

EVALUATOR MANUAL TRANSMITTAL SHEET

<u>Distribution:</u>	<u>Transmittal No.</u> 99 APX-07
<input checked="" type="checkbox"/> All Day Care Evaluator Manual Holders <input type="checkbox"/> All Residential Care Evaluator Manual Holders <input type="checkbox"/> All Evaluator Manual Holders	<u>Date issued.</u> December 1998

Subject:

APX - Child Care: 1998 Chaptered Legislation and Implementation

(Appendix Tab A - Family Child Care Homes and Child Care Centers)

Reason For Change:

This transmits summaries of legislation chaptered in 1998 affecting Family Child Care Homes and Child Care Centers. The summaries are divided into two sections as follows:

- I. Action Required - Interim instructions are provided and will be incorporated into the appropriate Evaluator Manual section as soon as possible.
 - Deferred Until Further Notice - No action required at this time pending further instructions.

- II. Information Only - No action required by CCLD.

An index is attached to assist staff in locating specific bills. Statutes referenced in this document become operative on January 1, 1999, unless otherwise indicated. Additionally, specific bill summaries may include pertinent attachments.

Filing Instructions:

REMOVE

INSERT - the attached pages into Appendix A. Do not remove similar document from previous years.

Approved:

Carole Jacobi

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December 24, 1998

Date

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SUMMARY OF 1998 CHAPTERED LEGISLATION

CHILD CARE CENTERS AND FAMILY CHILD CARE HOMES

ACTION REQUIRED

BILL NUMBER	SUBJECT	PAGE
Assembly Bill (AB) 2061	Public Recreation Programs in Riverside County	1
Senate Bill (SB) 933	Criminal Record Clearances and Foster Care Program Reform	1-4
SB 1524	Health and Safety Training	5
SB 1663	Administering Inhaled Medications	5

INFORMATION ONLY – NO ACTION REQUIRED

AB 2001	Referrals to Exempt Employers	6
AB 2465	Efforts to Increase Capacity in Family Child Care Homes and Child Care Centers	6
SB 831	Child Care Facilities for State Employees	7

ACTION REQUIRED

AB 2061 (GRANLUND), CHAPTER 638, STATUTES OF 1998

Affects: Public Recreation Programs in Riverside County

Subject: Exemption Requirements for Public Recreation Programs

Summary: This legislation adds Section 1599.7926 to the Health and Safety Code. This section will allow exempt public recreation programs in Riverside County to operate up to 20 hours per week or for a total of 12 weeks per school session or track. Exempt recreation programs in all other counties continue to be limited to 16 hrs per week or 12 weeks per year. This section expires 1/1/02 unless extended by another statute.

Implementation:

Allow license-exempt public recreation programs in Riverside County to operate up to 20 hours per week or for a total of 12 weeks per school session or track. No regulations will be developed.

SB 933 (THOMPSON), CHAPTER 311, STATUTES OF 1998

Affects: Child Care Centers and Family Child Care Homes (also affects Community Care Facilities, Residential Care Facilities for the Chronically Ill, and Residential Care Facilities for the Elderly)

Subject: Criminal Record Clearances and Foster Care Program Reform

Summary: The focus of SB 933 was primarily group homes. However, it did make some significant changes to the licensing and monitoring of all facilities licensed by the Community Care Licensing Division (CCLD). Not all of the changes were effective at the same time. It is, therefore, particularly important to pay attention to the effective dates provided below. The changes that affected child care facilities fall under the general headings of: a) Criminal Record Clearances; b) Additional Requirements for Licensees Who Are Corporations; c) Misuse of Facility/Client Funds, and d) Interviewing Child Abuse Victims. Also included for your information are SB 933 provisions which are deferred until further notice. Licensing staff will be provided specific implementation instructions when these provisions are implemented.

