
EVALUATOR MANUAL TRANSMITTAL SHEET

Distribution:

- All Child Care Evaluator Manual Holders
 All Residential Care Evaluator Manual Holders
 All Evaluator Manual Holders

Transmittal No.

15APX-2

Date Issued

April 2015

Subject:

Appendix A-2014 Chaptered Legislation
Community Care Licensing, Child Care Centers and Family Child Care Homes

Reason for Change:

This document transmits summaries of, and implementation procedures for, legislation chaptered in 2014 affecting Community Care Licensing Division, Child Care Centers and Family Child Care Homes.

Filing Instructions:

REMOVE: 15APX-1 2014 Chaptered Legislation for Child Care Centers and Family Child Care Homes.

INSERT: 15APX-2 2014 Chaptered Legislation for Child Care Centers and Family Child Care Homes.

Approved:

Signed by Shanice Boyette

4/14/2015

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Date

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2014 CHAPTERED LEGISLATION

Summaries and Implementation Plans

CHILD CARE CENTERS AND FAMILY CHILD CARE HOMES

“ACTION REQUIRED”		
BILL INFORMATION	SUBJECT	PAGE
Assembly Bill 1819 (Hall) Chapter 459 Statutes of 2014	Family Day Care Home: Smoking Prohibition. Amend Section 1596.795(a) of the Health and Safety Code.	1
Assembly Bill 2386 (Mullin) Chapter 503 Statutes of 2014	Care Facilities: Carbon Monoxide Detectors Amend Sections 1597.45 and 1597.46 and add Sections 1503.2 , 1568.043 , 1569.311 , 1596.954 , and 1597.543 to the Health and Safety Code.	3
Assembly Bill 2621 (Garcia) Chapter 474 Statutes of 2014	Child Day Care Facilities: Licensing Information An act to add Section 1596.819 to the Health and Safety Code, relating to child day care.	5

Unless otherwise noted, all new legislation becomes effective on January 1, 2015. When conducting licensing visits, Licensing Program Analysts (LPAs) should, to the extent practical, make sure that providers are aware of any new requirements. However, regardless of whether this information is provided, it is the licensee’s responsibility to be aware of any new requirements affecting their program.

ACTION REQUIRED

Assembly Bill 1819 (Hall), Chapter 459, Statutes of 2014

Affects: Family Child Care Homes

Subject: Family Child Care Homes: Smoking Prohibition

Summary: Prior law prohibited smoking tobacco in a private residence licensed as a family day care home specifically *during the hours of operation*, and in any areas where children are present. [Assembly Bill 1819](#) amends the Health and Safety Code, Section [1596.795\(a\)](#), to read, in relevant part:

OVERVIEW

“(a) The **smoking** of tobacco in a private residence that is licensed as a family day care home shall be prohibited *in the home and in those areas of the family day care home where children are present*. Nothing in this section shall prohibit a city or county from enacting or enforcing an ordinance relating to **smoking** in a family day care home if the ordinance is more stringent than this section.”

Additionally, AB 1819 makes a conforming amendment to the Labor Code, Section 6404.5 (prohibition on smoking tobacco products in the workplace): Generally private residences are excluded from Section 6404.5’s prohibition on smoking in the workplace, with the exception of Family Child Care Homes (FCCHs) *during the hours of operation*. This bill deletes the *hours of operation* language from Section 6404.5(d)(11) and adds a cross reference to Section 1596.795 of the Health and Safety Code.

AB 1819 creates an effective **24/7 ban on smoking tobacco in a home** that is licensed as a family day care home, **and** in those areas of the family day care home **where children are present**. This change in law was based on demonstrated negative health effects of second and “thirdhand” smoke on children. Thirdhand smoke generally refers to the residue from tobacco smoke that sticks to surfaces after the secondhand smoke has cleared.

IMPLEMENTATION:

Licensing Program Analysts

Effective January 1, 2015, Licensing Program Analysts (LPAs) will enforce this new law through regular inspections and complaint visits as set forth in the “Child Day Care Facilities Act” and the “California Code of Regulations, Title 22, Division 12.”

LPAs will cite based on physical evidence, for

example an ashtray with cigarette butts, a pervasive smell of smoke in the home, or based on interviews and witnesses to the violation. Until 22 CCR 102424 is amended, cite violations using Health and Safety Code Section 1596.795(a).

However, note that this new law does **not** provide authority for the Department to inspect areas of a FCCH that are designated as “off-limits.” Existing law maintains the inspection authority of the Department and Title 22 CCR 102391(c) states:

“The licensee shall permit the Department to inspect any part of the family child care home *in which family child care services are provided or to which children have access.*”

Based on this, the Department’s LPAs will not inspect any part of the FCCH not designated for care and to which children do *not* have access, to enforce this new law. The law does not prohibit smoking tobacco outside the home where the licensee has designated the area as “off limits” and there are no children present. LPAs will review the Facility Sketch (LIC 999), to determine “off limits” areas.

