
EVALUATOR MANUAL TRANSMITTAL SHEET

<p><u>Distribution:</u></p> <p>___ All Child Care Evaluator Manual Holders</p> <p>___ All Residential Care Evaluator Manual Holders</p> <p><u>X</u> All Evaluator Manual Holders</p>	<p style="text-align: center;"><u>Transmittal No.</u></p> <p style="text-align: center;">09RM-18</p> <hr/> <p style="text-align: center;"><u>Date Issued</u></p> <p style="text-align: center;">November 2009</p>
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Subject:

AB 978 – Evaluator Manual Revisions

Reference Material – Facility Evaluation/Visit

Reason for Change:

Revisions to Evaluator Manual section 3-4200 as needed to comply with AB 978 Benoit, 2008

Filing Instructions:

REMOVE – Pages 17, 19 and 22

INSERT – Pages 17, 19 and 22

Approved:

Original signed by Thomas Stahl

11/5/09

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Date

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3-4160 DEFINITION OF FACILITY EVALUATION VISITS (Continued) 3-4160**Plan of Correction Visit**

Plan of correction visits are made to facilities cited for licensing violations to determine if those deficiencies have been corrected. Plan of correction visits are unannounced.

3-4200 FACILITY EVALUATION 3-4200

The facility evaluation is the most important job performed by the Licensing Program Analyst. Through the evaluation process, one, two or all three components of the Community Care Licensing Division's program (prevention, compliance and enforcement) are implemented. Using this process during the site visit, the Licensing Program Analyst will evaluate whether the facility is in substantial compliance with licensing laws and regulations. Substantial compliance is determined by an evaluation of the overall conditions of the facility and the health and safety of clients in care. During this evaluation, the Licensing Program Analyst will assess the various levels of violations and determine whether to cite the facility, provide verbal or written consultation or initiate no action at all. A flow chart of this process is shown in Section 3-4210. This process applies to all facility categories, including Family Child Care Homes and Foster Family Homes.

The purpose of citing facilities for violations of regulations is to ensure the health, safety and personal rights of the clients in care. When a violation of a regulation is observed, the Licensing Program Analyst has a responsibility to determine and assess if a citation is to be issued and the length of time by which correction must be completed. The basic factors to be considered in making this assessment are the consequences to those in care, the immediacy of the need to correct, the frequency of occurrences and the specific regulatory and/or statutory requirement. This assessment focuses on the type of clients served and the facility plan of operation. After making an assessment based on this criteria, the Licensing Program Analyst may cite a violation giving an immediate (24 hour) plan of correction, cite a violation with a longer plan of correction or provide consultation without issuing a citation. **The Department shall specify in its licensing report all violations that, if not corrected, will have a direct and immediate risk to the health, safety, or personal rights of clients in care.**

A,B & C Type Violation

The following is an explanation and examples of the three types of violations and how they are to be addressed by the Licensing Program Analyst. Actual documentation samples will be provided in the Documentation Section of the Evaluator Manual and through staff training.

Type A: Immediate Health, Safety or Personal Rights Impact - Are violations of the regulations and the Health and Safety Code that, if not corrected, have a direct and immediate risk to the health, safety or personal rights of those in care. Citations for these violations will always be issued even if the violation is corrected during the site visit (corrections will be noted on the licensing report). In some instances, violations of these types of regulations may present such a severe threat that it would require suspension or revocation of a license. In all cases the licensee must initiate corrective action to render the situation harmless as soon as possible. In most instances, full compliance is to be completed on the spot or within a 24-hour period. However, in some instances the final correction may be extended for up to 30 days if the licensee has initiated corrective action to minimize or eliminate the health and safety risk, the facility has a history of compliance, or other factors such as transfer trauma and the availability of an alternate placement. The Licensing Program Analyst must first consider these elements when granting this an extension.

EXAMPLES OF TYPE A VIOLATIONS: (AS APPLIED TO SPECIFIC HEALTH AND SAFETY SUBJECT AREAS)

- **Criminal Record Clearance and Child Abuse Index Check** – For all individuals who work, reside or have contact with clients, failure to obtain a criminal record clearance or exemption and, for facilities that care for children, a Child Abuse Index Check clearance.