Specific Changes:

a) Criminal Record Clearances

The following changes were effective October 17, 1998. These changes along with specific implementation instructions were sent to field staff by memorandum on October 5, 1998. (Copy attached)

- Volunteers must be fingerprinted.
- Fingerprints must be submitted prior to the individual's employment, residence or initial presence in the facility.
- An immediate civil penalty of \$ 100 per violation may be assessed for failure to submit fingerprints as required.
- CCLD may consider criminal convictions from another state or federal court, as if the offense occurred in California.
- A request to transfer a criminal record clearance from one CCLD facility to another CCLD licensed facility must be in writing, accompanied by a copy of a photo identification.

Effective January 1, 1999, all persons required to submit fingerprints to the Department of Justice must also submit fingerprints to the Federal Bureau of Investigation.

Implementation:

Until regulations are developed, use the statutory provisions in Health and Safety Code Section 1596.871 as the citing authority. Additionally, use the implementation instructions contained in the October 5, 1998 memo.

b) Additional Requirements for Licensees Who Are Corporations

Effective August 18, 1998, Health and Safety Code Section 1596.952 was added to place additional requirements on applicants and licensees that are corporations.

- The applicant/licensee shall provide a list of all board members, executive directors or officers describing all their past and present community care facility associations. Such associations will include: licensees themselves, employees of a licensed facility, a member of a board overseeing a licensed facility, and an executive director or officer of a corporation involved with a licensed facility.

- An individual is ineligible to serve as a board member, executive director or officer of a corporation for the following reasons: the Department has revoked or denied a license held by that individual within the preceding two years; the Department has ordered the denial or revocation of a foster family home certificate held by the individual within the preceding two years; the Department has excluded or removed the individual and the individual has not been reinstated.
- Prior to initiating administrative action, the Department shall notify the facility, in writing, of the person's ineligibility, giving them opportunity to take their own action.
- When the ineligible person has client contact, the facility shall remove the individual from the facility upon notification.
- When the ineligible person does not have client contact, the facility shall remove the individual 15 days after notification.
- When a corporate applicant has a board member, executive director, or officer that is ineligible to serve, the Department shall deny the application.
- When a corporate licensee retains a board member, executive director, or officer that is ineligible to serve, the Department shall revoke the license.

Implementation:

1. Until regulations are developed, use the statutory provisions contained in the Health and Safety Code 1596.871 as the authority for citation.
2. The Administrative Organization form (LIC 309) will be amended to require corporate applicants/licensees to provide the necessary information. Until the form is amended, please use the attached supplement (LIC 309A) to document all community care facility affiliations.
3. This process shall be phased in. Licensing analyst should take copies of the LIC 309A to the next annual visit.

c) Improper Use of Facility/Client Funds

Effective August 18, 1998, Health & Safety Code Section 1596.885 was amended to allow the Department to deny or revoke a child care facility license for acts of financial mismanagement. Such acts include: a) the improper use or embezzlement of client monies and property; b) the fraudulent appropriation of facility monies or property for personal gain; or, c) willful or negligent failure to provide services. While it is not expected that embezzlement of client funds will occur in child care setting, the other two acts of financial mismanagement may be more common.

Health and Safety Code Sections 1596.8897, 1596.8898 were also amended to allow the Department to exclude persons from child care facilities for acts of financial mismanagement.

Implementation:

1. Licensing staff should continue to follow existing guidelines regarding administrative actions and case referrals to the Legal Division.
2. When an individual must be excluded, the Department must notify the facility, in writing. The individual has appeal rights as specified by law, which is the same as the existing employee exclusion appeal rights.
3. The Department may require immediate removal pending the final decision, when necessary, to protect the clients or residents.

d) Interviewing Child Abuse Victims

Effective August 18, 1998, Penal Code Section 11174.3 was amended to authorize representatives from CDSS to interview suspected child abuse victims during school hours on school premises. The alleged abuse may have occurred in the child's home or in an out-of-home care facility.

Implementation:

When interviewing a child at school, the child must be informed of his or her right to choose whether to be interviewed in private or in the presence of a selected adult. The adult must be a member of the school staff. This includes certified or classified employees or volunteer aides.

