

INITIAL STATEMENT OF REASONS

a) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

General Licensing Requirements, Title 22, Division 6, Chapter 1 (The General Licensing Requirements apply to adult residential facilities, adult day programs, social rehabilitation facilities, small family homes, and group homes.)

Section 80044 Title and Section 80044(a)

Specific Purpose:

The specific purpose of these amendments is to repeal the term “Department or” from the title and from Section 80044(a) and to include the reference to Health and Safety Code Section 1526.5.

Factual Basis:

These amendments are necessary for clarity and consistency. The term “the Department” is gradually being repealed from the General Licensing Requirements in favor of the term “licensing agency.” Since certain counties (under contract with the California Department of Social Services (CDSS)) and foster family agencies (licensed by the CDSS) may also function as licensing bodies, the term “licensing agency” is the more accurate term for use in the general licensing regulations.

Sections 80044(a)(1) and (a)(2)

Specific Purpose:

The specific purpose of these amendments is to correct typographical errors in existing handbook.

Factual Basis:

These amendments are necessary for clarity and consistency.

Section 80044(a)(3)

Specific Purpose:

The specific purpose of these amendments is to delete handbook language that no longer appears in statute and replace it with current language.

Factual Basis:

These amendments are necessary for clarity and consistency. They incorporate into handbook new language in Health and Safety Code Section 1534 regarding the frequency of licensing site visits--language added to statute by Assembly Bill (AB) 1752 (Chapter 225, Statutes of 2003) (the budget trailer bill).

Section 80044(a)(4)

Specific Purpose:

The specific purpose of these amendments is to correct a Health and Safety Code reference; to delete handbook language that is not directly relevant to the regulation section; and to correct typographical errors.

Factual Basis:

These amendments are necessary for clarity and consistency. The deleted handbook language was confusing because it did not pertain directly to the topic of the section. The topic of this section is the inspection authority of the licensing agency, whereas the deleted handbook language pertains to complaint processes and to the right of any person to inspect a facility. The remaining handbook language is appropriate to retain because it clarifies the right and obligation of the licensing agency to make an on-site inspection of a facility in response to a complaint.

Sections 80044(b)

Specific Purpose:

The specific purpose of these amendments is to delete the term “Department or” and to repeal references to the inspecting and auditing of client or facility records.

Factual Basis:

These amendments are necessary for clarity and consistency. As indicated in the “Factual Basis” under Section 80044(a), “Department or” has been replaced by “licensing agency” as the favored term for use in the General Licensing Requirements. The language regarding the inspecting and auditing of client or facility records has been moved and incorporated into proposed Section 80044(c), which contains express language regarding the licensing agency’s authority with respect to records.

Section 80044(b)(1)

Specific Purpose:

The specific purpose of these amendments is to make editorial changes, including repealing language regarding the examination of facility records.

Factual Basis:

These amendments are necessary for clarity and consistency. The addition of the phrase “ensure that” is necessary to clarify that the licensee does not have to personally perform this duty, but is nevertheless responsible for seeing that it is carried out. The repealed language regarding the examination of facility records has been moved and incorporated into proposed Section 80044(c)(1) for clarity and for consistency with proposed Section 80044(c).

Section 80044(c)

Specific Purpose:

The specific purpose of this section is to adopt explicit language concerning the licensing agency’s authority to inspect, audit, copy, and remove (if necessary for copying) facility records; and to reference additional related regulatory sections that apply.

Factual Basis:

This section is necessary for clarity and consistency. It expressly delineates the licensing agency’s authority with respect to inspecting, auditing, copying, and removing client or facility files upon demand during normal business hours.

Current laws and regulations give licensing staff the authority to enter and inspect all licensed residential and day care facilities without advance notice; and, in some situations, to reproduce client and facility records. They do not specifically address the issue of whether licensing staff have the authority to actually remove records from licensed residential and day care facilities in order to copy them.

A 2000 federal district court decision held that licensing staff cannot remove records from a licensed child care center for copying unless the licensee consents to the removal of the records (*Golden Day Schools, Inc. v. Pirillo* (C.D. Cal 2000) 118 Federal Supplement 2d 1037). Although the *Golden Day* decision applies specifically to child care centers, the issue of removing records for the purpose of copying them needs to be consistently addressed across licensing facility categories so that the licensing agency can effectively carry out its mandated functions.

Section 80044(c)(1)

Specific Purpose:

The specific purpose of this section is to move and incorporate language regarding the examination of records from existing Section 80044(b)(1) into proposed Section 80044(c)(1).

Factual Basis:

This adoption is necessary for clarity and consistency. The language in this section corresponds to language regarding records in proposed Section 80044(c).

Section 80044(d) (Renumbered)

Specific Purpose:

The specific purpose of these amendments is to renumber the section and to make editorial changes.

Factual Basis:

These amendments are necessary for clarity and consistency. Existing Section 80044(c) was renumbered to Section 80044(d) to accommodate the adoption of the new Section 80044(c). The term “Department or” was repealed for consistency with the use of “licensing agency” as the favored term in the General Licensing Requirements. The term “which” was changed to “that” to correct a grammatical error.

Section 80045(a)(1)

Specific Purpose:

The specific purpose of these amendments is to make the statutory citation in handbook more specific; to add the term “in part”; and to delete handbook language that no longer appears in statute and replace it with current language.

Factual Basis:

These amendments are necessary for clarity and consistency. They incorporate into handbook new language in Health and Safety Code Section 1534 regarding the frequency of licensing site visits--language added to statute by AB 1752 (Chapter 225, Statutes of 2003) (the budget trailer bill).

Section 80045(a)(2) et seq.

Specific Purpose/Factual Basis:

The specific purpose/factual basis of this amendment is to repeal unnecessary language that may confuse the reader and to add “(a)” and “(b)” to the handbook language for clarity.

Section 80066(a)

Specific Purpose:

The specific purpose of these amendments is to make editorial changes.

Factual Basis:

These amendments are necessary for clarity and consistency. The addition of the phrase “the licensee shall ensure that” is necessary to clarify that the licensee does not have to perform this duty personally, but is nevertheless responsible for seeing that it is carried out.

Section 80066(a)(6)

Specific Purpose:

The specific purpose of these amendments is to repeal chapter references and replace them with language referencing “licensing regulations for the type of facility in which the employee works.”

Factual Basis:

These amendments are necessary for clarity and to make the regulations more “user-friendly.” Chapter references alone are confusing and may not apply.

Section 80066(a)(10)

Specific Purpose/Factual Basis:

The specific purpose of this amendment is to make an editorial change for clarity.

Section 80066(c)

Specific Purpose:

The specific purpose of this section is to adopt explicit language concerning the licensing agency’s authority to inspect, audit, copy, and remove (if necessary for copying) personnel records; and to stipulate that removal of records is subject to the requirements in the succeeding sections.

Factual Basis:

This section is necessary for clarity and for consistency with proposed Section 80044(c). It expressly delineates the licensing agency’s authority in these areas with regard to personnel records. Please see the “Factual Basis” under Section 80044(c).

### Section 80066(c)(1)

#### Specific Purpose:

The specific purpose of this section is to prohibit licensing representatives from removing any current emergency or health-related information for current employees unless the information is otherwise available.

#### Factual Basis:

This section is necessary to protect employees in the event of an emergency. Without this information on file at the facility at all times, an employee could experience a health-related emergency (e.g., a heart attack) and other facility staff would not be able to call the employee's physician or family--or to provide emergency personnel with potentially important information about the employee's overall health condition. At the same time, this section gives the licensing agency some flexibility in that the specified records can be removed as long as the same information is available in another document or format.

### Section 80066(c)(2)

#### Specific Purpose:

The specific purpose of this section is to require a licensing representative to prepare a list of the records to be removed, sign and date the list upon removal of the records, and leave a copy of the list with the administrator or designee.

#### Factual Basis:

This section is necessary to hold the licensing agency accountable for records that are removed for copying. The list acts as a receipt of the records removed for the administrator or designee.

### Section 80066(c)(3)

#### Specific Purpose:

The specific purpose of this section is to establish a time line for the licensing agency to return records removed from a facility; and to stipulate that the records must be returned undamaged and in good order.

#### Factual Basis:

This section is necessary to ensure that the licensing agency does not keep records for an unreasonable length of time. The time line was arrived at because it would give the licensing agency time to copy the records—especially in cases where significant travel was involved on the part of licensing representatives—while at the same time not inconveniencing the facility for too long a period. It is anticipated that most records

removed would be returned in fewer than three days—ideally, on the same day. In addition, this section is necessary to ensure that records are not returned to the facility damaged or in disarray.

Section 80066(d) (Renumbered)

Specific Purpose/Factual Basis:

The specific purpose/factual basis of this amendment is to renumber existing Section 80066(c) to Section 80066(d) to accommodate the addition of proposed Section 80066(c).

Section 80066(e) (Renumbered)

Specific Purpose/Factual Basis:

The specific purpose/factual basis is to make an editorial change for clarity and consistency; and to renumber existing Section 80066(d) to Section 80066(e) to accommodate the addition of proposed Section 80066(c). It was no longer necessary for this section to contain a provision regarding records being available to the licensing agency for review. That provision is now contained in proposed Section 80066(c).

