
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;">15RM-02</p> <hr/> <p style="text-align: center;"><u>Date Issued</u></p> <p style="text-align: center;">January 2016</p>
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Subject:

REFERENCE MATERIAL
 Enforcement Actions
 Section 1-0640 – Unlicensed Facility Complaint Investigations

Reason for Change:

Revisions to Section 1-0640 – Unlicensed Facility Complaint Investigations

Filing Instructions:

REMOVE: pages 47 through 50

INSERT: pages 47 through 50

Approved:

Signed by Lilit Tovmasian

01/05/2016

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 Date

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1-0640 UNLICENSED FACILITY COMPLAINT INVESTIGATIONS**1-0640****Rationale**

Investigations Branch is responsible for the investigation of unlicensed child care facilities, residential care facilities for the elderly, residential care facilities for the chronically ill and community care facilities. The large number of unlicensed facilities in all categories makes it operationally impractical for Investigations Branch to accept every complaint of known or suspected unlicensed operation. Consequently, and in order to establish a system of priorities, Division policy defines specific Regional Office responsibilities to be met prior to acceptance by Investigations Branch of an unlicensed facility complaint.

Complaints and Facility Visit

The Regional Offices will receive and review all complaints of unlicensed facilities. If the complaint is routine, Regional Office staff will make the required ten-day visit. If the complaint indicates severe danger to clients or Priority I or II Referral, the Regional Office will immediately refer the complaint (LIC 802) to **the** Investigations Branch, **which** will assume the responsibility for the ten-day visit unless other arrangements are made with Regional Office staff.

For Residential Care Facilities for the Elderly or Adult Residential Facilities, the review tool may be used by the Licensing Program Analysts to assist in determining whether licensure is required for certain types of living arrangements. When using this review tool, Licensing Program Analysts would assess what the operator has agreed to provide in the living arrangement. There may be instances where sufficient evidence exists to substantiate an unlicensed operation complaint against the operator without the use of this review tool or with partial completion of the review tool. The Regional Office consulting enforcement attorney should be assisting every step of the way with these fact intensive decisions, and in all situations, the Regional Manager and/or Licensing Program Manager must be consulted before making a determination of finding. Information used to determine the scores can come from several sources including, but not limited to: observations and interviews with individuals residing at the location; interviews with the operator; or information received from other sources such as a hospice agency, home health agency, discharge planner, placement agency, social worker or the local ombudsman office.

Facility Visit Results

1. **Unfounded:** If a review of all evidence obtained by the Licensing Program Analyst during the visit indicates an unfounded allegation, the Regional Office will close the case.
2. **Inconclusive:** If evidence obtained during the visit is inconclusive, the Regional Office should consult with Investigations Branch for possible assistance. This may include cases where the Licensing Program Analyst was denied entry.

1-0640 UNLICENSED FACILITY COMPLAINT INVESTIGATIONS
(Continued)**1-0640**

3. **Substantiated/Routine:** If evidence obtained indicates substantiation of the allegation and no apparent danger to clients, the Licensing Program Analyst will issue a Notice in Violation of Law and requiring the operator to submit an application as soon as possible. For family child care homes, Licensing Program Analysts must wait 15 days after requesting the operator to submit an application before issuing a Notice in Violation of Law. Refer to Evaluator Manual Section 1-1190 for notification procedures.
4. **Substantiated/Danger to Clients:** If evidence obtained by the Licensing Program Analyst during the visit indicates substantiation of the allegation and an apparent danger to the clients in care, the Licensing Program Analyst will issue a Notice in Violation of Law and refer the case to Investigations Branch as soon as possible. Refer to Evaluator Manual Section 1-1190 for notification procedures. The Licensing Program Analyst shall also, when appropriate, notify local law enforcement.

Application

1. **Application Granted:** If the Regional Office grants the operator a license, the case should be closed.
2. **Application Denied:** If the Regional Office denies the unlicensed operator's application, and the Regional Office has confirmed that the applicant has failed to remove clients within the required time frame the case should be referred to Investigations Branch as soon as possible. Refer to Evaluator Manual Section 1-1190 for notification procedures.
3. **No Application:** If no application has been received within 15 days, the Regional Office will refer the case to Investigations Branch. If the Regional Manager believes the unlicensed operator will comply with the law in the foreseeable future, the referral may be withheld at his or her discretion. Refer to Evaluator Manual Section 1-1190 for notification procedures.

1-0650 CASE REFERRALS FROM OUTSIDE SOURCES**1-0650**

When Investigations Branch receives complaints from sources other than through the Regional Offices, the complaints shall be referred to the appropriate Regional Office with the following expectations:

Law Enforcement Agencies

When Investigations Branch receives a complaint directly from a law Enforcement Agency, a service request will be prepared by Investigations Branch and the appropriate Regional Manager will be notified as soon as possible. An investigation will be initiated by either the Statewide Program Office or the Regional Office in accordance with established policy and procedures.

