

SUMMARY OF 1997 CHAPTERED LEGISLATION

**FAMILY CHILD CARE HOMES AND
CHILD CARE CENTERS**

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SECTION I

IMMEDIATE ACTION REQUIRED

AB 67 (Escutia) Chapter 606/ Statutes of 1997

AFFECTS: Family Child Care Homes

SUBJECT: Criminal Record Clearances

SUMMARY: Effective October 3, 1997, this bill amends the Health and Safety Code to require that a Family Child Care Home cannot be licensed until the Department receives a criminal record clearance or grants an exemption to the applicant. This is consistent with the requirements for all other licensing categories.

IMPLEMENTATION: This portion of AB 67 had an urgency clause. This means it was effective immediately upon being signed by the Governor. Therefore, effective October 3, 1997, Community Care Licensing District Offices stopped issuing family child care licenses prior to receiving a criminal record clearance or exemption for the applicant.

AB 221 (Goldsmith), Chapter 550/Statutes of 1997

AFFECTS: Family Child Care Homes and Child Care Centers

SUBJECT: Blood-glucose monitoring for diabetic children

SUMMARY: This bill affects the following statutes:

Section 1596.797 of the Health and Safety Code. This code section specifically permits child care providers to administer a finger-stick test to a diabetic child in care if certain conditions are met. These conditions are listed in B&P Code Section 1241. The new law also states that the child care provider cannot be required to administer an insulin injection to any child in a child care facility.

Section 1241 of the Business and Professions (B&P) Code. AB 221 amends this section to permit a trained layperson to perform blood glucose testing (using a finger-stick test) to monitor a child with diabetes if certain conditions are met. Those conditions are:

- Child care staff performing the test must be entrusted with the child's care by the child's parent or legal guardian.
- The test must be approved by the federal Food and Drug Administration for over-the-counter sale to the public without a prescription.
- Child care staff performing the test must have written permission from the child's parent or legal guardian to administer the test to the child.
- Child care staff performing the test must comply with written instructions from the child's physician (or designee, such as a nurse practitioner).
- Child care staff performing the test must obtain written instructions from the child's physician or designee regarding how to:
 - ▶ Properly use the monitoring instrument (finger-stick test) and handle any lancets, test strips, cotton balls, or other items used while conducting the test. (All this must be in accordance with the manufacturer's instructions.)
 - ▶ Determine if the test results are within the normal or therapeutic range for the child, and any restriction on activities or diet that may be necessary.
 - ▶ Identify the symptoms of hypoglycemia or hyperglycemia, and actions to take when results are not within the normal or therapeutic range for the child.
 - ▶ The written instructions must include the telephone numbers of the child's physician and parent or legal guardian.
- Child care staff performing the test must record the test results and provide them to the child's parent or legal guardian on a daily basis.
- Child care centers and family child care homes must post a list of universal precautions (see Attachment A) in a prominent place in the area where the test is performed.
- Child care staff must comply with universal precautions.

Section 1241(c) of the B&P Code. This Section will not be implemented until procedures are developed with the Department of Health Services. You will be notified by separate letter when these procedures are developed.

Section 2058 of the B&P Code. AB 221 amends the Medical Practice Act to allow administration of the finger-stick test to a diabetic child in a licensed child care setting.

IMPLEMENTATION: Until regulations are developed, use the statutory provisions in H&S Code Section 1596.797 and B&P Code Section 1241 as the authority for implementation.

Licensing staff should inform applicants and licensees of this change in law. If desired, the enclosed summary (see Attachment B) of AB 221's provisions may be distributed at orientations or site visits.

Licensing staff should ensure that applicants or licensees who wish to perform blood glucose testing do the following:

1. Include plans to provide this care in the facility's plan of operation as required by Title 22, Section 101173.
2. Notify the Department and update the facility's plan of operation as required by Title 22, Section 101212(c)(4).
3. Comply with the H&S Code Section 1596.797 (which references the conditions in B&P Code Section 1241 identified above).