Sections 80066(e)(1) (Renumbered)

Specific Purpose/Factual Basis:

The specific purpose/factual basis of these amendments is to add a cross-reference for clarity; and to renumber existing Section 80066(d)(1) to Section 80066(e)(1) to accommodate the addition of proposed Section 80066(c).

Section 80066(f) (Renumbered)

Specific Purpose/Factual Basis:

The specific purpose/factual basis of this amendment is to renumber existing Section 80066(e) to Section 80066(f) to accommodate the addition of proposed Section 80066(c).

Section 80070(a)

Specific Purpose:

The specific purpose of these amendments is to make editorial changes.

Factual Basis:

These amendments are necessary for clarity and consistency. The addition of the phrase “the licensee shall ensure that” is necessary to clarify that the licensee does not have to perform this duty personally, but is nevertheless responsible for seeing that it is carried out.

## Section 80070(d)

### Specific Purpose:

The specific purpose of these amendments is to add explicit language concerning the licensing agency's authority to inspect, audit, copy, and remove (if necessary for copying) client records; and to stipulate that removal of records is subject to the requirements in the succeeding sections.

### Factual Basis:

These amendments are necessary for clarity and for consistency with Section 80044(c). The amendments expressly delineate the licensing agency's authority in these areas with regard to client records. Please also see the "Factual Basis" under Section 80044(c).

## Sections 80070(d)(1) et seq.

### Specific Purpose:

The specific purpose of these amendments is to prohibit the removal of specified current records for current clients unless the same information is otherwise readily available.

### Factual Basis:

These sections are necessary to ensure that specified current information for current clients (most of which is health-related) is always available at the facility in the event of an emergency; and to ensure that appropriate care is provided on a day-to-day basis. This is necessary to protect the health and safety of clients at all times. Removal of critical information for even a few hours is not acceptable because emergencies are by their nature unpredictable—especially if clients are fragile or vulnerable. At the same time, Section 80070(d)(1) gives the licensing agency some flexibility in that the records can be removed if the same information is available in another document or format.

Section 80070(d)(1)(A) is necessary to ensure that the name, address, and telephone number of a client's authorized representative(s) are available at the facility at all times.

Section 80070(d)(1)(B) is necessary to ensure that the names, addresses, and telephone numbers of a client's health providers are available at the facility at all times.

Section 80070(d)(1)(C) is necessary to ensure that medical assessments are available at the facility at all times.

Section 80070(d)(1)(D) is necessary to ensure that records of any current illness or injury is available at the facility at all times.

Section 80070(d)(1)(E) is necessary to ensure that records of current medications are available at the facility at all times.

Section 80070(d)(1)(F) is necessary to ensure that Restricted Health Condition Care Plans are available at the facility at all times.

Section 80070(d)(1)(G) is necessary to ensure that functional assessments are available at the facility at all times.

Section 80070(d)(1)(H) is necessary to ensure that mental health assessments are available at the facility at all times.

Section 80070(d)(1)(I) is necessary to ensure that any other records containing current emergency or health-related information are available at the facility at all times.

#### Section 80070(d)(2)

##### Specific Purpose:

The specific purpose of this section is to require a licensing representative to prepare a list of the records to be removed, sign and date the list upon removal of the records, and leave a copy of the list with the administrator or designee.

##### Factual Basis:

This section is necessary to hold the licensing agency accountable for records that are removed for copying. The list acts as a receipt of the records removed for the administrator or designee.

#### Section 80070(d)(3)

##### Specific Purpose:

The specific purpose of this section is to establish a time line for the licensing agency to return records removed from a facility; and to stipulate that the records must be returned undamaged and in good order.

##### Factual Basis:

This section is necessary to ensure that the licensing agency does not keep the records for an unreasonable length of time. It is also necessary to ensure that the records are not returned to the facility damaged or in disarray. Please see the “Factual Basis” under Section 80066(c)(3).

Section 80070(e) (Renumbered)

Specific Purpose/Factual Basis:

The specific purpose/factual basis of this amendment is to renumber existing Section 80070(d)(1) to Section 80070(e) for clarity and consistency. This amendment ensures that overall Section 80070 has a logical flow.

Section 80070(f) (Renumbered)

Specific Purpose/Factual Basis:

This section is renumbered for clarity.

Section 80070(g) (Renumbered)

Specific Purpose/Factual Basis:

This section is renumbered and editorial changes are made for clarity.

Group Homes, Title 22, Division 6, Chapter 5

Section 84063(a)

Specific Purpose/Factual Basis:

The specific purpose/factual basis of these amendments is to make minor editorial changes for clarity and consistency.

Section 84063(a)(10)

Specific Purpose:

The specific purpose of this section is to add explicit language concerning the licensing agency's authority to inspect, audit, copy, and remove (if necessary for copying) minutes of group home board of directors' meetings; and to stipulate that removal of minutes is subject to the requirements in the succeeding sections.

Factual Basis:

This section is necessary for clarity and consistency. It expressly delineates the licensing agency's authority with regard to inspecting, auditing, copying, and removing minutes. In addition, this section is consistent with language being proposed for use in the regulations for all other licensed residential community care facilities. Please see the "Factual Basis" under Section 80044(c).

Section 84063(a)(10)(A)

Specific Purpose:

The specific purpose of this section is to require a licensing representative to prepare a list of the minutes to be removed, sign and date the list upon removal of the minutes, and leave a copy of the list with the administrator or designee.

Factual Basis:

This section is necessary to hold the licensing agency accountable for any minutes that are removed for copying. The list acts as a receipt for the administrator or designee of the minutes removed.

Section 84063(a)(10)(B)

Specific Purpose:

The specific purpose of this section is to establish a time line for the licensing agency to return any minutes removed from a facility; and to stipulate that the minutes must be returned undamaged and in good order.

Factual Basis:

This section is necessary to ensure that the licensing agency does not keep the minutes for an unreasonable length of time. It is also necessary to ensure that the minutes are not returned to the facility undamaged or in disarray. Please see the “Factual Basis” under Section 80066(c)(3).

Residential Care Facilities for the Elderly, Title 22, Division 6, Chapter 8

Section 87344, Title

Specific Purpose:

The specific purpose of this amendment is to make the section title more descriptive by adding “of the Licensing Agency.”

Factual Basis:

This amendment is necessary for clarity; the “inspection authority” described in this section applies to the licensing agency and not to any other entities or persons. In addition, this amendment is consistent with the titles of similar sections in other facility categories (e.g., Section 80044 of the General Licensing Requirements).

Section 87344(a)

Specific Purpose:

The specific purpose of these amendments is (1) to repeal “Department” and replace it with “licensing agency” and (2) to correct a minor typographical/grammatical error.

Factual Basis:

These amendments are necessary for clarity and consistency. The term “the Department” is gradually being repealed from regulations governing Residential Care Facilities for the Elderly (RCFE) and certain other licensing categories in favor of the term “the licensing agency.” Since certain counties (under contract with the CDSS) and foster family agencies (licensed by the CDSS) may also function as licensing bodies, it is more accurate to use the term “the licensing agency,” even if a particular facility category such as RCFE is licensed wholly by the State.

Section 87344(b)

Specific Purpose:

The specific purpose of these amendments is to make editorial changes.

Factual Basis:

These amendments are necessary for clarity and consistency. The addition of the phrase “the licensee shall ensure” is necessary to clarify that the licensee does not have to personally perform this duty, but is nevertheless responsible for seeing that it is carried out. The term “resident” is used throughout the RCFE regulations to refer to a person who is receiving services in an RCFE.

Section 87344(c)

Specific Purpose:

The specific purpose of this section is to adopt explicit language concerning the licensing agency’s authority to inspect, audit, copy, and remove (if necessary for copying) resident or facility records; and to refer the reader to other pertinent regulatory sections.

Factual Basis:

This section is necessary for clarity and consistency. It expressly establishes the licensing agency’s authority with regard to inspecting, auditing, copying, and removing resident or facility records. In addition, this section is consistent with language being proposed for use in the regulations for other licensing facility categories. Please see the “Factual Basis” under Section 80044(c).

Section 87344(d) (Renumbered)

Specific Purpose:

The specific purpose of these amendments is to renumber the section; to make minor editorial changes; and to add cross-references.

Factual Basis:

These amendments are necessary for clarity and consistency. Existing Section 87344(c) was renumbered to Section 87344(d) to accommodate the addition of proposed Section 87344(c). The term “Department” was changed to “licensing agency” for consistency with changes being made elsewhere in the regulations. (Please see the “Factual Basis” under Section 87344(a).) Moreover, cross-references to Health and Safety Code sections that were added to handbook were incorporated for clarity. (Please see the “Specific Purpose” and “Factual Basis” for Sections 87344(d)(2), (d)(3) and (d)(4) below.)

Section 87344(d)(1) (Renumbered)

Specific Purpose:

The specific purpose of these amendments is to renumber the section and to correct a typographical error in handbook.

Factual Basis:

These amendments are necessary for clarity and consistency. Existing Section 87344(c)(1) was renumbered to Section 87344(d)(1) to accommodate the addition of proposed Section 87344(c). In addition, a typographical error in handbook was corrected for consistency with language used in Health and Safety Code Section 1569.24.

Sections 87344(d)(2) through (d)(4)

Specific Purpose:

The specific purpose of these sections is to adopt to handbook statutory language that authorizes the licensing agency to enter and inspect a facility providing services to residents in a licensed or unlicensed RCFE.

