

CHILDREN'S RESIDENTIAL COMMUNITY CARE FACILITIES
SUMMARY OF 1996 CHAPTERED LEGISLATION

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SECTION I

IMMEDIATE ACTION REQUIRED

Assembly Bill 2322 (Bates), Chapter 1007/Statutes of 1996

AFFECTS: Foster Family Homes (FFH), Certified Family Homes (CFH), and Small Family Homes (SFH) operated as specialized foster care homes.

SUBJECT: Children with special health care needs

SUMMARY: AB 2322 changed the Health and Safety Code and the Welfare and Institutions Code as follows:

- Health and Safety Code 1507.2 provides authority for a specialized foster care home to accept a child with special health care needs or retain such a child beyond the age of 18 years under specified conditions. In addition, this section requires the facility to keep evidence of compliance with those conditions and to make that evidence available for inspection by the certifying or licensing agency.
- Welfare and Institutions Code 17710 changes the definition of a child with special health care needs by increasing the upper age to 22 for individuals completing a publicly funded education program.
- Welfare and Institutions Code 17732.1 specifies the conditions under which a child with special health care needs may remain in a specialized foster care home past the age of 18 years. In addition, this section requires the Department to notify foster care providers in the orientation process that the State Foster Family Home and Small Family Home Insurance Fund does not expand liability coverage for care of individuals over the age of 18 years.

IMPLEMENTATION: The statute is sufficiently clear to implement without regulations.

1. By January 1, 1997, incorporate in orientations for foster family and small family homes the notification that the Foster Family Home and Small Family Home Insurance Fund will not expand liability coverage for the care of individuals over the age of 18 years.
2. Effective January 1, 1997, licensing staff must determine whether specified conditions have been met when a child with special health care needs remains in a special foster family home beyond the age of 18 years.
If a licensee identifies an adult resident of the household

as a child with special health care needs, licensing staff must review the case plan to verify the following:

- a. The child was a resident in the home before the age of 18.
- b. The child is in a publicly funded education program that is expected to be completed before or during the child's 22nd year of age.
- c. There is a needs and services plan completed within six months of the child's 18th birthday.
- d. The needs and services plan includes a determination of the child's continued compatibility with the other children in placement.
- e. There is agreement regarding the child's remaining past the age of 18 years by all parties involved, including the resident, the foster parent, the social worker, the resident's regional center case manager, and the resident's parent, legal guardian, or conservator.
- f. The needs and services plan includes assessment of the child's needs and is updated with any significant change and whenever there is a change in household composition.
- g. The regional center continues to monitor and supervise its placements and to ensure the health and safety, appropriate placement, and compatibility of the child.
- h. If the child is in a certified family home, the foster family agency's registered nurse continues to function as the designated health care professional who supervises and monitors the child's ongoing health care.

If the above requirements have been met, consider that adult resident to be a child with special health care needs. The information and procedures in the Evaluator Manual's Health and Behavior Reference, Sections 5-2310 through 5-2350 apply to this person and the facility in which the person resides.

If documents verifying compliance with the above requirements are not available, cite the licensee using

Health and Safety Code 1507.2 and require the licensee to obtain the documentation.

If documents are available and requirements (a) or (c) have

not been met, cite the licensee using Welfare and Institutions Code 17732.1 and require the licensee to develop a plan of relocation.

If requirement (b) has not been met, cite the licensee using Welfare and Institutions Code 17710(a) and require the licensee to contact the appropriate placement agency and develop a plan of correction.

If requirements (d)-(h) have not been met, cite the licensee using Welfare and Institutions Code 17732.1 and require the licensee to contact the appropriate placement agency and develop a plan of correction.

Evaluator Manual Reference Section 88010 and 5-2300 will be updated to address the retention of special health care children beyond the age of 18 years.

