

SECOND ADDENDUM TO THE FINAL STATEMENT OF REASONS

Section 86500(c)

This subsection is being amended to reflect the extended sunset date for the separate licensing category of crisis nurseries from January 1, 2008, to July 1, 2011, as provided by Senate Bill 104 (Statutes of 2007).

Section 86501

In response to OAL’s “Decision of Disapproval of Regulatory Action” for Crisis Nurseries, the following changes have been made to Section 86501:

- 1) The complete text of “Subsection (c)(18)” is restored, as it appears in the Crisis Nurseries Emergency Regulations, for clarity purposes, and it is repealed in its entirety.
- 2) Beginning with “Subsection (l)(i),” and throughout the rulemaking file, the word “Sections” was used to refer to multiple subsections. For the purpose of clarity and where applicable, wherever the word “Sections” was used in reference to multiple subsections, the “s” at the end was deleted.
- 3) Section “86501(p)(1)” is corrected to reflect the new names of the Medical Board of California and Osteopathic Medical Board of California.

Section 86501.5

In response to OAL’s “Decision of Disapproval of Regulatory Action” for Crisis Nurseries, to correct inconsistencies in the way forms were cited or omitted in the regulations, the following changes have been made:

- 1) Section 86501.5 is adopted to list all forms in Chapter 7.3, Crisis Nurseries Regulations, and added to the rulemaking file with the correct revision dates, and hereby incorporated by reference. Hence, it eliminates the need for citing the revision date after each form listed in the regulations. All the following forms have been available on the Department’s website and will continue to be available online and by request from the licensing agency.
 - (1) LIC 165 (8/07) – Board of Directors Statement (7/05)
 - (2) LIC 198 (2/01) - Child Abuse Central Index Check for County Licensed Facilities.

- (3) LIC 198A (9/07) - Child Abuse Central Index Check for State Licensed Facilities
- (4) LIC 200 (8/04) – Application for a Community Care Facility or Residential Care Facility for the Elderly License
- (5) LIC 300A (9/03) – Confirmation of Removal – Exemption Needed
- (6) LIC 300B (9/03) – Confirmation of Removal – Denial
- (7) LIC 300C (9/03) – Confirmation of Removal – Rescinded
- (8) LIC 300D (9/03) – Confirmation of Removal – Non-Exemptible
- (9) LIC 301E (7/03) – Reference Request
- (10) LIC 309 (6/01) – Administrative Organization
- (11) LIC 400 (1/99) – Affidavit Regarding Client/Resident Cash Resources
- (12) LIC 401 (3/01) – Monthly Operating Statement
- (13) LIC 403 (11/02) – Balance Sheet
- (14) LIC 403A (12/02) – Balance Sheet Supplemental Schedule
- (15) LIC 404 (7/99) Personal – Financial Information Release and Verification
- (16) LIC 508 (1/03) – Criminal Record Statement
- (17) LIC 9182 (12/06) - Criminal Background Clearance Transfer Request.
- (18) LIC 9188 (12/06) - Criminal Record Exemption Transfer Request.
- (19) LIC 9219 (10/06) – Crisis Nursery Monthly Report
- (20) LIC 9219A (10/06) – Crisis Day Care Sign-In/Sign-Out Sheet

Section 86518

In response to OAL’s “Decision of Disapproval of Regulatory Action” for Crisis Nurseries, the following changes have been made to Section 86518:

- 1) The language contain in “Subsection (b) and (b)(1) through (7)” is being repealed, because the information required in this subsection is already listed on the LIC 200 form and incorporated by reference.

- 2) For the purpose of clarity, Form LIC 165 cited in “subsection (c)(3)” has been revised (8/07) to delete the words “and prospective members, or” and the number “10” was corrected to number “9” to match the items listed on the form.
- 3) “Subsection (c)(9)” was amended for clarity to adopt language that identifies the approved forms provided by the Department for use in preparing the financial plan of operation and to alternatively allow the financial information specified in those forms to be provided in any format for the applicant’s convenience.

Section 86519

In response to OAL’s “Decision of Disapproval of Regulatory Action” for Crisis Nurseries, the following changes have been made to Section 86519:

- 1) In “subsection (a),” where the word “Sections” was used to refer to multiple subsections, for the purpose of clarity, the “s” at the end was repealed to make it singular, Section.
- 2) “Subsection (b)(5)” was amended for clarity and grammar to delete the unnecessary “a” in “children in a care.”