Factual Basis:

These sections are necessary for clarity and consistency. It appears to have been an oversight that this language was not incorporated into handbook earlier.

Section 87344(d)(2) is necessary to provide the statutory language that establishes the licensing agency’s authority to enter and inspect a facility at any time to prevent violations of the RCFE Act. The addition of this section is consistent with Section 80044(a)(2) of the

General Licensing Requirements; Section 87844(a)(2) of the regulations for Residential Care Facilities for the Chronically Ill (RCFCI); and with similar provisions in handbook for foster family homes and child care facilities.

Section 87344(d)(3) is necessary to provide the statutory language that establishes the licensing agency's authority and mandate to conduct licensing site visits. The addition of this section is consistent with Section 80044(a)(3) of the General Licensing Requirements; Section 87845(b) of the RCFCI regulations; and with similar provisions in handbook for foster family homes and child care facilities.

Section 87344(d)(4) is necessary to provide the statutory language that establishes the licensing agency's authority and mandate to make an onsite visit in response to a complaint. The addition of this section is consistent with Section 80044(a)(4)(C) of the General Licensing Requirements; Section 87844(b)(3)(A)2. of the RCFCI regulations; and with similar provisions in handbook for foster family homes and child care facilities.

#### Section 87345(a)

##### Specific Purpose:

The specific purpose of these amendments is to correct facility category terminology; to repeal outdated language regarding annual visits to RCFEs; and to reference current RCFE visit requirements in Health and Safety Code Section 1569.33.

##### Factual Basis:

These amendments are necessary for clarity and consistency; and to comply with AB 1752 (Chapter 225, Statutes of 2003) (the budget trailer bill), which amended Health and Safety Code Section 1569.33 to set forth new criteria for the licensing agency to visit RCFEs.

In addition, the term "community care facility" was corrected to read "residential care facility for the elderly" for clarity and for consistency with the terminology used in the rest of the RCFE regulations.

#### Section 87345(a)(1)

##### Specific Purpose/Factual Basis:

The specific purpose/factual basis of this section is to adopt the new RCFE visit requirements of Health and Safety Code Section 1569.33 to handbook for clarity and consistency.

Section 87345(b)

Specific Purpose:

The specific purpose of these amendments is to repeal “Department” and to correct terminology regarding facility visits.

Factual Basis:

These amendments are necessary for clarity and consistency. As indicated previously, the term “the licensing agency” (and not “the Department”) is now the preferred terminology for use in the RCFE regulations. In addition, it is more precise and correct to say that the licensing agency monitors facilities for compliance with licensing laws and regulations. Licensing field staff do not cite facilities for lack of compliance with “standards,” but for lack of compliance with licensing laws and regulations.

Section 87566(a)

Specific Purpose:

The specific purpose of these amendments is to make editorial changes.

Factual Basis:

These amendments are necessary for clarity and consistency. The addition of the phrase “the licensee shall ensure” is necessary to clarify that the licensee does not have to perform this duty personally, but is nevertheless responsible for seeing that it is carried out.

Section 87566(a)(4)

Specific Purpose/Factual Basis:

The specific purpose/factual basis of these amendments is to make editorial/grammatical changes for clarity and consistency.

Section 87566(a)(7)(A) and (B) (Deleted)

Specific Purpose:

The specific purpose of these amendments is to delete handbook.

Factual Basis:

These amendments are necessary for clarity.

Section 87566(a)(7)(A) doesn’t add anything to this section; and, if anything, is confusing. Because it’s only a sentence fragment without a clear context or relationship to Section

87566(a)(7), it's difficult to ascertain its purpose. Thus, Section 87566(a)(7)(A) is being deleted for clarity and to make the regulations more "user-friendly."

Section 87566(a)(7)(B) appears to be included to lend statutory support to Section 87566(a)(7), which requires all employees to provide information to the licensing agency regarding past employment history. However, it is not necessary to duplicate the regulatory requirement in handbook. In addition, the existing handbook section is somewhat confusing because it does not stand alone; it can only be fully understood by consulting cross-references in the Health and Safety Code. Thus, Section 87566(a)(7)(B) is being deleted. Instead, Health and Safety Code Section 1569.17(c) is being added to the Reference citations at the end of Section 87566.

#### Section 87566(e)

##### Specific Purpose:

The specific purpose of this section is to adopt explicit language concerning the licensing agency's authority to inspect, audit, copy and remove (if necessary for copying) personnel records; and to stipulate that removal of records is subject to the requirements in the succeeding sections.

##### Factual Basis:

This section is necessary for clarity and consistency. It expressly delineates the licensing agency's authority with regard to inspecting, auditing, copying, and removing personnel records. In addition, this section is consistent with language being proposed for use in the regulations for all other licensed residential community care facilities. Please see the "Factual Basis" under Section 80044(c).

#### Section 87566(e)(1)

##### Specific Purpose:

The specific purpose of this section is to prohibit the removal of any current emergency or health-related information for current employees unless the information is otherwise readily available.

##### Factual Basis:

This section is necessary to ensure that current emergency or health-related information for current employees is always available at the facility in the event of an emergency. This is necessary to protect the health and safety of employees. At the same time, this section gives the licensing agency some flexibility in that those same records can be removed as long as the same information is available in another document or format. Please see the "Factual Basis" under Section 80066(c)(1).

Section 87566(e)(2)

Specific Purpose:

The specific purpose of this section is to require a licensing representative to prepare a list of the records to be removed, sign and date the list upon removal of the records, and leave a copy of the list with the administrator or designee.

Factual Basis:

This section is necessary to hold the licensing agency accountable for records that are removed for copying. The list acts as a receipt for the administrator or designee of the minutes removed.

Section 87566(e)(3)

Specific Purpose:

The specific purpose of this section is to establish a time line for the licensing agency to return records removed from a facility; and to stipulate that the records must be returned undamaged and in good order.

Factual Basis:

This section is necessary to ensure that the licensing agency does not keep the records for an unreasonable length of time. It is also necessary to ensure that the records are not returned to the facility damaged or in disarray. Please see the “Factual Basis” under Section 80066(c)(3).

Sections 87566(f) through (h) (Renumbered)

Specific Purpose/Factual Basis:

The specific purpose/factual basis of these amendments is to renumber existing sections to accommodate the addition of proposed Section 87566(e).

Section 87570(a)

Specific Purpose:

The specific purpose of these amendments is to make editorial changes.

Factual Basis:

These amendments are necessary for clarity and consistency. The addition of the phrase “the licensee shall ensure that” is necessary to clarify that the licensee does not have to perform this duty personally, but is nevertheless responsible for seeing that it is carried out.

The term “the Department” has been changed to “licensing agency” because “licensing agency” is now the preferred term for use in the RCFE regulations. Please see the “Factual Basis” under Section 87344(a).

Section 87570(b)(6)

Specific Purpose/Factual Basis:

The specific purpose/factual basis of this amendment is to correct a cross-reference and to make minor editorial changes for clarity and consistency.

Section 87570(d)

Specific Purpose:

The specific purpose of this section is to renumber and add explicit language concerning the licensing agency’s authority to inspect, audit, copy, and remove (if necessary for copying) resident records; and to stipulate that removal of records is subject to the requirements in the succeeding sections. This section is also renumbered for clarity.

Factual Basis:

This section is necessary for clarity and consistency. It expressly delineates the licensing agency’s authority with regard to inspecting, auditing, copying, and removing resident records. In addition, this section is consistent with language being proposed for use in the regulations for all other licensed residential community care facilities. Please see the “Factual Basis” under Section 80044(c).

Section 87570(d)(1) et seq.

Specific Purpose:

The specific purpose of these sections is to adopt new language which will prohibit the removal of specified current records for current residents unless the same information is otherwise readily available.

Factual Basis:

This section is necessary to ensure that specified current information for current residents is always available at the facility in the event of an emergency; and to ensure that appropriate care is provided on a day-to-day basis. This is necessary to protect the health and safety of residents at all times. Removal of critical information for even a few hours is not acceptable because emergencies are by their nature unpredictable—especially when residents are frail and elderly. At the same time, this section gives the licensing agency some flexibility in that the specified records can be removed if the same information is available in another document or format.

Section 87570(d)(1)(A) is necessary to ensure that the name and address of the resident's clergyman or religious advisor is available at the facility at all times.

Section 87570(d)(1)(B) is necessary to ensure that information about the resident's responsible person(s) is available at the facility at all times.

Section 87570(d)(1)(C) is necessary to ensure that information on the resident's physician and dentist is available at the facility at all times.

Section 87570(d)(1)(D) is necessary to ensure that a current medical assessment for the resident is available at the facility at all times.

Section 87570(d)(1)(E) is necessary to ensure that information about the resident's allowable health condition, such as diabetes or the need for a colostomy/ileostomy, is available at the facility at all times.

Section 87570(d)(1)(F) is necessary to ensure that information about the resident's ambulatory status is available at the facility at all times.

Section 87570(d)(1)(G) is necessary to ensure that a continuing record of any illness, injury, or medical or dental care, when it affects the resident's ability to function, or services needed, is available at the facility at all times.

Section 87570(d)(1)(H) is necessary to ensure that records of the resident's current medications are available at all times.

