

## FILING INSTRUCTIONS

**Revisions to all manuals are indicated by a vertical line in the left margin.** The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Community Care Licensing changes was Manual Letter No. CCL-16-07. The latest prior manual letter containing Group Homes regulations changes was Manual Letter No. CCL-16-01.

<u>Page(s)</u>	<u>Replace(s) Page(s)</u>
49 through 50.1	49 through 50
54 through 55.3	54 through 55

Attachment

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

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

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

**84074 TRANSPORTATION****84074**

- (a) In addition to Section 80074, the following shall apply:
- (b) The licensee and his/her staff are prohibited from smoking a tobacco product, or permitting any person from smoking a tobacco product in a motor vehicle that is regularly used to transport children, regardless of when the children are present. This prohibition applies when the motor vehicle is moving or at rest. Smoking has the same meaning as in subdivision (c) of Section 22950.5 of the Business and Professions Code, and tobacco product means a product or device as defined in subdivision (d) of Section 22950.5 of the Business and Professions Code.

**84074 TRANSPORTATION**  
(continued)**84074****HANDBOOK BEGINS HERE**

Business and Professions Code section 22950.5(c) and (d) provide:

(c) "Smoking" means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, whether natural or synthetic, in any manner or in any form. "Smoking" includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking.

(d)(1) "Tobacco product" means any of the following:

(A) A product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, or snuff.

(B) An electronic device that delivers nicotine or other vaporized liquids to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, pipe, or hookah.

(C) Any component, part, or accessory of a tobacco product, whether or not sold separately.

**HANDBOOK ENDS HERE**

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1530.7, 1531, 118948, Health and Safety Code; and 22950.5(c) and (d), Business and Professions Code.

**84075 HEALTH-RELATED SERVICES****84075**

(a) In addition to Section 80075, the following shall apply.

(b) The licensee shall ensure that all prescribed medications are centrally stored, as provided in Section 80075(h)(3).

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

**84076 FOOD SERVICE****84076**

- (a) In addition to Section 80076, the following shall apply.
- (b) Written menus shall be posted weekly in an area accessible to the staff and children.
- (c) The licensee shall meet the following food supply and storage requirements:
  - (1) Supplies of staple nonperishable foods for a minimum of one week and fresh perishable foods for a minimum of two days shall be maintained on the premises.
  - (2) Freezers shall be large enough to accommodate required perishables and shall be maintained at a temperature of zero degrees F (-17.7 degrees C).
  - (3) Refrigerators shall be large enough to accommodate required perishables and shall maintain a maximum temperature of 45 degrees F (7.2 degrees C).
  - (4) Freezers and refrigerators shall be kept clean, and food storage shall permit the air circulation necessary to maintain the temperatures specified in (2) and (3) above.
  - (5) Kitchen appliances and utensils shall be made accessible to a child when he or she is participating in age-appropriate, and developmentally-appropriate activities related to food preparation, cooking, and other related kitchen and dining activities. The administrator or facility manager, or his or her responsible designee, shall:
    - (A) Apply the "Reasonable and Prudent Parent Standard," as specified in Section 84067, when allowing a child to use kitchen appliances and utensils for food preparation and cooking.
    - (B) Ensure that the child is properly trained to safely use the kitchen appliances and utensils.
    - (C) Not require a child to participate in meal preparation.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code; Sections 361.2(j)(2), 727, and 16001.9, Welfare and Institutions Code.

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

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

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

- (8) Subsections (1), (2), (3), (4), (5), and (6) apply to all bedrooms used by all children in the facility including children who are members of the licensee's family, children of staff members and children in placement.
- (9) Subsections (4), (5) and (7) apply to all bedrooms used by the licensee(s), staff and any other adults in the facility.
- (c) The licensee shall prohibit smoking in the facility and on the grounds of the facility.
- (d) Every group home shall have one or more carbon monoxide detectors in the facility that meets the standards established in Health and Safety Code Chapter 8 (commencing with Section 13260) of Part 2 of Division 12.

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Health and Safety Code Section 13260 provides:

"This chapter shall be known and may be cited as the Carbon Monoxide Poisoning Prevention Act of 2010."