1-0650 CASE REFERRALS FROM OUTSIDE SOURCES (continued)**1-0650****Deputy Director/Program Administrator**

Requests for investigation from the Deputy Director or Program Administrator shall be documented on a service request by Investigations Branch. The Regional Manager will be notified at the direction of the Deputy Director and/or Program Administrator.

1-0700 CENTRAL OPERATIONS BRANCH, AUDIT SECTION**1-0700**

The Community Care Licensing Division, Audit Section receives requests for audit services from Regional Offices when there are financial concerns at all facility types except Group Homes or Foster Family Agencies. Financial/audit needs involving Group Homes and Foster Family Agencies are to be directed to the Foster Care Audits Branch in the Children and Family Services Division. You can use the same form (LIC 837) (Services Request for Audit Services) and process for requesting audit services from Foster Care Audits Branch. Forward Group Home and Foster Family Agency audit request to the Foster Care Audits Branch at Mail Station 19-24. All other audit requests are to be forwarded to the Central Operations Branch, Audit Section at Mail Station 19-49. Program Administrators and Licensing Program Managers are responsible for referring services requests for cases that meet Audit Section criteria.

The primary objectives of the Audit Section includes, but are not limited to ensuring that:

1. Client cash resources are handled, safeguarded and accounted for properly.
2. Applicants and licensees have a financial plan which ensures sufficient resources to meet operating costs.
3. Licensing staff make timely and informed audit-related decisions.

1-0710 AUDIT SERVICES**1-0710**

Audit services focus on the completion of audit casework in a timely manner, through the performance of trust and solvency audits conducted in accordance with Generally Accepted Governmental Auditing Standards. Providing these services in support of Regional Office functions is Audit Section's primary role. Within Community Care Licensing Division, Audit Section staff possess the necessary training and expertise to evaluate financial issues in detail.

Requests for services by the Regional Office at times exceed the Audit Section's capabilities due to limited staffing. When this occurs, the Audit Section attempts to address this problem by limiting the scope of services for particular audits by focusing solely on the primary issue identified in the LIC 837. These limited scope assignments are referred to as financial investigations for Audit Section inventory purposes. Financial investigations conform to Generally Accepted Governmental Auditing Standards.

Auditors may also provide opinions on audit-related issues via phone, fax and e-mail. This type of service is referred to as a consultation. All consultations are documented

1-0710 AUDIT SERVICES (Continued)**1-0710**

and inventoried. A copy of the completed consultation will be shared with the appropriate Regional Office. By conducting financial investigations and consultations, the Audit Section attempts to respond to specific Regional Office needs timely without having to conduct comprehensive trust or solvency audits.

The Audit services must be requested by submitting a LIC 837. All LIC 837s submitted for audits are to be completed by Regional Office staff and approved by Regional Office Managers and Program Administrators.

The Audit Section provides other services that are secondary to performing audits, investigations and consultations. These services include, but are not limited to:

1. Assisting in the development of policies, procedures, regulations, and forms.
2. Providing training to applicants, licensees and Community Care Licensing Division staff.
3. Processing requests for *Group Residence Locator System* information. A Group Residence Locator System provides a listing of Supplemental Security Income/State Supplementary Program (SSI/SSP) recipients at a specific address. Additionally, the Audit Section can obtain information from the Secretary of State on the status of corporations (Certificate of Good Standing). Group Residence Locator system and corporation status requests are transmitted to Audit Section by interoffice mail or fax on a LIC 837. Requests for Group Residence Locator system and corporate status do not need Regional Office Manager or Program Administrator approval.
4. Filing claims against facility surety bonds when licensees fail to make determined restitution to or on behalf of clients.
5. Assisting staff attorneys in administrative actions that include audit findings.

1-0720 DESCRIPTION OF AUDIT SERVICES**1-0720**

TRUST AUDIT: A program audit in compliance with Generally Accepted Governmental Auditing Standards. Trust audits include reviewing and monitoring a licensee's compliance with safeguarding, bonding and accounting statutes and regulations regarding the handling of client cash resources. Trust audits are conducted when it is suspected that clients may have been the victims of fiduciary abuse perpetrated by the licensee or facility staff. Audit findings may lead to administrative actions to revoke facility licenses. Findings may also be used to support criminal prosecutions.

SOLVENCY AUDIT: A program audit in compliance with Generally Accepted Governmental Auditing Standards. Solvency audits provide a determination regarding whether an applicant's or licensee's financial plan ensures sufficient resources to provide adequate care and supervision to facility clients.