Section 87570(d)(1)(I) is necessary to ensure that any other records containing current emergency or health-related information are available at all times.

#### Section 87570(d)(2)

##### Specific Purpose:

The specific purpose of this section is to require a licensing representative to prepare a list of the records to be removed, sign and date the list upon removal of the records, and leave a copy of the list with the administrator or designee.

##### Factual Basis:

This section is necessary to hold the licensing agency accountable for records that are removed for copying. The list acts as a receipt for the administrator or designee of the minutes removed.

Section 87570(d)(3)

Specific Purpose:

The specific purpose of this section is to establish a time line for the licensing agency to return records removed from a facility; and to stipulate that the records must be returned undamaged and in good order.

Factual Basis:

This section is necessary to ensure that the licensing agency does not keep the records for an unreasonable length of time. It is also necessary to ensure that the records are not returned to the facility damaged or in disarray. Please see the “Factual Basis” under Section 80066(c)(3).

Section 87570(e) (Renumbered)

Specific Purpose/Factual Basis:

The specific purpose/factual basis of this amendment is to renumber existing Section 87570(d) to Section 87570(e) to accommodate the addition of proposed Section 87570(d).

Section 87571(a) (Repealed)

Specific Purpose:

The specific purpose is to repeal existing Section 87571(a), which contains language specifying that the provisions of this section shall apply to all licensed facilities.

Factual Basis:

Repealing this section is necessary for consistency and to avoid redundancy. All of the RCFE regulations apply to all licensed RCFEs, so it is redundant, unnecessary, and inconsistent with other regulatory sections to specifically state that the provisions of this section shall apply to licensed RCFEs.

Section 87571(a) (Renumbered)

Specific Purpose:

The specific purpose of these amendments is to renumber the section and to make several editorial changes.

Factual Basis:

These amendments are necessary for clarity and consistency. The section is being renumbered to accommodate the repeal of existing Section 87571(a). The addition of the

phrase “the licensee shall ensure that” is necessary to clarify that the licensee does not have to perform this duty personally, but is nevertheless responsible for seeing that it is carried out. Language regarding the need for the current register to be available to the licensing agency has been moved and incorporated into proposed Section 87571(b), which contains language about the licensing agency’s authority with respect to registers of residents.

Sections 87571(a)(1), (a)(2) and (a)(3) (Renumbered)

Specific Purpose/Factual Basis:

The specific purpose/factual basis of these amendments is to renumber existing Sections 87571(a)(1)(A), (a)(1)(B) and (a)(1)(C) to proposed Sections 87571(a)(1), (a)(2) and (a)(3) to accommodate the repeal of existing Section 87571(a); and to make minor editorial changes for clarity and consistency.

Section 87571(b)

Specific Purpose:

The specific purpose of this section is to adopt explicit language concerning the licensing agency’s authority to inspect, audit, copy and remove (if necessary for copying) registers of residents.

Factual Basis:

This section is necessary for clarity and consistency. It expressly delineates the licensing agency’s authority with regard to inspecting, auditing, copying, and removing (if necessary for copying) registers of residents. In addition, this section is consistent with language being proposed for use in the regulations for all other licensed residential community care facilities. Please see the “Factual Basis” under Section 80044(c).

Section 87571(b)(1)

Specific Purpose:

The specific purpose of this section is to prohibit the removal of current registers of residents unless the information is otherwise readily available.

Factual Basis:

This section is necessary to ensure that a current register of residents is always available at the facility in the event of an emergency and to ensure the smooth functioning of the facility on a day-to-day basis. This is necessary to protect the health and safety of residents. At the same time, this section gives the licensing agency some flexibility in that a copy of a current register may be removed as long as the same information is available in another document or format.

Section 87571(b)(2)

Specific Purpose:

The specific purpose of this section is to require a licensing representative to prepare a list of the registers to be removed, sign and date the list upon removal of the registers, and leave a copy of the list with the administrator or designee.

Factual Basis:

This section is necessary to hold the licensing agency accountable for registers that are removed for copying. The list acts as a receipt for the administrator or designee of the registers removed.

Section 87571(b)(3)

Specific Purpose:

The specific purpose of this section is to establish a time line for the licensing agency to return registers removed from a facility; and to stipulate that the registers must be returned undamaged and in good order.

Factual Basis:

This section is necessary to ensure that the licensing agency does not keep the registers for an unreasonable length of time. It is also necessary to ensure that the registers are not returned to the facility damaged or in disarray. Please see the “Factual Basis” under Section 80066(c)(3).

Section 87571(c) (Renumbered)

Specific Purpose/Factual Basis:

The specific purpose/factual basis of these amendments is to renumber existing Section 87571(a)(2) to Section 87571(c) to accommodate the adoption of proposed Section 87571(b). An editorial change was also made for clarity.

Section 87571(c)(1) (Renumbered)

Specific Purpose/Factual Basis:

The specific purpose/factual basis of this amendment is to renumber Section 87571(a)(2)(A) to Section 87571(c)(1) to accommodate the renumbering of previous sections, as indicated above.

Residential Care Facilities for the Chronically Ill, Title 22, Division 6, Chapter 8.5

Section 87844 Title

Specific Purpose/Factual Basis:

The specific purpose/factual basis of this amendment is to repeal the phrase “or licensing agency” for clarity and consistency. (Note: The term “the Department” is used extensively throughout the regulations for RCFCIs; therefore, it is not being repealed from the RCFCI regulations, as is the case with the regulations for other residential facility categories.)

Section 87844(c)

Specific Purpose:

The specific purpose of these amendments is to make editorial changes, including repealing references to the inspecting and auditing of resident or facility records.

Factual Basis:

These amendments are necessary for clarity and consistency. The language regarding the inspecting and auditing of resident or facility records has been moved and incorporated into proposed Section 87844(d), which contains language regarding the licensing agency’s (the Department’s) authority with respect to records.

Section 87844(c)(1)

Specific Purpose:

The specific purpose of these amendments is to make editorial changes, including repealing language regarding the examination of facility records.

Factual Basis:

These amendments are necessary for clarity and consistency. The addition of the phrase “the licensee shall ensure” is necessary to clarify that the licensee does not have to personally perform this duty, but is nevertheless responsible for seeing that it is carried out. The repealed language regarding the examination of facility records has been moved and incorporated into proposed Section 87844(d)(1) for clarity and for consistency with proposed Section 87844(d).

Section 87844(d)

Specific Purpose:

The specific purpose is to adopt explicit language concerning the Department's authority to inspect, audit, copy resident or facility records, and remove (if necessary for copying) resident or facility records; and to refer the reader to other pertinent sections.

Factual Basis:

This section is necessary for clarity and consistency. It expressly delineates the Department's authority with regard to inspecting, auditing, copying, and removing resident or facility records. In addition, this section is consistent with language being proposed for use in the regulations for all other licensed residential community care facilities. Please see the "Factual Basis" under Section 80044(c).

Section 87844(d)(1)

Specific Purpose:

The specific purpose of this section is to move and incorporate language regarding the examination of records from Section 87844(c)(1) into proposed Section 87844(d)(1).

Factual Basis:

This adoption is necessary for clarity and consistency. With the addition of express language regarding the Department's authority with respect to records, the language in this section now logically follows that in proposed Section 87844(d).

Section 87844(e) (Renumbered)

Specific Purpose/Factual Basis:

The specific purpose/factual basis of this amendment is to renumber Section 87844(d) to Section 87844(e) to accommodate the addition of proposed Sections 87844(d) and (d)(1).

Section 87866(a)

Specific Purpose:

The specific purpose of these amendments is to make editorial changes.

Factual Basis:

These amendments are necessary for clarity and consistency. The addition of the phrase "the licensee shall ensure that" is necessary to clarify that the licensee does not have to perform this duty personally, but is nevertheless responsible for seeing that it is carried out.

### Section 87866(c)

#### Specific Purpose:

The specific purpose of this section is to adopt explicit language concerning the licensing agency's authority to inspect, audit, copy, and remove (if necessary for copying) personnel records; and to stipulate that removal of records is subject to the requirements in the succeeding sections.

#### Factual Basis:

This section is necessary for clarity and consistency. It expressly delineates the Department's authority with regard to inspecting, auditing, copying, and removing personnel records. In addition, this section is consistent with language being proposed for use in all other licensed residential community care facilities. Please see the "Factual Basis" under Section 80044(c).

### Section 87866(c)(1)

#### Specific Purpose:

The specific purpose of this section is to prohibit the removal of any current emergency or health-related information for current employees unless the information is otherwise readily available.

#### Factual Basis:

This section is necessary to ensure that current emergency or health-related information for current employees is always available at the facility in the event of an emergency. This is necessary to protect the health and safety of employees. At the same time, this section gives the Department some flexibility in that those same records can be removed as long as the same information is available in another document or format. Please see the "Factual Basis" under Section 80066(c)(1).

### Section 87866(c)(2)

#### Specific Purpose:

The specific purpose of this section is to require a licensing representative to prepare a list of the records to be removed, sign and date the list upon removal of the records, and leave a copy of the list with the administrator or designee.

Factual Basis:

This section is necessary to hold the Department accountable for records that are removed for copying. The list acts as a receipt for the administrator or designee of the minutes removed.