Assembly Bill 2824 (Bordonaro), Chapter 247

AFFECTS: Adult Residential Facilities (ARF), Group Homes (GH), Foster Family Homes, Small Family Homes, Family Homes certified by Foster Family Agencies (CFH)

SUBJECT: Delayed egress devices for developmentally disabled clients

SUMMARY: This statute adds Health and Safety Code Section 1531.1 which authorizes the use of delayed egress devices in residential CCFs, under specific conditions:

- o The facility cares for 6 or fewer clients with developmental disabilities who lack hazard awareness or impulse control;
- o Facilities with delayed egress devices accept only developmentally disabled clients who are receiving services and case management from a regional center;
- o The devices do not delay any client's departure for longer than 30 seconds;
- o Within 30 seconds staff may attempt to redirect the client;
- o An interdisciplinary team determines, through the Individual Program Plan (IPP), that the client lacks hazard awareness or impulse control and requires the level of supervision required by a delayed egress device;
- o The IPP indicates the client would otherwise be placed, or have to remain, in a more restrictive state hospital or state developmental center;

- o The facility meets all fire and building codes, regulations, and standards applicable to RCFEs using delayed egress devices and receives approval from the appropriate fire district for the installed devices;
- o The facility receives licensing approval for a plan of operation that describes how the facility will be equipped with devices consistent with regulations adopted by the State Fire Marshall pursuant to Section 13143 of the Health and Safety Code;
- o The facility plan describes how staff will be trained to use and operate the devices, how clients rights will be protected consistent with Sections 4502, 4503, and 4504 of the Welfare and Institutions Code, how clients' lack of hazard awareness and impulse control behavior will be managed, and the facility's emergency evacuation procedures;
- o The delayed egress devices are not used as substitutes for adequate staff;
- o The facility conducts fire and earthquake drills every three months on each shift and that all the staff on each shift are included.

IMPLEMENTATION: This statute is clear enough to implement without new regulations. The statutory language of AB 2824 will be handbooked into corresponding regulations next year. It is possible that as the program develops some regulations may be warranted.

This statute authorizes the use of RCFE regulation sections 87101d.(2) and 87724(e) to determine compliance. Field staff should keep in mind that these are not locked facilities and therefore waivers/exceptions are not required. The critical elements in determining a facility's compliance with this language are:

- fire clearance
- IPP determination for all clients
- approved plan of operation

An evaluation of the above is required during visits at all facilities which employ delayed egress devices. Facilities out of compliance should be cited for the specific subsection of Health and Safety Code Section 1531.1 with which they have not complied.

NOTE: Although the statute authorizes the use of delayed egress devices in group homes, foster family homes, small family homes and certified family homes, the Department of Developmental Services (DDS) has instructed Regional Centers to not utilize these devices in children's facilities. Since the statute limits use of these devices to facilities providing care to Regional Center clients, there should not be any children's facilities requesting fire clearances for the devices. If such a request is received, notify COB.

Assembly Bill 3062, (Friedman) Chapter 1016

AFFECTS: Foster Family Homes

SUBJECT: Foster parent training

SUMMARY: Health and Safety Code Section 1529.2 now requires licensees to complete at least 12 hours of foster parent training before the placement of foster children and at least eight hours of annual training thereafter. No child shall be placed in a foster family home unless these requirements are met by the foster parents or, for the eight hours of annual post-placement training, the foster parents have completed training using appropriate video or written materials, have received a hardship waiver, or have been granted an extension.

IMPLEMENTATION: Acceptable documentation of training includes a letter signed by the county of residence, placement worker or instructor stating that the foster parent has completed the required minimum hours of training, specifying the date of completion, and stating that the training complies with Health and Safety Code Sections:

- o 1529.2(b)(3) and (5), if the letter documents completion of at least 12 hours of pre-placement training; or
- o 1529.2(b)(4) and (5), if the letter documents completion of at least 8 hours of annual post-placement training.

The licensee's next training session is due within 12 calendar months from the date of the first placement after completion of initial training.

Acceptable documentation of 8 hours of annual post-placement training by video or written materials includes a letter from the county of residence stating that the foster parent has successfully completed the required training, specifying the date of completion, and stating that the training complies with Health

and Safety Code Sections 1529.2(b)(4) and (5). The licensee's next training session is due within 12 calendar months from the date of training completion specified in the letter.

Acceptable documentation of a hardship waiver or extension of the deadline for the 8 hours of annual post-placement training includes a letter from the county of residence documenting that the waiver or extension has been granted and giving the dates for which the hardship waiver has been given or the new extended date by which training must be completed. The licensee's next training session is due within 12 calendar months from the date of expiration of the waiver or from the date of training done under the extension.

Check the file for copies of training documents prior to each annual evaluation visit and follow the procedures below.