Licensees who do not comply should be cited under the appropriate Title 22 sections or H&S Code Section 1596.797.

[SAMPLE CITATION LANGUAGE: H&S Code Section 1596.797]

- *The person performing the blood-glucose test is not entrusted with the care and control of the child by the child's parent or legal guardian.*
- *The blood-glucose test used is not approved by the federal Food and Drug Administration for over-the-counter sale to the public without a prescription.*
- *The person performing the blood-glucose test does not have written permission from the child's parent or legal guardian to administer the test.*
- *The person performing the blood-glucose test is not complying with the written instructions from the child's (insert physician or designee such as a nurse practitioner).*
- *The person performing the blood-glucose test has not obtained written instructions from the child's physician or designee regarding how to properly use the monitoring instrument and equipment.*

- *The person performing the blood-glucose test has not obtained written instructions from the child's physician or designee regarding how to determine if the results of the test are within the normal or therapeutic range for the child.*
- *The person performing the blood-glucose test has not obtained written instructions from the child's physician or designee regarding how to determine if any restriction on activities or diet are necessary.*
- *The person performing the blood-glucose test has not obtained written instructions from the child's physician or designee regarding how to identify the symptoms of hypoglycemia or hyperglycemia, and actions to be taken when the results are not within the normal or therapeutic range for the child.*
- *The written instructions for the blood-glucose test does not include the telephone numbers of the child's physician.*
- *The written instructions for the blood-glucose test does not include the telephone numbers of the child's parent or legal guardian.*
- *The person performing the blood-glucose test did not record the results of the blood-glucose test.*
- *The person performing the blood-glucose test did not provide the results of the blood-glucose test to the child's parent or legal guardian on a daily basis.*
- *The person performing the blood-glucose test did not comply with universal precautions.*
- *The person performing the blood-glucose test did not post a list of universal precautions in a prominent place in the area where the test is given.*

AB 690 (Morrow) Chapter/Statutes of 1997

AFFECTS: Contracted extended child care programs operating on public schools in Orange County.

SUBJECT: Three year pilot project exempting Orange County public school extended child care programs from licensure if certain conditions are met.

SUMMARY: This bill applies only to Orange County. It establishes a three year pilot project that would exempt from licensure extended child care programs operated under contract with a public school or school district if certain conditions are met. A school or school district also has the option of requiring their contracted programs to be licensed.

IMPLEMENTATION: Licensees who wish to participate in the pilot project must request exemption in writing. The exemption request must include a letter from the contracting school or school district stating that all of the following conditions are met:

1. The program is operated on a school site in current use by a public school or school district which has contracted for the extended child care program.
2. Criminal Record and Child Abuse Index Checks (CAIC) can and will be performed by the Department of Justice and the results returned to the school or school district. Schools or school districts will need to provide to the licensing district office a letter from the Department of Justice stating they will provide CAICs to the school or school district.
3. Program supervisors are over the age of 18.
4. The contract with the public school or school district includes, but is not limited to, all of the following:
 - A. Staff qualifications pursuant to Health and Safety Code Section 1597.21
 - B. The program will comply with child/staff ratios otherwise applicable by law to extended child care programs (California Code of Regulations, Title 22, Division 12, Section 101516.5).
 - C. The program will comply with sign-in and sign-out regulations otherwise applicable by law to extended child care programs (California Code of Regulations, Title 22, Division 12, Section 101529.1).
 - D. A provision for timely investigation of complaints. In cases relating to allegations involving a substantial threat to the health and safety of the children in care, a provision for immediate administrative leave of contracted employees pending the outcome of the investigation.

5. All permanent or portable classrooms utilized by the extended day care program will comply with the Field Act.
6. The requirements of Section 45125 of the Education Code will apply to the program.

Assembly Bill (AB) 747 (Alby) Chapter 617, Statutes of 1997

Affects: Child Care Centers (CCC) and Family Child Care Homes

Subject: Facility Exclusions and License Ineligibility

Summary: AB 747 amends the Health and Safety Code to provide that anyone whose license has been revoked or who has been excluded from a community care facility is ineligible for licensure effective January 1, 1998.