3-4200 FACILITY EVALUATION (Continued)

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- **Water Supply** - No current bacteriological analysis on private water source which establishes the safety of the water; or drinking water is not available

Type B: Potential Health, Safety or Personal Rights Impact - Violations of the regulations and the Health and Safety Code that, without correction, could become an immediate risk to the health, safety or personal rights of clients, or record keeping violation that would impact the care of clients and/or protection of their resources, or a violation that would impact those services required to meet clients' needs. If correction is made during the site visit, a verbal or written consultation may be provided to the licensee by the Licensing Program Analyst. However, there may be a situation where the licensee repeats the same violation(s) over and over again due to apparent carelessness or intentional disregard of the regulations, the Licensing Program Analyst may issue a citation, require an explanation of the immediate or potential impact on the clients and/or on the facility's plan of operation.

The decision by the Licensing Program Analyst to issue a citation or provide either a written or verbal consultation is based on the history of the facility, the frequency and degree of the violation, current overall condition of the facility and the existence of other violations. If the violation is not corrected during the site visit, a citation is always issued. The Licensing Program Analyst must be able to justify all citations, his or her findings and the course of action provided to the licensee to insure correction.

EXAMPLES OF TYPE B VIOLATIONS: (AS APPLIED TO SPECIFIC HEALTH AND SAFETY SUBJECT AREAS)

- **Reporting Requirements** - Failure to notify the Department within the next working day and provide a written report regarding incidents of abuse, neglect, death, injury which requires treatment by a licensed medical professional, fires or other disasters.
- **Record Keeping** - Failure to provide documented verification of staff qualifications; the designated administrator is not certified or has an expired administrator certificate; lack of admission agreements, immunization records, staff medical assessments, needs and services plans; no record of client's personal and incidental funds; or no client medical records.
- **Personal Rights** - Failure to make arrangements for religious services; opening of client's mail without authorization; restriction of phone use or visitors without approval from licensing.
- **Health Related Services** - No first aid supplies; failure to isolate clients/children with obvious signs of illness; or failure to notify parents of any illness or injury in a facility more serious than minor cuts and scratches.
- **Food Service** - Failure to maintain the required perishable and non-perishable food supplies; lack of menus to verify that clients' dietary needs are met; failure to clean and sanitize dishes and utensils to ensure there is an adequate supply for the next meal; or malfunctioning refrigerator, freezer or stove that does not pose an immediate risk to clients, e.g. spoiled food.
- **Planned Activities** - No planned activities or notice of planned activities on file.

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6. Completion of the exit interview with the facility operator or person in charge. During the exit interview it is the Licensing Program Analyst's responsibility to review each violation and correction due date and provide verbal or written consultation on how corrections can be made. The licensee or person in charge is responsible for providing a written plan of correction on the licensing report for each violation cited.

Advise the licensee of their appeal rights and the procedures to follow. Provide the licensee with a copy of the LIC 9058 (Applicant/Licensee Rights and Appeal Procedures form). The licensee should also be informed that the appeal must be filed within ten days from the date of the report. Instructions on how to file the appeal are on the LIC 9058 form.

ASSESSING THE RISK OF VIOLATIONS

The Licensing Program Analyst must analyze the seriousness of each violation(s), document the findings and the appropriate course of action using the notations and observations he/she has made during the site visit. A risk assessment is necessary at times to help determine whether a violation of a regulation or statute is type A or type B.

1. Identify the problem (violation)

Licensing Program Analyst may only cite a regulation or statute.

For clarity, the Licensing Program Analyst must refer to the most specific regulation or statute when citing.

Is the regulation/statute specific or is it general?

Specific example: 80074(a) Only drivers licensed for the type of vehicle operated shall be permitted to transport clients.

General example: 80078(a) The licensee shall provide care and supervision as necessary to meet the client's needs.

2. Determine the Risk

The formula for this type of assessment is:

Risk = Severity of the outcome & Probability of harm

In order to assess risk, the Licensing Program Analyst must combine the severity of potential outcome with the probability of harm. When both are high, then the risk is high and the violation would most likely be a type A violation. As the risk diminishes, careful consideration should be given to whether the violation is type A or not. The Licensing Program Analyst must use these assessment criteria when evaluating whether to issue a Type A or B citation.

a. Assess Severity of Outcome.

Gauge the possible negative health or safety outcomes. Include all possible outcomes in the assessment.

Example:

One burned out light bulb in an 8 light chandelier would not result in serious harm, whereas a burned out light bulb over a dark stairwell has the potential of a serious injury.