Facility file contains no training documents

During the annual visit, examine the placement agreements for the months after the last annual visit to see if the facility has, during that time, accepted any foster children who were placed:

- o After the effective date of the Bill (January 1, 1997); and
- o After licensure of the foster parent (the foster parents were not operating illegally or as certified pending foster family home licensure at the time of the post 1/1/97 placement(s)).

If so, then each licensee must have on file a letter documenting that he/she has completed at least 12 hours of pre-placement training. Keep a copy of the letter(s) in the facility file.

Failure by licensees to keep the required documentation on file or to complete the 12 hours of training should be cited as a violation of Health and Safety Code Section 1529.2(b)(1). The plan of correction should require licensees to enrol for 12 hours of training within 30 days. The next training session must be completed within 12 calendar months from the date of completion of training done under the plan of correction.

Facility File contains prior training documents

If the licensee's file contains copies of training documents, ensure during the annual evaluation visit that each licensee is up to date in his/her 8-hour annual training, or the alternatives to the 8-hour training, as specified above. Keep a copy of all new training documents in the facility file.

Failure by licensees to keep the required documentation on file or to complete the 8 hours of training should be cited as a violation of Health and Safety Code Section 1529.2(b)(1). The plan of correction should require licensees to enrol for 8 hours of training within 30 days. The next training session must be completed within 12 calendar months from the date of completion of training done under the plan of correction.

SECTION II

REGULATIONS OR ADDITIONAL INSTRUCTIONS TO BE DEVELOPED

AB 2329 (Goldsmith), Chapter 275/Statute of 1996

AFFECTS: Foster Family Homes, Certified Family Homes, Small Family Homes

SUBJECT: Notice to parent or guardian

SUMMARY: Amends the Welfare and Institutions Code regarding the notification of a minor's parent or guardian in the event the child is taken into custody.

When a minor is taken into custody by a peace officer or social worker, immediate steps must be taken to notify the minor's parent, guardian or responsible relative that the minor is placed in a legally authorized facility. The peace officer or social worker shall provide a telephone number at which the minor may be contacted. At the time of the dispositional hearing the judge may, for good cause, disclose the address of the licensed foster family home to the minor's parent, guardian or responsible relative.

The judge may also order the release of the address of the licensed foster family home to the minor's parent, guardian or responsible relative if, 1) a petition to challenge jurisdiction, or 2) another motion to delay the dispositional hearing beyond 60 days after the detention hearing is granted. The foster family home will be notified.

In the absence of a court order under Welfare & Institutions Code Section 304, the law will allow a foster parent to authorize the release of the address of the foster family home at any time during placement.

IMPLEMENTATION: The provisions for disclosure appear to be ambiguous. The term "foster parent" is used in the Health & Safety Code and the Welfare and Institution Code to apply to residential providers who are similarly situated, i.e. foster family homes, certified family homes, small family homes. This

statute mandates that the address of the foster parent remains confidential until after the dispositional hearing, at which time the judge may allow disclosure. In the absence of a court under Welfare and Institution Code Section 304, the foster parent may disclose the address at any time.

Senate Bill 1365 (Hayes) Chapter 794, Statutes of 1996

AFFECTS: Group Homes

SUBJECT: Pilot project group home with a secure perimeter

SUMMARY: Amends the Welfare and Institutions Code to allow the Van Horn Regional Treatment Facility to operate as a 30 bed pilot project group home with a secure perimeter. The purpose of the secure perimeter, which is defined as an external boundary, is to prevent impulsive, runaway behaviors.

Placements shall be limited to minors described as wards of the court, pursuant to Welfare & Institutions Code Section 602, from the counties of Los Angeles, Orange, Riverside, San Bernardino and San Diego.

The facility operator shall be selected by participating counties in accordance with a competitive procurement. The facility must comply with licensing standards for group homes.

IMPLEMENTATION: CDSS/Children and Family Services Division is directed to request an amendment to the Title IV-E State Plan, to allow the Van Horn Regional Treatment Facility to operate as a group home with a secure perimeter. Until federal approval is obtained, the Van Horn Regional Treatment Facility cannot operate as a group home with a secure perimeter.

Senate Bill 1688 (Marks), Chapter 448

AFFECTS: Adult Residential Facilities, Residential Care Facilities for the Chronically Ill, Group Homes, Foster Family Homes, Small Family Homes, Social Rehabilitation Facilities and Residential Care Facilities for the Elderly

SUBJECT: Special equipment and services provided by telephone companies to disabled residents.