ACTION REQUIRED

Assembly Bill 2386 (Mullin), Chapter 503, Statutes of 2014

Affects: Community Care Facilities (CCFs)
Children's Residential Facilities and Certified Family Homes
Residential Care Facilities for the Elderly (RCFE)
Residential Care Facilities for the Chronically Ill (RCF-CI)
Child Care Centers (CCCs) and Family Child Care Homes (FCCHs)

Subject: Care facilities: Carbon Monoxide Detectors

Summary: [Assembly Bill 2386](#) amended Sections [1597.45](#) and [1597.46](#) and added Sections [1503.2](#), [1568.043](#), [1569.311](#), [1596.954](#), and [1597.543](#) to the Health and Safety Code, establishing carbon monoxide detector requirements for all licensed facilities and certified family homes.

OVERVIEW

Effective January 1, 2015, this law requires all licensed facilities and certified family homes, as specified, to have one or more carbon monoxide (CO) detectors in the facility that meet specific standards, and requires the Department to account for their presence during inspections.

IMPLEMENTATION

During inspections, the Licensing Program Analyst (LPA) will ensure the presence of one or more State Fire Marshal approved CO detectors and shall ensure that the power/alarm light indicator is on.

In California, the marketing, distribution, or sale of CO devices is prohibited unless they are approved and listed by the State Fire Marshal (SFM), who is required to develop a certification and decertification process to list CO devices and to disapprove and remove previously approved devices from the list, if necessary.

A current online list of approved CO detectors from the California State Fire Marshal is available at: http://osfm.fire.ca.gov/strucfireengineer/strucfireengineer_bml.php

Note: This list is annually or periodically updated

The LPA, using the most *current* list found online, will ensure the CO detector(s) in the facility has been approved for use by the SFM.

Until regulations are updated, LPAs will cite the following statutes for noncompliance, based on the type of facility or home:

- HSC Section [1503.2](#) for CCFs including Children's Residential Facilities and Certified Family Homes
- HSC Section [1596.954](#) for CCCs
- HSC Section [1597.543](#) for FCCHs
- HSC Section [1568.043](#) for RCF-CI
- HSC Section [1569.311](#) for RCFE

INFORMATION ONLY - NO ACTION REQUIRED

Assembly Bill 2621 (Garcia), Chapter 474, Statutes of 2014

Affects: Child Care Centers (CCCs) and Family Child Care Homes (FCCHs)

Subject: Child Day Care Facilities: Licensing Information

Summary: [Assembly Bill 2621](#) added Section [1596.819](#) to the Health and Safety Code, to require the Department to post certain licensing information for CCCs and FCCHs on its public internet website.

OVERVIEW:

Effective January 1, 2015, except as otherwise prohibited by law, the Department shall post licensing information for Child Day Care Facilities, CCCs and FCCHs on its Internet Web site to include:

- the name
- the address for each CCC only
- the status of the license
- the capacity of the license for each CCC only
- the number of site visits, including:
 - non-complaint inspections
 - substantiated and inconclusive complaint inspections
- the number of citations

For FCCHs, this information shall not include:

- the address of each FCCH, which for *small* FCCHs (but not *large* FCCHs) is specifically prohibited by Health and Safety Code, section 1596.86(b).
- the capacity of each FCCH, which is not required by this law

This licensing information is to be updated at least monthly on its website and will span the preceding five-year period.

IMPLEMENTATION:

This bill requires the Department to post licensed child day care facility information on its Internet Web site as described. Recently, the Department's Transparency Project created a means for the public to access some licensing

information via the Internet for the preceding five years for *all* community care licensed facility types, including child day care facilities.

The information posted is the *number* of non-complaint inspections, and complaint inspections that were found to be either substantiated or inconclusive, and the *number* of citations; however, the Department will not post the number of *allegations* nor *unsubstantiated* complaints. This inspection posting will not include information that is otherwise confidential as provided by law. For example, the Department shall not post the name of any person mentioned in a complaint; and if the Department determines that a complaint is without a reasonable basis (unsubstantiated), then the complaint is confidential and shall not be disclosed to the public. Information contained within the body of a citation that is confidential as provided by law shall not be posted.

In order to comply with the specific mandates of this bill, the Department shall ensure the Transparency Project accurately defines its glossary of terms, including “visit” and “inspection” (when does the term also mean annual and random visits/ inspections), to ensure that the public understands the true *number of site visits* that have occurred and can clearly determine whether the posted number includes, or is separate from, the number of substantiated and inconclusive complaint inspections, and non-complaint inspections.

Finally, the Department shall ensure that the day care information that is to be posted on the Internet Web site is updated on at least a monthly basis.