Section 87866(c)(3)

Specific Purpose:

The specific purpose of this section is to establish a time line for the Department to return records removed from a facility; and to stipulate that the records must be returned undamaged and in good order.

Factual Basis:

This section is necessary to ensure that the Department does not keep the records for an unreasonable length of time. It is also necessary to ensure that the records are not returned to the facility damaged or in disarray. Please see the “Factual Basis” under Section 80066(c)(3).

Sections 87866(d), (e) and (f) (Renumbered)

Specific Purpose/Factual Basis:

The specific purpose/factual basis of these amendments is to renumber existing Sections 87866(c), (d) and (e) to Sections 87866(d), (e) and (f) to accommodate the addition of proposed Section 87866(c).

Section 87870(a)

Specific Purpose:

The specific purpose of these amendments is to make editorial changes.

Factual Basis:

These amendments are necessary for clarity and consistency. The addition of the phrase “the licensee shall ensure” is necessary to clarify that the licensee does not have to perform this duty personally, but is nevertheless responsible for seeing that it is carried out.

Section 87870(d)

Specific Purpose:

The specific purpose of this section is to add explicit language concerning the Department's authority to inspect, audit, copy and remove (if necessary for copying) resident records; and to stipulate that removal of records is subject to the requirements in the succeeding sections.

Factual Basis:

This section is necessary for clarity and consistency. It expressly delineates the Department's authority with regard to inspecting, auditing, copying, and removing resident records. In addition, this section is consistent with language being proposed for use in the regulations for all other licensed residential community care facilities. Please see the "Factual Basis" under Section 80044(c).

Section 87870(d)(1) et seq.

Specific Purpose:

These sections are being adopted to prohibit the removal of specified current records for current residents unless the same information is otherwise readily available.

Factual Basis:

These sections are necessary to ensure that specified current information (most of which is health-related) for current residents is always available at the facility in the event of an emergency; and to ensure that appropriate care is provided on a day-to-day basis. This is necessary to protect the health and safety of residents at all times. Removal of critical information for even a few hours is not acceptable because emergencies are by their nature unpredictable—especially when residents are ill or frail. At the same time, this section gives the Department some flexibility in that the specified records can be removed if the same information is available in another document or format.

Section 87870(d)(1)(A) is necessary to ensure that the name, address and telephone number of each resident's authorized representative(s) are available at the facility at all times.

Section 87870(d)(1)(B) is necessary to ensure that the name, address, and telephone number of each resident's health care providers are available at the facility at all times.

Section 87870(d)(1)(C) is necessary to ensure that a current medical assessment for each resident, including ambulatory status, is available at the facility at all times.

Section 87870(d)(1)(D) is necessary to ensure that the results of a resident's tuberculosis skin tests are available at the facility at all times.

Section 87870(d)(1)(E) is necessary to ensure that a record of any current illness or injury requiring treatment by a physician or dentist, for which the facility provided assistance, is available at the facility at all times.

Section 87870(d)(1)(F) is necessary to ensure that a record of a resident's current medications are available at the facility at all times.

Section 87870(d)(1)(G) is necessary to ensure that the name, address and telephone number of any person or agency responsible for the resident are available at the facility at all times.

Section 87870(d)(1)(H) is necessary to ensure that weekly weight records are available at the facility at all times.

Section 87870(d)(1)(I) is necessary to ensure that a copy of a resident's signed "DO NOT Resuscitate Order" is available at the facility at all times.

Section 87870(d)(1)(J) is necessary to ensure that a copy of a resident's signed Durable Power of Attorney for Health Care is available at the facility at all times.

Section 87870(d)(1)(K) is necessary to ensure that information regarding a resident's individual services plan/team is available at the facility at all times.

Section 87870(d)(1)(L) is necessary to ensure that any other records containing current emergency or health-related information are available at all times.

#### Section 87870(d)(2)

##### Specific Purpose:

The specific purpose of this section is to require a licensing representative to prepare a list of the records to be removed, sign and date the list upon removal of the records, and leave a copy of the list with the administrator or designee.

##### Factual Basis:

This section is necessary to hold the Department accountable for records that are removed for copying. The list acts as a receipt for the administrator or designee of the minutes removed.

#### Section 87870(d)(3)

##### Specific Purpose:

The specific purpose of this section is to establish a time line for the Department to return records removed from a facility; and to stipulate that the records must be returned undamaged and in good order.

Factual Basis:

This section is necessary to ensure that the Department does not keep the records for an unreasonable length of time. It is also necessary to ensure that the records are not returned to the facility damaged or in disarray. Please see the “Factual Basis” under Section 80066(c)(3).

Section 87870(e) (Renumbered)

Specific Purpose/Factual Basis:

The specific purpose/factual basis is to renumber Section 87870(d)(1) to Section 87870(e) to accommodate the addition of proposed Sections 87870(d)(1), (d)(2) and (d)(3); and to make a minor editorial change by deleting an unnecessary word.

Sections 87870(f) and (g) (Renumbered)

Specific Purpose/Factual Basis:

The specific purpose/factual basis is to renumber Sections 87870(e) and (f) to Sections 87870(f) and (g) to accommodate the renumbering of previous sections. In addition, minor editorial changes have been made to Section 87870(g) for clarity and consistency.

Foster Family Agencies (Title 22, Division 6, Chapter 9.5)

Section 88069.7(d)

Specific Purpose/Factual Basis:

The specific purpose/factual basis of these amendments is to make minor editorial changes for clarity and consistency.

Section 88069.7(d)(1)

Specific Purpose:

The specific purpose of this amendment is to repeal the phrase “when required to do so by the Department.”

Factual Basis:

This amendment is necessary for clarity and consistency. The requirements for licensees to transmit copies of substantiated complaints to specified parties are statutory requirements in Health and Safety Code Section 1538.5 (handbooked under Section 88061(l)). The phrase that is being repealed is confusing and unnecessary. It implies that it is up to the Department to determine whether or not licensees should meet the statutory requirements of Health and Safety Code Section 1538.5, when in fact that is not the case.

Section 88069.7(e)

Specific Purpose:

The specific purpose of this section is to adopt explicit language concerning the licensing agency's authority to inspect, audit, copy, and remove (if necessary for copying) case records; and to stipulate that removal of records is subject to the requirements in the succeeding sections.

Factual Basis:

This section is necessary to expressly delineate the licensing agency's authority with regard to inspecting, auditing, copying, and removing case records. In addition, this section is necessary for clarity and for consistency with language being proposed for use in all other licensed residential community care facilities. Please see the "Factual Basis" under Section 80044(c).

Section 88069.7(e)(1)

Specific Purpose:

The specific purpose of this section is to prohibit the removal of any current emergency or health-related information for current foster children unless the same information is otherwise readily available.

Factual Basis:

This section is necessary to ensure that current emergency or health-related information for current foster children is always available at the foster family agency. This is necessary to protect the health and safety of foster children in the event of an emergency in which the foster family agency must provide assistance. At the same time, this section gives the licensing agency some flexibility in that the information can be removed as long as it is available in another document or format.

Section 88069.7(e)(2)

Specific Purpose:

The specific purpose of this section is to require a licensing representative to prepare a list of the records to be removed, sign and date the list upon removal of the records, and leave a copy of the list with the administrator or designee.

Factual Basis:

This section is necessary to hold the licensing agency accountable for records that are removed for copying. The list acts as a receipt for the administrator or designee of the records removed.

Section 88069.7(e)(3)

Specific Purpose:

The specific purpose of this section is to establish a time line for the licensing agency to return records removed from a foster family agency; and to stipulate that the records must be returned undamaged and in good order.

Factual Basis:

This section is necessary to ensure that the licensing agency does not keep the records for an unreasonable length of time. It is also necessary to ensure that the records are not returned to the foster family agency damaged or in disarray. Please see the “Factual Basis” under Section 80066(c)(3).

Section 88070(a)(3)

Specific Purpose/Factual Basis:

The specific purpose/factual basis of these amendments is to make editorial changes for clarity and consistency.

Section 88070(a)(4)

Specific Purpose:

The specific purpose of this section is to adopt explicit language concerning the licensing agency’s authority to inspect, audit, copy, and remove (if necessary for copying) children’s case records; and to stipulate that removal of case records is subject to the requirements in the succeeding sections.

Factual Basis:

This section is necessary for clarity and consistency. It expressly delineates the licensing agency’s authority with regard to inspecting, auditing, copying, and removing children’s case records. In addition, this section is consistent with language being proposed for use in the regulations for all licensed residential community care facilities. Please see the “Factual Basis” under Section 80044(c).

Section 88070(a)(4)(A)

Specific Purpose:

The specific purpose of this section is to prohibit the removal of any current emergency or health-related information for current foster children unless the same information is otherwise readily available.

Factual Basis:

This section is necessary to ensure that current emergency or health-related information for current foster children is always available at the foster family agency. This is necessary to protect the health and safety of foster children in the event of an emergency in which the foster family agency must provide assistance. At the same time, this section gives the licensing agency some flexibility in that the information can be removed as long as it is available in another document or format.

Section 88070(a)(4)(B)

Specific Purpose:

The specific purpose of this section is to require a licensing representative to prepare a list of the case records to be removed, sign and date the list upon removal of the case records, and leave a copy of the list with the administrator or designee.

Factual Basis:

This section is necessary to hold the licensing agency accountable for case records that are removed for copying. The list acts as a receipt for the administrator or designee of the case records removed.