- Health and Safety Code Section 1596.851 is amended to require that a person is not eligible for licensure if the Department ordered the revocation or denial of the certified foster home. For revocations, the time period is two years, and for denials, one year. A person is not eligible for licensure if they were excluded from a community care facility after January 1, 1998, unless the Department reinstates them.
- Health and Safety Code Section 1596.8897 is amended to require that if a person is **excluded** from one kind of community care facility, then they are deemed **excluded** from all kinds of community care facilities.
 - a. If a person does not contest the **exclusion**, or loses an administrative hearing, the law **excludes** that person from all community care facilities for the remainder of the person's life.
 - b. *However*, the person may petition the Department for reinstatement after waiting one year subsequent to the **exclusion** order becoming final; and,

- c. The law mandates that the Department provide the **excluded** person a copy of Government Code section 11522, which governs reinstatement, in the **exclusion** letter. It states:

"A person whose license has been revoked or suspended may petition the agency for reinstatement or reduction of penalty after a period of not less than one year has elapsed from the effective date of the decision or from the date of the denial of a similar petition. The agency shall give notice to the Attorney General of the filing of the petition and the Attorney General and the petitioner shall be afforded an opportunity to present either oral or written argument before the agency itself. The agency itself shall decide the petition, and the decision shall include the reasons therefor, and any terms and conditions that the agency reasonably deems appropriate to impose as a condition of reinstatement. This section shall not apply if the statutes dealing with the particular agency contain different provisions for reinstatement or reduction of penalty."

- Health and Safety Code Section 1596.8898 is amended to require that if the Department **revokes** a person's license or foster family home certificate after January 1, 1998, that person cannot be present in a community care facility for two years after the effective date of the **revocation** order, or for one year after the effective date of the **denial** order.

Implementation:

1. Department-ordered revocations and denials of foster care certifications and of community care licenses, or a Department-ordered exclusion will all be reflected as a flag on the criminal record if the Department filed a Statement of Issues or Accusation and prevailed. These flags will be identified by the Criminal Record Clearance Bureau and the affected District Office will then be notified that the individual is ineligible for licensure.
2. In instances where the person did not appeal the Department's order and no legal pleadings filed, the District Office shall note the Department ordered denial or revocation of the certificate of approval on the LIS Supplemental History screen.
3. When an individual is excluded, they have certain rights to apply for reinstatement. Mandated language explaining these rights will be included in the exclusion letter.

[SAMPLE CITATION LANGUAGE: H&S Code Section 1596.8898]

- *Licensee has failed to exclude _____ (name) from their facility. _____(name) had their license revoked or denied, and does not currently qualify for an exclusion to be present or reside in any CDSS-licensed facility.*

[SAMPLE CITATION LANGUAGE: H&S Code Section 1596.8897]

- *Licensee has failed to exclude from their facility _____(name) who was an employee that had their criminal record exemption denied, and who does not currently qualify for an exclusion to be present or reside in any CDSS-licensed facility.*

AB 757 (Escutia) Chapter 263/Statutes of 1997

AFFECTS: Family Child Care Homes and Infant Centers

SUBJECT: Unsafe cribs and Sudden Infant Death Syndrome (SIDS) educational materials

SUMMARY: This statute adds Section 1254.6 and 1596.847 to the Health and Safety Code relating to infant safety. It requires that on or after July 1, 1998 child care facilities not use or have on the premises a crib that is "unsafe" for infants as defined by the Infant Crib Safety Act. Antique or collectible cribs are exempted provided they are not used or accessible to children in care. This section also requires licensing staff to distribute SIDS prevention materials to infant care centers and family child care homes.

IMPLEMENTATION: The statute is sufficiently clear to implement without regulations. Use the statutory provisions in Health and Safety Code Sections 1254.6 and 1596.847 as the authority for implementation.