Health and Safety Code Section 13261 provides:

"The Legislature finds and declares all of the following:

- (a) According to the American Medical Association, carbon monoxide is the leading cause of accidental poisoning deaths in the United States. The federal Centers for Disease Control and Prevention estimate that carbon monoxide kills approximately 500 people each year and injures another 20,000 people nationwide.
- (b) According to the United States Environmental Protection Agency, a person cannot see or smell carbon monoxide. At high levels carbon monoxide can kill a person in minutes. Carbon monoxide is produced whenever any fuel, such as gas, oil, kerosene, wood, or charcoal, is burned.
- (c) The State Air Resources Board estimates that every year carbon monoxide accounts for between 30 and 40 avoidable deaths, possibly thousands of avoidable illnesses, and between 175 and 700 avoidable emergency room and hospital visits.
- (d) There are well-documented chronic health effects of acute carbon monoxide poisoning or prolonged exposure to carbon monoxide, including, but not limited to, lethargy, headaches, concentration problems, amnesia, psychosis, Parkinson's disease, memory impairment, and personality alterations.
- (e) Experts estimate that equipping every home with a carbon monoxide device would cut accident-related costs by 93 percent. Eighteen states and a number of large cities have laws mandating the use of carbon monoxide devices.

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(f) Carbon monoxide devices provide a vital, highly effective, and low-cost protection against carbon monoxide poisoning and these devices should be made available to every home in California.

(g) The Homeowners' Guide to Environmental Hazards prepared pursuant to Section 10084 of the Business and Professions Code is an important educational tool and should include information regarding carbon monoxide. It is the intent of the Legislature that when the booklet is next updated as existing resources permit, or as private resources are made available, it be updated to include a section on carbon monoxide."

Health and Safety Code Section 13262 provides:

"For purposes of this chapter, the following definitions shall apply:

(a) 'Carbon monoxide device' means a device that meets all of the following requirements:

(1) A device designed to detect carbon monoxide and produce a distinct, audible alarm.

(2) A device that is battery powered, a plug-in device with battery backup, or a device installed as recommended by Standard 720 of the National Fire Protection Association that is either wired into the alternating current power line of the dwelling unit with a secondary battery backup or connected to a system via a panel.

(3) If the device is combined with a smoke detector, the combined device shall comply with all of the following:

(A) The standards that apply to carbon monoxide alarms as described in this chapter.

(B) The standards that apply to smoke detectors, as described in Section 13113.7.

(C) The combined device emits an alarm or voice warning in a manner that clearly differentiates between a carbon monoxide alarm warning and a smoke detector warning.

(4) The device has been tested and certified, pursuant to the requirements of the American National Standards Institute (ANSI) and Underwriters Laboratories Inc. (UL) as set forth in either ANSI/UL 2034 or ANSI/UL 2075, or successor standards, by a nationally recognized testing laboratory listed in the directory of approved testing laboratories established by the Building Materials Listing Program of the Fire Engineering Division of the Office of the State Fire Marshal of the Department of Forestry and Fire Protection.

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(b) 'Dwelling unit intended for human occupancy' means a single-family dwelling, factory-built home as defined in Section 19971, duplex, lodging house, dormitory, hotel, motel, condominium, stock cooperative, time-share project, or dwelling unit in a multiple-unit dwelling unit building or buildings. 'Dwelling unit intended for human occupancy' does not mean a property owned or leased by the state, the Regents of the University of California, or a local governmental agency.

(c) 'Fossil fuel' means coal, kerosene, oil, wood, fuel gases, and other petroleum or hydrocarbon products, which emit carbon monoxide as a byproduct of combustion."

Health and Safety Code Section 13263 provides:

"(a) (1) The State Fire Marshal shall develop a certification and decertification process to approve and list carbon monoxide devices and to disapprove and delist previously approved devices, if necessary. The certification and decertification process shall include consideration of effectiveness and reliability of the devices, including, but not limited to, their propensity to record false alarms. The certification and decertification process shall include a review of the manufacturer's instructions and shall ensure their consistency with building standards applicable to new construction for the relevant type of occupancy with respect to number and placement.

(2) The State Fire Marshal shall charge an appropriate fee to the manufacturer of a carbon monoxide device to cover his or her costs associated with the approval and listing of carbon monoxide devices.

(b) A person shall not market, distribute, offer for sale, or sell any carbon monoxide device in this state unless the device and the instructions have been approved and listed by the State Fire Marshal."

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NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1503.2, 1530.8, 1531, 13260, 13261, 13262, and 13263, Health and Safety Code and *"The Health Consequences of Involuntary Exposure to Tobacco Smoke": A Report of the Surgeon General (2006)*.

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

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

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

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