Section 88070(a)(4)(C)

Specific Purpose:

The specific purpose of this section is to establish a time line for the licensing agency to return records removed from a foster family agency; and to stipulate that the case records must be returned undamaged and in good order.

Factual Basis:

This section is necessary to ensure that the licensing agency does not keep the case records for an unreasonable length of time. It is also necessary to ensure that the case records are not returned to the facility damaged or in disarray. Please see the “Factual Basis” under Section 80066(c)(3).

Adoption Agencies, Title 22, Division 6, Chapter 9

Section 89119(a)

Specific Purpose:

The specific purpose of this section is to add explicit language concerning the licensing agency's authority to inspect, audit, copy, and remove (if necessary for copying) minutes of Board meetings.

Factual Basis:

This section is necessary for clarity and consistency. It expressly delineates the licensing agency's authority with regard to inspecting, auditing, copying, and removing minutes of Board meetings. In addition, this section is consistent with language being proposed for use in the regulations for other licensing facility categories. Please see the "Factual Basis" under Section 80044(c).

Section 89119(a)(1)

Specific Purpose:

The specific purpose of this section is to require a licensing representative to prepare a list of the minutes to be removed, sign and date the list upon removal of the minutes, and leave a copy of the list with the executive director or designee.

Factual Basis:

This section is necessary to hold the licensing agency accountable for minutes that are removed for copying. The list acts as a receipt for the executive director or designee of the minutes removed.

Section 89119(a)(2)

Specific Purpose:

The specific purpose of this section is to establish a time line for the licensing agency to return minutes removed from an adoption agency; and to stipulate that the minutes must be returned undamaged and in good order.

Factual Basis:

This section is necessary to ensure that the licensing agency does not keep the minutes for an unreasonable length of time. It is also necessary to ensure that the minutes are not returned to the adoption agency damaged or in disarray. Please see the "Factual Basis" under Section 80066(c)(3).

Section 89182(c)

Specific Purpose:

The specific purpose of these amendments is to make minor editorial changes and to include the licensing agency as one of the entities that has access to information in adoption case records.

Factual Basis:

These amendments are necessary for clarity, and for consistency with proposed Section 89182(d) (and similar proposed sections for other licensed facility categories).

Section 89182(d)

Specific Purpose:

The specific purpose of this section is to adopt explicit language concerning the licensing agency's authority to inspect, audit, copy, and remove (if necessary for copying) adoption case records.

Factual Basis:

This section is necessary to expressly delineate the licensing agency's authority with regard to inspecting, auditing, copying, and removing adoption case records. In addition, this section is necessary for clarity and for consistency with language being proposed for use in the regulations for other licensing facility categories. Please see the "Factual Basis" under Section 80044(c).

Section 89182(d)(1)

Specific Purpose:

The specific purpose of this section is to require a licensing representative to prepare a list of the case records to be removed, sign and date the list upon removal of the records, and leave a copy of the list with the administrator or designee.

Factual Basis:

This section is necessary to hold the licensing agency accountable for case records that are removed for copying. The list acts as a receipt for the administrator or designee of the records removed.

Section 89182(d)(2)

Specific Purpose:

The specific purpose of this section is to establish a time line for the licensing agency to return case records removed from an adoption agency; and to stipulate that the records must be returned undamaged and in good order.

Factual Basis:

This section is necessary to ensure that the licensing agency does not keep the case records for an unreasonable length of time. It is also necessary to ensure that the records are not returned damaged or in disarray. Please see the “Factual Basis” under Section 80066(c)(3).

Foster Family Homes, Title 22, Division 6, Chapter 9.5

Section 89244(a) and Title

Specific Purpose:

The specific purpose of this amendment is to repeal the term “the Department” from the title.

Factual Basis:

This amendment is necessary for clarity and consistency. The term “the Department” is gradually being repealed from the foster family homes regulations in favor of the term “licensing agency.” In the case of foster family homes in California, the CDSS may license foster family homes directly; may license foster family agencies (which, in turn, certify family homes); or may allow counties to license foster family homes under contract with the State. The term “licensing agency” covers all of these licensing options and is consistent with the definition of “licensing agency” in Section 89201(l)(1) of the existing foster family homes regulations.

Section 89244(a)(1)

Specific Purpose/Factual Basis:

The specific purpose/factual basis of these amendments is to correct typographical errors in existing handbook for clarity and consistency.

Section 89244(a)(2)

Specific Purpose:

The specific purpose of these amendments is to delete handbook language that no longer appears in statute and adopt current language.

Factual Basis:

These amendments are necessary for clarity and consistency. They incorporate into handbook new language in Health and Safety Code Section 1534 regarding the frequency of licensing site visits--language added to statute by AB 1752 (Chapter 225, Statutes of 2003) (the budget trailer bill).

Section 89244(a)(3)

Specific Purpose/Factual Basis:

The specific purpose/factual basis of these amendments is to correct typographical errors in existing handbook for clarity and consistency.

Sections 89244(b) and (b)(1)

Specific Purpose:

The specific purpose of these amendments is to make editorial changes, including repealing language regarding the inspection, auditing and examination of records.

Factual Basis:

These amendments are necessary for clarity and consistency. The use of the term “foster” preceding “child” is necessary to clarify that the licensing agency only has the authority to interview foster children, not natural or adoptive children of the foster parents, without the parents’ consent. The language regarding the inspection, auditing and examination of records has been moved and incorporated into proposed Section 89244(c)--which contains express language regarding records--for clarity and consistency.

Section 89244(c)

Specific Purpose:

The specific purpose of this section is to adopt explicit language concerning the licensing agency’s authority to inspect, audit, copy, and remove (if necessary for copying) children’s or foster family home records; and to refer the reader to other pertinent regulatory sections.

Factual Basis:

This section is necessary for clarity and consistency. It expressly delineates the licensing agency’s authority with regard to inspecting, auditing, copying, and removing children’s or foster family home records. In addition, this section is consistent with language being proposed for use in the regulations for all other licensed residential community care facilities. Please see the “Factual Basis” under Section 80044(c).

Section 89244(c)(1)

Specific Purpose:

The specific purpose of this section is to adopt language regarding the examination of records.

Factual Basis:

This section is necessary for clarity and consistency because the information in Section 89244(c)(1) now logically follows the information in Section 89244(c). Both contain information regarding records that has been moved from Sections 89244(b) and (b)(1).

Section 89244(d) (Renumbered)

Specific Purpose/Factual Basis:

The specific purpose/factual basis of this amendment is to renumber existing Section 89244(c) to Section 89244(d) to accommodate the addition of proposed Section 89244(c).

Section 89245(a)(1)

Specific Purpose/Factual Basis:

The specific purpose/factual basis of these amendments is to correct handbook for clarity and consistency.

Section 89245(a)(2)

Specific Purpose:

The specific purpose of these amendments is to delete handbook language that no longer appears in statute and replace it with current language; and to correct section numbering in existing handbook.

Factual Basis:

These amendments are necessary for clarity and consistency. They incorporate into handbook new language in Health and Safety Code Section 1534 regarding the frequency of licensing site visits - language added to statute by AB 1752 (Chapter 225, Statutes of 2003) (the budget trailer bill).

Section 89370(c)

Specific Purpose:

The specific purpose of these amendments is to add explicit language concerning the licensing agency's authority to inspect, audit, copy, and remove (if necessary for copying) children's records in foster family homes; and to stipulate that removal of records is subject to the requirements in the succeeding sections.

Factual Basis:

This section is necessary for clarity and consistency. It expressly delineates the licensing agency's authority with regard to inspecting, auditing, copying, and removing children's records. In addition, this section is consistent with language being proposed for use in the regulations for all other licensed residential community care facilities. Please see the "Factual Basis" under Section 80044(c).

Section 89370(c)(1)

Specific Purpose:

The specific purpose of this section is to prohibit the removal of any current emergency or health-related children's records unless the information is otherwise readily available.

Factual Basis:

This section is necessary to ensure that current emergency or health-related information for foster children is always available at the foster family home. This is necessary to protect the health and safety of foster children in care in the event of an emergency. At the same time, this section gives the licensing agency some flexibility in that those records can be removed as long as the information is available in another document or format.

Section 89370(c)(2)

Specific Purpose:

The specific purpose of this section is to require a licensing representative to prepare a list of the children's records to be removed, sign and date the list upon removal of the records, and leave a copy of the list with the caregiver.

Factual Basis:

This section is necessary to hold the licensing agency accountable for children's records that are removed for copying. The list acts as a receipt for the caregiver of the records removed.

Section 89370(c)(3)

Specific Purpose:

The specific purpose of this section is to establish a time line for the licensing agency to return children's records removed from a foster family home; and to stipulate that the records must be returned undamaged and in good order.

Factual Basis:

This section is necessary to ensure that the licensing agency does not keep the children's records for an unreasonable length of time. It is also necessary to ensure that the records are not returned damaged or in disarray. Please see the "Factual Basis" under Section 80066(c)(3).

Section 89566(d)

Specific Purpose:

The specific purpose of these amendments is to add explicit language concerning the licensing agency's authority to inspect, audit, copy, and remove (if necessary for copying) personnel records for specialized foster family homes; and to stipulate that removal of records is subject to the requirements in the succeeding sections.