SUMMARY: This statute adds Sections 1524.7 and 1569.159 to the Health and Safety Code. It requires the California Department of Social Services (CDSS) to provide a form all to residential care facilities and RCFE's, to be attached to all admission agreements. The form must notify the residents that any hearing or speech impaired, or otherwise disabled person is entitled to

equipment and services by the telephone company to improve the quality of their communication. This shall not be construed to require, in any way, the licensee to provide a separate telephone line for any resident.

IMPLEMENTATION: The CCLD will develop a form with the appropriate notice. Provider organizations and Community Care Licensing District Offices will be notified when the form is available. The form will be added to the LIC 183A (Facility Forms Request-Adult Facilities) so that providers may order supplies as needed.

Senate Bill 2035 (Killea), Chapter 1135

AFFECTS: Unlicensed complaints regarding Adoption Agencies

SUBJECT: Adoption facilitators

SUMMARY: SB 2035 changed the Family Code by defining adoption facilitators, specifying their activities, and specifying civil remedies for violation of Family Code Chapter 1.5 regarding adoption facilitators.

- Family Code 8623 defines an adoption facilitator as a person
- or organization that is not licensed as an adoption agency by the State of California and engages in either of the following:
 - . Advertises to solicit parties to an adoption, to locate children for an adoption, or to act as an intermediary between the parties to an adoption.
 - . Charges for services rendered relating to an adoption.
- Family Code 8624 specifies that advertising must identify the name of the party placing the ad and must state that the advertiser is an adoption facilitator.
- Family Code 8625 specifies that the adoption facilitator must not mislead any person into believing that the facilitator is a licensed adoption agency nor able to provide services for which the facilitator is not licensed.
- Family Codes 8626 through 8632 specify actions that an adoption facilitator must take to assure that an individual is informed that the facilitator is not a licensed adoption agency and that the facilitator's services are clear.
- Family Codes 8633 through 8638 specify the civil penalties

for violation of Family Codes 8623 through 8632 and the civil action remedies available to any person aggrieved.

IMPLEMENTATION: If there are unlicensed complaints, assure that the adoption facilitator does not perform the activities of a licensed adoption agency. If the individual or organization is performing adoption agency activities, follow the usual procedures for citing an unlicensed facility.

If an individual complains about the adoption facilitator's services, tell the person that a civil action may be filed by the aggrieved person but that we are limited to investigating whether the party or organization should be licensed as an adoption agency.

An Evaluator Manual page will be developed to incorporate these instructions.

SECTION III INFORMATION ONLY

Assembly Bill 3043 (Takasuqi), Chapter 671

AFFECTS: Group Homes

SUBJECT: Aid to Families with Dependent Children -Foster Care

SUMMARY: Amends the Welfare and Institutions Code to revise procedures for determining reimbursement for group home providers. Specifically, donations and contributions shall not be considered by the California Department of Social Services (CDSS) in any determination of maximum expenditures.

This bill will revise CDSS/Foster Care Rates Bureau procedures to allow a group home program classified at Rate Classification Level (RCL) 13 or 14 which has failed to maintain the level of care and services necessary to generate the necessary number of points for RCL 13 or 14, to file an appeal or submit a correctional action. During the appeal, the group home shall maintain the appropriate level of care.

This bill would require CDSS/Children and Family Services Division report to the Legislature by December 1, 1996 on the level of care assessment instrument, and the projected date for full implementation.

Senate Bill 371 (Rosenthal) Chapter 360

AFFECTS: All facilities employing between 2-50 persons

SUBJECT: Health Insurance: small employers coverage.

SUMMARY: This statute amends Sections 1357 of the Health and Safety Code and Section 10700 of the Insurance Code, relating to health insurance. Existing law imposes various requirements on health care service plans and insurers with respect to small employer coverage. Plans and insurers that sell coverage to small employers are required to make coverage available to all small employers. This bill would expand the definition of small employers to mean any person, firm, proprietary or nonprofit corporation, partnership, public agency, or association that is actively engaged in business or service, that, on at least 50 percent of its working days during the preceding calendar quarter, employed at least 2 (amended from 3), but no more than 50, eligible employees. The change to 2 employees would apply on and after July 1, 1997. Licensees may wish to contact their insurance carrier to determine if this statute will affect them.