Action Deferred Until Further Notice:

Affects: Child Care Centers and Family Child Care Homes

Subject: Criminal Record Clearances and Foster Care Program Reform

1. Health and Safety Code Section 1522.02 has been added to allow CDSS to create a substitute employee registry. The registry may submit fingerprint cards and child abuse index information for persons working at more than one CCLD licensed facility. Implementation pending regulations.
2. Health and Safety Code Section 1596.877 was amended to require the Department of Justice to provide CDSS subsequent child abuse reports.
3. Health and Safety Code Section 1522.04 was amended to require criminal record clearances prior to employment, residence, or initial presence in the facility once Live Scan is fully operational statewide.

SB 1524 (ALPERT), CHAPTER 666, STATUTES OF 1998

Affects: Child Care Centers and Family Child Care Homes

Subject: Health and Safety Training

Summary: This legislation adds Section 1596.866 to the Health and Safety code. This new law authorizes the state Emergency Medical Services Authority (EMSA) to establish an approval process for the preventive health practices portion of the 15 hours of health-and-safety training currently required of child care providers. SB 1524 is urgency legislation that became effective on September 20, 1998.

Implementation:

Until regulations are developed, continue to use the same review and approval processes for the health and safety training. This includes the following:

1. Accept training programs and courses offered or approved by accredited colleges or universities.
2. Accept existing courses in preventive health practices if providers have appropriate documentation.
3. When available, in lieu of the above, accept the EMSA-issued card as evidence of completion of the required training. Additional information about the EMSA approval process will be provided as it becomes available.

SB 1663 (O'CONNELL), CHAPTER 625, STATUTES OF 1998

Affects: Child Care Centers and Family Child Care Homes

Subject: Administering Inhaled Medication

Summary: This legislation adds Section 1596.798 to the Health and Safety Code to permit licensees and staff of child care centers and family child care homes to administer inhaled medication to a child in care if certain requirements are met. These requirements were detailed in the attached implementation memo sent to the field on October 8, 1998. SB 1663 is urgency legislation that became effective on September 21, 1998.

Implementation:

Until regulations are developed, use the implementation instructions contained in the October 8, 1998 memo.

INFORMATION ONLY – NO ACTION REQUIRED

AB 2001 (KUEHL), CHAPTER 287, STATUTES OF 1998

Affects: Private Employment Agencies

Subject: Referrals to Exempt Employers

Summary: This legislation amends Section 1596.65 of the Health and Safety Code to require that private employment agencies refer to license-exempt childcare arrangements, such as baby-sitters, only persons who have begun or have completed the Trustline process.

AB 2465 (SCOTT), CHAPTER 722, STATUTES OF 1998

Affects: Child Care Centers and Family Child Care Homes

Subject: Increasing the Capacity of the Child Care System

Summary: This legislation adds Sections 8279.2 and 8285.1 to the Education Code. These sections will require the Superintendent of Public Instruction to increase the capacity of the child care system by encouraging contractors to:

1. Develop and maintain childcare spaces during non-traditional times.
2. Expand the capacity for infant care.
3. Expand the capacity for childcare in geographic areas with a high need for childcare and limited resources.

This legislation also requires that the Superintendent of Public Instruction coordinate with the Department of Social Services to prepare and present reports to the Joint Legislative Budget Committee and the Department of Finance. CCLD policy staff and the child care advocate program will be involved in these efforts.

SB 831 (KARNETTE), CHAPTER 413, STATUTES OF 1998

Affects: Child Care Facilities for State Employees

Subject: Offsite Child Care Facilities for State Employees

Summary: This legislation amends Section 4560 of the Government Code. This section will require the Director of General Services to secure available funds for offsite child care facilities for state employees, under the following conditions:

1. Funds are available.
2. It is more cost efficient.
3. The offsite facility is an enhanced facility or mitigates security concerns.