Section 86519.1

In response to OAL’s “Decision of Disapproval of Regulatory Action” for Crisis Nurseries, the following changes have been made to Section 86519.1:

- 1) “Subsection (d)(3)(C)” needs no correction. The reason for using “may” rather than “shall” is because the Department has the option to deny or refrain from denying an exemption request on circumstances that include, but are not limited to, the court not responding to a request for documentation or the police report not being available within the 45 days.
- 2) “Subsection (i)” was amended for clarity and consistency to specifically cite the subsection being referenced in Health and Safety Code section 1522.
- 3) In “Subsections (k) and (k)(7),” where the word “Sections” was used to refer to multiple subsections, for the purpose of clarity and consistency, the “s” at the end of the word “Sections” was repealed to make it singular.
- 4) In “Subsection (r)(1)” the revision date cited (9/03) for LIC 9188 was incorrect. This form was revised on 12/06 when the sentence, “Exemptions cannot be transferred from a state licensed facility to a county licensed facility or from county to state,” was deleted and the following statement was added: “This form may only be used to request an exemption transfer between state licensed facilities. To request a transfer between county and state licensed facilities, the requesting Licensing Agency must contact their county liaison.”

This form was amended to be consistent with AB 1240, Statutes of 2004, which amended Health and Safety Code section 1522(h) to allow a transfer of a criminal record clearance from one county or state licensed facility to another. The LIC 9188 specifically states that it can only be used to request an exemption transfer between state licensed facilities. A Department of Justice form is used to request transfers between county and state licensed facilities.

- 5) For clarity and consistency “subsection (r)(3)” was amended to give examples of the type of documents the Department may require to evaluate a criminal record exemption transfer.

Section 86519.2

In response to OAL’s “Decision of Disapproval of Regulatory Action” for Crisis Nurseries, the following changes have been made to Section 86519.2:

- 1) In “Subsection (a)(1)” the revisions dates cited for LIC 198A and LIC 198 are repealed, as these are incorporated by referenced in Section 86501.5. LIC 198A requires the applicant to provide his/her social security number. This form was revised on 8/07 to add the “Privacy Statement” on page two, pursuant to the Federal Privacy Act (P.L. 93-579) and the Information Practices Act of 1977 (Civil Code section 1798 et seq.).

Sections 86520

In response to OAL’s “Decision of Disapproval of Regulatory Action” for Crisis Nurseries, the following changes have been made to Section 86520:

- 1) “Subsection (a)” was amended for clarity with a grammatical correction by adding the word “or” after “fire department.”
- 2) Regulatory provision Section 86520(a)(1) was submitted to the California State Fire Marshal for review and approval, and the documentation will be included in the rulemaking file for submission to OAL.
- 3) “Section 86520(b),” was amended for clarity and consistency by deleting the “,” after “city or county” and adding the word or after “fire department.”

Section 86522

In response to OAL’s “Decision of Disapproval of Regulatory Action” for Crisis Nurseries, the following change has been made to Section 86522:

- 1) “Subsection (b)(5)” was amended to add the specific subsection being cited as “Section 86568.1(c)(2).”

Section 86527

In response to OAL's "Decision of Disapproval of Regulatory Action" for Crisis Nurseries, the following change was made for clarity and consistency:

- 1) For clarity the word "facility" was repealed from subsection (d)(3).

Section 86529

In response to OAL's "Decision of Disapproval of Regulatory Action" for Crisis Nurseries, the following change was made to Section 86529:

- 1) "Subsection (a)(2)" was amended for clarity and consistency by citing the specific regulation, 86536(1)(a), on fees.

Subsection 86554

In response to OAL's "Decision of Disapproval of Regulatory Action" for Crisis Nurseries, the following change was made to Section 86554:

- 1) In "subsection (f)(1)," where the word "Sections" was used to refer to multiple subsections, for clarity and consistency the "s" at the end of "Sections" was repealed. For clarity, the second "87218" was also repealed.
- 2) "Subsection (h)" was corrected for clarity by replacing the words "reports to" with "notifies."