Factual Basis:

This section is necessary for clarity and consistency. It expressly delineates the licensing agency's authority with regard to inspecting, auditing, copying, and removing personnel records for specialized foster family homes. In addition, this section is consistent with language being proposed for use in the regulations for all other licensed residential community care facilities. Please see the "Factual Basis" under Section 80044(c).

Section 89566(d)(1)

Specific Purpose:

The specific purpose of this section is to prohibit the removal of any current emergency or health-related information for current employees unless the information is otherwise readily available.

Factual Basis:

This section is necessary to ensure that current emergency or health-related information for current caregivers is always available at the specialized foster family home in the event of an emergency. This is necessary to protect the health and safety of caregivers. At the same time, this section gives the licensing agency some flexibility in that those records can be

removed as long as the information is available in another document or format. Please see the “Factual Basis” under Section 80066(c)(1).

Section 89566(d)(2)

Specific Purpose:

The specific purpose of this section is to require a licensing representative to prepare a list of any personnel records to be removed, sign and date the list upon removal of the records, and leave a copy of the list with the caregiver.

Factual Basis:

This section is necessary to hold the licensing agency accountable for records that are removed for copying. The list acts as a receipt for the caregiver of the minutes removed.

Section 89566(d)(3)

Specific Purpose:

The specific purpose of this section is to establish a time line for the licensing agency to return personnel records removed from a specialized foster family home; and to stipulate that the records must be returned undamaged and in good order.

Factual Basis:

This section is necessary to ensure that the licensing agency does not keep the records for an unreasonable length of time. It is also necessary to ensure that the records are not returned to the home damaged or in disarray. Please see the “Factual Basis” under Section 80066(c)(3).

Child Care Center General Licensing Requirements, Title 22, Division 12, Chapter 1

Section 101200(a)

Specific Purpose/Factual Basis:

The specific purpose/factual basis of these amendments is to add a reference to Health and Safety Code Section 1596.8535 for clarity and consistency. (See also the justification for Section 101200(a)(3).)

Sections 101200(a)(1) and (a)(2)

Specific Purpose:

The specific purpose of these amendments is to correct typographical errors in existing handbook; and to correct the numbering scheme to conform to Health and Safety Code Section 1596.853.

Factual Basis:

These amendments are necessary for clarity and consistency.

Section 101200(a)(3)

Specific Purpose:

The specific purpose of this section is to adopt relevant new statutory language to handbook.

Factual Basis:

This section is necessary to incorporate into handbook new statutory language regarding the timing of licensing site visits to child care facilities. This language appears in Health and Safety Code Section 1596.8535(a) and was added to statute by AB 1358 (Chapter 122, Statutes of 2002).

Section 101200(b)

Specific Purpose:

The specific purpose of these amendments is to make editorial changes, including repealing references to the inspecting and auditing of child or child care center records.

Factual Basis:

These amendments are necessary for clarity and consistency. The language regarding the inspecting and auditing of child or child care center records has been moved and incorporated into proposed Section 101200(c), which contains express language regarding the Department's authority with respect to records. (Note: Unlike most of the licensing regulations for residential community care facilities, the use of the term "the Department" is preferred over the use of the term "licensing agency" in the child care regulations.)

Section 101200(b)(1)

Specific Purpose:

The specific purpose of these amendments is to make editorial changes, including repealing language regarding the examination of facility records.

Factual Basis:

These amendments are necessary for clarity and consistency. The addition of the phrase “the licensee shall ensure” is necessary to clarify that the licensee does not have to personally perform this duty, but is nevertheless responsible for seeing that it is carried out. The repealed language regarding the examination of facility records has been moved and incorporated into proposed Section 101200(c)(1) for clarity and for consistency with proposed Section 101200(c).

Section 101200(c)

Specific Purpose:

The specific purpose is to adopt explicit language concerning the Department’s authority to inspect, audit, copy, and remove (if necessary for copying) child or child care center records; and to refer the reader to other pertinent sections.

Factual Basis:

This section is necessary for clarity and consistency. It expressly delineates the Department’s authority with regard to inspecting, auditing, copying, and removing child or child care center records. In addition, this section is consistent with language being proposed for use in the regulations for family child care homes and residential community care facilities. Please see the “Factual Basis” under Section 80044(c).

Section 101200(c)(1)

Specific Purpose:

The specific purpose is to adopt language regarding the examination of records.

Factual Basis:

Adoption of this text is necessary for clarity and consistency. With the addition to the regulations of express language regarding the licensing agency’s authority with respect to records, the language in this section now logically follows that in proposed Section 101200(c).

Section 101200(d) (Renumbered)

Specific Purpose/Factual Basis:

The specific purpose/factual basis of this amendment is to renumber Section 101200(c) to Section 101200(d) to accommodate the addition of proposed Sections 101200(c) and (c)(1).

Sections 101201(a)(1) and (a)(2)

Specific Purpose/Factual Basis:

The specific purpose/factual basis of these amendments is to add references to statutory numbering in Health and Safety Code Sections 1596.98 and 1596.99 to handbook for clarity and consistency.

Section 101201(a)(4)

Specific Purpose:

The specific purpose of these amendments is to make a minor editorial change; to delete from handbook outdated statutory language regarding annual visits to licensed child care centers; and to incorporate into handbook the current requirements in Health and Safety Code Section 1597.09.

Factual Basis:

These amendments are necessary for clarity; and for consistency with AB 1752 (Chapter 225, Statutes of 2003) (the budget trailer bill), which amended Health and Safety Code Section 1597.09 to revise criteria for site visits to child care centers.

Section 101217(a)

Specific Purpose:

The specific purpose of these amendments is to make editorial changes.

Factual Basis:

These amendments are necessary for clarity and consistency. The addition of the phrase “the licensee shall ensure” is necessary to clarify that the licensee does not have to perform this duty personally, but is nevertheless responsible for seeing that it is carried out.

Section 101217(a)(10)

Specific Purpose/Factual Basis:

The specific purpose/factual basis of these amendments is to correct the title and last revision date of a licensing form.

Section 101217(c)

Specific Purpose:

The specific purpose of this section is to adopt explicit language concerning the Department's authority to inspect, audit, copy, and remove (if necessary for copying) personnel records; and to stipulate that removal of records is subject to the requirements in the succeeding sections.

Factual Basis:

This section is necessary for clarity and consistency. It expressly delineates the Department's authority with regard to inspecting, auditing, copying, and removing personnel records. In addition, this section is consistent with language being proposed for use in the regulations for family child care homes and residential community care facilities. Please see the "Factual Basis" under Section 80044(c).

Section 101217(c)(1) et seq.

Specific Purpose:

The specific purpose of these sections is to prohibit the removal of specified current records for current personnel unless the information is otherwise readily available.

Factual Basis:

These sections are necessary to ensure that specified current information (most of which is health-related) for current personnel is always available at the center in the event of an emergency. This is necessary to protect the health and safety of center personnel; and, in the case of documentation of completion of health-and-safety training, the health and safety of children in care. At the same time, this section gives the Department some flexibility in that those same records can be removed as long as the same information is available in another document or format. Please see the "Factual Basis" under Section 80066(c)(1).

Section 101217(c)(1)(A) is necessary to ensure that current health-screening records and results of tuberculosis tests for center personnel are available at the center at all times.

Section 101217(c)(1)(B) is necessary to ensure that documentation of completion of health-and-safety training by specified child care staff is available at the center at all times. As a condition of licensure, Health and Safety Code Section 1596.866 requires specified child

care providers to complete 15 hours of health-and-safety training, including pediatric cardiopulmonary resuscitation (CPR), pediatric first aid, and preventive health practices (e.g., prevention of infectious diseases, including immunizations). This statute also requires the director of a child care center to ensure that at least one staff person who has current training in pediatric CPR and first aid is present when children are onsite or offsite for facility activities.

Section 101217(c)(1)(C) is necessary to ensure that any other records containing current emergency or health-related information for current center personnel are available at the center at all times.

#### Section 101217(c)(2)

##### Specific Purpose:

The specific purpose of this section is to require a licensing representative to prepare a list of the records to be removed, sign and date the list upon removal of the records, and leave a copy of the list with the administrator or designee.

##### Factual Basis:

This section is necessary to hold the Department accountable for records that are removed for copying. The list acts as a receipt for the administrator or designee of the minutes removed.

#### Section 101217(c)(3)

##### Specific Purpose:

The specific purpose of this section is to establish a time line for the Department to return records removed from a center; and to stipulate that the records must be returned undamaged and in good order.

##### Factual Basis:

This section is necessary to ensure that the Department does not keep the records for an unreasonable length of time. It is also necessary to ensure that the records are not returned to the center damaged or in disarray. Please see the “Factual Basis” under Section 80066(c)(3).

#### Section 101217(d) (Renumbered)

##### Specific Purpose/Factual Basis:

The specific purpose/factual basis of this amendment is to renumber existing Section 101217(c) to Section 101217(d) to accommodate the addition of proposed Section 101217(c).

Sections 101217(e) and (e)(1) (Renumbered)

Specific Purpose/Factual Basis:

The specific purpose/factual basis of this amendment is to renumber existing Sections 101217(d) and (d)(1) to Sections 101217(e) and (e)(1) to accommodate the addition of proposed Section 101217(c) and the renumbering of prior sections. In addition, in Section 101217(e)(1), a minor editorial change has been made and a cross reference added for clarity and for consistency with Section 101217(c).