In addition to Title 22, Division 12, Section 102439.1 the following shall apply:

Cribs shall be considered unsafe if they have any of the following characteristics:

1. Corner posts that extend more than one-sixteenth of an inch.
2. Mattress supports that can be easily dislodged from any point of the crib. A mattress segment can be easily dislodged if it cannot withstand at least a 25 pound upward force from underneath the crib.
3. Cutout designs on the end panels.
4. Rail height dimensions that do not conform to the following:
 - A. The height of the rail and end panel as measured from the top of the rail or panel in its lowest position to the top of the mattress support in its highest position is at least 9 inches.

- B. The height of the rail and end panel as measured from the top of the rail or panel in its highest position to the top of the mattress support in its lowest position is at least 26 inches.
5. Any screws, bolts or hardware that are loose and not secured.
 6. Sharp edges, points, or rough surfaces, or any wood surfaces that are not smooth and free from splinters, splints or cracks.
 7. Non-full size cribs with tears in mesh or fabric sides.

The SIDS prevention material will be available through the CDSS warehouse. The material is being printed and is not yet available. The SIDS material should be available in February 1998.

Staff are to give the brochures to all applicants/licensees who provide care for children under two years of age, on a one time basis at either the prelicensing visit or the first scheduled site visit. A note may be made on the licensing report that the brochure was given, but since this is an informational brochure only, licensees are not to be cited if they do not keep the brochure.

[SAMPLE CITATION LANGUAGE: H&S Code Sections 1254.6 And 1596.874]

- *Corner posts extend more than one-sixteenth of an inch.*
- *The mattress supports can be easily dislodged from any point of the crib.*
- *The mattress segment can be easily dislodged because it cannot withstand at least a 25 pound upward force from underneath the crib.*
- *There are cutout designs on the end panels.*
- *The height of the rail and end panel as measured from the top of the rail or panel in its lowest position to the top of the mattress support in its highest position is less than 9 inches.*
- *The height of the rail and end panel as measured from the top of the rail or panel in its highest position to the top of the mattress support in its lowest position is less than 26 inches.*
- *The crib (insert either or any combination of; screws, bolts or hardware)are loose and not secured.*

- *The crib has (insert either or any combination of; sharp edges, points, rough surfaces, wood surfaces that are not smooth, wood surfaces with splinters, splints or cracks. Specify location of defect).*
- *Crib is not full size.*
- *Crib has tears in mesh or fabric sides.*

AB 1542, Chapter 270/Statutes of 1997

AFFECTS: Family Child Care Homes

SUBJECT: Documentation for Loan Guarantees

SUMMARY: The Welfare Reform bill contains a provision related to child care licensing. It is an urgency statute that became effective August 11, 1997.

This provision requires Community Care Licensing to provide documentation to large family child care providers of the need for repairs, renovations or additions, required by regulations, when requested for an application for a loan guarantee. The loan guarantees would be secured from the Child Care and Development Facilities Loan Guaranty Fund. This fund is jointly administered by the California Department of Education and the Trade and Commerce Agency.

IMPLEMENTATION: If requested, document the needed information on the LIC 809 and provide a copy to the applicant/licensee.

SECTION III

Information Only - No Action Required

AB 47 (Murray), Chapter 157/Statutes of 1997

AFFECTS: Family Child Care Homes and Child Care Centers

SUBJECT: Nondiscrimination

SUMMARY: This statute amends the Labor Code to prohibit an employer of 25 or more employees working at the same site from discriminating against employees who take time off work to attend activities at their child's family child care home or child care center. The employee may be a parent, guardian or grandparent having custody. Under this statute, the time off is limited to eight hours a month and 40 hours a year. These provisions mirror provisions for employees who take time off work to attend activities at their child's school.

AB 300 (ESCUZIA) Chapter 362/Statutes of 1997

AFFECTS: Title 5 Child Care and Development Facilities

SUBJECT: Replacing facilities lost due to the Class Size Reduction Program.

SUMMARY: This bill repeals the existing priorities of the State Allocation Board. It gives first priority to applicants or contracting agencies to replace and/or expand Title 5 Child Care and Development facilities who lost their space or classroom in a public school due to the Class Size Reduction Program.