Section 101217(f) (Renumbered)

Specific Purpose/Factual Basis:

The specific purpose/factual basis of these amendments is to renumber existing Section 101217(e) to Section 101217(f) to accommodate the addition of proposed Section 101217(c) and the renumbering of prior sections.

Section 101221(a)

Specific Purpose:

The specific purpose of these amendments is to make editorial changes.

Factual Basis:

These amendments are necessary for clarity and consistency. The addition of the phrase “the licensee shall ensure” is necessary to clarify that the licensee does not have to perform this duty personally, but is nevertheless responsible for seeing that it is carried out.

Section 101221(d)

Specific Purpose:

The specific purpose of this section is to add explicit language concerning the Department’s authority to inspect, audit, copy, and remove (if necessary for copying) children’s records; and to stipulate that removal of records is subject to the requirements in the succeeding sections.

Factual Basis:

This section is necessary for clarity and consistency. It expressly delineates the Department’s authority with regard to inspecting, auditing, copying, and removing resident records. In addition, this section is consistent with language being proposed for use in the regulations for family child care homes and residential community care facilities. Please see the “Factual Basis” under Section 80044(c).

Section 101221(d)(1) et seq.

Specific Purpose:

The specific purpose of these amendments is to prohibit the removal of specified current records for current children unless the same information is otherwise readily available.

Factual Basis:

These sections are necessary to ensure that specified current information (most of which is health-related) for current children is always available at the center in the event of an emergency; and to ensure that appropriate care is provided on a day-to-day basis. This is necessary to protect the health and safety of children at all times. Removal of critical information for even a few hours is not acceptable because emergencies are by their nature unpredictable. At the same time, this section gives the Department some flexibility in that the specified records can be removed if the same information is available in another document or format.

Section 101221(d)(1)(A) is necessary to ensure that the name, address and telephone number of a child's authorized representative or other responsible parties are available at the center at all times.

Section 101221(d)(1)(B) is necessary to ensure that the name, address and telephone number of the child's physician, dentist and any other health-care providers are available at the center at all times.

Section 101221(d)(1)(C) is necessary to ensure that medical assessments and other specified information are available at the center at all times.

Section 101221(d)(1)(D) is necessary to ensure that current records of any illness or injury as specified are available at the center at all times.

Section 101221(d)(1)(E) is necessary to ensure that records of a child's current medications are available at the center at all times.

Section 101221(d)(1)(F) is necessary to ensure that current authorizations for children's activities away from the center are available at the center at all times.

Section 101221(d)(1)(G) is necessary to ensure that current immunization records are available at the center at all times.

Section 101221(d)(1)(H) is necessary to ensure that any other records containing current emergency or health-related information are available at the center at all times.

Section 101221(d)(2)

Specific Purpose:

The specific purpose of this section is to require a licensing representative to prepare a list of the records to be removed, sign and date the list upon removal of the records, and leave a copy of the list with the administrator or designee.

Factual Basis:

This section is necessary to hold the Department accountable for records that are removed for copying. The list acts as a receipt for the administrator or designee of the records removed.

Section 101221(d)(3)

Specific Purpose:

The specific purpose of this section is to establish a time line for the Department to return records removed from a center; and to stipulate that the records must be returned undamaged and in good order.

Factual Basis:

This section is necessary to ensure that the Department does not keep the records for an unreasonable length of time. It is also necessary to ensure that the records are not returned to the facility damaged or in disarray. Please see the “Factual Basis” under Section 80066(c)(3).

Section 101221(e) (Renumbered)

Specific Purpose/Factual Basis:

The specific purpose/factual basis of this amendment is to renumber existing Section 101221(d)(1) to Section 101221(e) to accommodate the addition of proposed Sections 101221(d)(1), (d)(2) and (d)(3).

Sections 101221(f) through (h) (Renumbered)

Specific Purpose/Factual Basis:

The specific purpose/factual basis is to renumber Sections 101221(e) through (g) to Sections 101221(f) through (h) to accommodate the renumbering of previous sections, as indicated above.

Family Child Care Homes, Title 22, Division 12, Chapter 3

Section 102391, Title

Specific Purpose:

The specific purpose of this amendment is to add “the Department” to the title.

Factual Basis:

This amendment is necessary for clarity and consistency. The inspection authority in this section pertains to that of the Department, and not to that of any other person or entity. With this amendment, this section title is now consistent with section titles pertaining to the Department’s inspection authority in other licensing facility categories.

(Note: Unlike most of the licensing regulations for residential community care facilities, the use of the term “the Department” is preferred over the use of the term “licensing agency” in the regulations for family child care homes.)

Section 102391(b)

Specific Purpose:

The specific purpose of this section is to repeal outdated regulatory language; and to add current statutory language to handbook.

Factual Basis:

This section is necessary to incorporate into handbook new statutory language regarding the timing of licensing site visits to child care facilities. This language appears in Health and Safety Code Section 1596.8535(a) and was added to statute by AB 1358 (Chapter 122, Statutes of 2002). It supersedes (and essentially duplicates) the repealed regulatory language.

Section 102391(d)

Specific Purpose:

The specific purpose of this section is to add explicit language concerning the Department’s authority to inspect, audit, copy, and remove (if necessary for copying) children’s records or other family child care home records; and to stipulate that removal of records is subject to the requirements in the succeeding sections.

Factual Basis:

This section is necessary for clarity and consistency. It expressly delineates the Department’s authority with regard to inspecting, auditing, copying, and removing

children's or family child care home records. In addition, this section is consistent with language being proposed for use in the regulations for child care centers and residential community care facilities. Please see the "Factual Basis" under Section 80044(c).

Section 102391(d)(1) et seq.

Specific Purpose:

The specific purpose of this adopted text is to prohibit the removal of specified current records for current children unless the same information is otherwise readily available.

Factual Basis:

These sections are necessary to ensure that specified current information (most of which is health-related) for current children and staff is always available at the family child care home in the event of an emergency; and to ensure that appropriate care is provided on a day-to-day basis. This is necessary to protect the health and safety of children and staff at all times. Removal of critical information for even a few hours is not acceptable because emergencies are by their nature unpredictable. At the same time, this section gives the Department some flexibility in that the specified records can be removed if the same information is available in another document or format.

Section 102391(d)(1)(A) is necessary to ensure that current emergency information cards for current children are available at the home at all times.

Section 102391(d)(1)(B) is necessary to ensure that a current roster of children in care is available at the home at all times.

Section 102391(d)(1)(C) is necessary to ensure that current children's immunization records are available at the home at all times.

Section 102391(d)(1)(D) is necessary to ensure that documentation of completion of health-and-safety training by the licensee and any other specified personnel is available at the home at all times. As a condition of licensure, Health and Safety Code Section 1596.866 requires each family child care licensee to complete 15 hours of health-and-safety training, including pediatric CPR, pediatric first aid, and preventive health practices (e.g., prevention of infectious diseases, including immunizations). This statute also requires each licensee of a large family child care home to ensure that at least one staff person who has current training in pediatric CPR and first aid is present at all times when children are onsite or offsite for facility activities.

Section 102391(d)(1)(E) is necessary to ensure that any other records containing current emergency or health-related information for current children in care or staff are available at the home at all times.

Section 102391(d)(2)

Specific Purpose:

The specific purpose of this section is to require a licensing representative to prepare a list of the records to be removed, sign and date the list upon removal of the records, and leave a copy of the list with the licensee or designated substitute.

Factual Basis:

This section is necessary to hold the Department accountable for records that are removed for copying. The list acts as a receipt for the licensee or designee of the records removed.

Section 102391(d)(3)

Specific Purpose:

The specific purpose of this section is to establish a time line for the Department to return records removed from a family child care home; and to stipulate that the records must be returned undamaged and in good order.

Factual Basis:

This section is necessary to ensure that the Department does not keep the records for an unreasonable length of time. It is also necessary to ensure that the records are not returned to the home damaged or in disarray. Please see the “Factual Basis” under Section 80066(c)(3).

Section 102392

Specific Purpose:

The specific purpose is to repeal outdated regulatory language regarding site visits to licensed family child care homes and adopt into handbook current requirements in Health and Safety Code Section 1597.55a.

Factual Basis:

These amendments are necessary for clarity; and for consistency with AB 1752 (Chapter 225, Statutes of 2003) (the budget trailer bill), which amended Health and Safety Code Section 1597.55a to revise site visit criteria for family day care homes. All of the topics in the repealed regulatory language are addressed in Health and Safety Code Section 1597.55a.

b) Identification of Documents Upon Which Department Is Relying

- *Golden Day Schools, Inc., v. Pirillo* (C.D. Cal. 2000) 118 F. Supp. 2d 1037

- Internal CDSS/Community Care Licensing Division memo, dated July 24, 2001, from Cathleen A. McCoy to regional and district office managers regarding “Prohibition Against Removal of Records (All Licensing Categories)”

c) Local Mandate Statement

These regulations do not impose a mandate on local agencies or school districts. There are no state-mandated local costs in these regulations which require state reimbursement under Section 17500, et seq. of the Government Code.

d) Statement of Alternatives Considered

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

e) Statement of Significant Adverse Economic Impact On Business

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.