Section 86555

In response to OAL's "Decision of Disapproval of Regulatory Action" for Crisis Nurseries, the following change was made to Section 86555:

- 1) "Subsection (c)" was amended for clarity and consistency by adopting and repealing language to correspond with Section 86559(c). The words "of the appeal" are adopted to specify what is being reviewed; and the phrase "or that other circumstances existed" was repealed as the scope of the review is based on applicable laws and statutes.

Section 86561

In response to OAL's "Decision of Disapproval of Regulatory Action" for Crisis Nurseries, the following change was made to Section 86561:

- 1) Regulatory provision in Subsection (a)(7)(A) was submitted to the California State Fire Marshal for review and approval, and the documentation will be submitted to OAL with the rulemaking file.
- 2) "Subsection (d)(3)" was amended to clarify that the only new language is the "," and the word "including" after "association."

Section 86565

In response to OAL's "Decision of Disapproval of Regulatory Action" for Crisis Nurseries, the following change was made to Section 86565:

- 1) These regulations are necessary to protect the health and safety of children in care to insure proper supervision during water activities. In developing these regulations the Department reviewed comparable regulations, such as in Child Care Centers section 101216.6 that also provide care and supervision to children of similar age.
- 2) "Subsection (q)(3)(A)" was amended for clarity and consistency with the wording in Section 86565(q)(2)(A).

Section 86568.1

In response to OAL's "Decision of Disapproval of Regulatory Action" for Crisis Nurseries, the following change was made to Section 86568.1:

- 1) "Subsection (~~g~~d)" was amended for clarity and consistency to comport with emergency regulations.
- 2) "Subsection (~~g~~) is amended to clarify that it has been renumbered to (d).

Section 86576

In response to OAL's "Decision of Disapproval of Regulatory Action" for Crisis Nurseries, the following change was made to Section 86576:

- 1) "Subsection (a)(6)" was amended for clarity as the Department understands it does not have authority to inspect meat, poultry and meat products.
- 2) "Subsection (g)" was amended for clarity to provide caregivers with necessary guidance to support the well-being of children in care who have special diets due to food allergies.

Section 86580

In response to OAL's "Decision of Disapproval of Regulatory Action" for Crisis Nurseries, the following change was made to Section 86580:

- 1) In "Subsection (b)(3)" the revision date of (7/07) listed for LIC 9219A is in error. This form was created and approved on (10/06) specifically for this program. The revision date is corrected and then repealed as new Section 86501.5 is being adopted to list all the forms and revision dates cited in the rulemaking file.

Section 86587

In response to OAL's "Decision of Disapproval of Regulatory Action" for Crisis Nurseries, the following change was made to Section 86587:

- 1) "Subsection (e)(1)" was amended to be consistent with Section 115923 of the Health and Safety Code.

Responses to Necessity

OAL's "Decision of Disapproval of Regulatory Action" for Crisis Nurseries regulations noted that the Department did not identify the specific regulations in other facility categories that the Department reviewed in drafting crisis nurseries regulations. In response, the Department provides the following explanation to identify the specific regulations reviewed.

Section 86501, et seq.

The Department has taken existing definitions from the General Licensing Regulations found in Title 22, Division 6, Article 1, Section 80001, Group Home Regulations, Title 22, Division 6, Article 1, Section 84001, and Foster Family Homes, Title 22, Chapter 9.5, Article 1, Section 89201.

The Department has used these definitions to apply to crisis nurseries because they are needed to clarify terms used throughout these regulations. They are also used for crisis nurseries because children in care in this facility type are similar to those children receiving care in group homes and foster family homes.

Section 86507

The Department reviewed existing standards from the General Licensing Regulations found in Title 22, Division 6, Article 2, and Section 80007, and Foster Family Homes, Title 22, Chapter 9.5, Article 2, and Section 89207. These regulations are necessary to clarify for crisis nurseries which facilities are exempted from licensure.

Section 86518

The Department reviewed existing standards from the General Licensing Regulations found in Title 22, Division 6, Article 3, and Section 80018, Group Home Regulations, Title 22, Division 6, Article 3, and Section 84018, and Foster Family Homes, Title 22, Chapter 9.5, Article 2, and Section 89218. These regulations are necessary to inform applicants of the process for and requirements to be met in order to successfully apply for a license.

Section 86519, et seq.

The Department reviewed existing standards found in the General Licensing Regulations Title 22, Division 6, Article 3, and Section 80019, and Foster Family Homes, Title 22, Chapter 9.5, Article 2, Section 89219. These regulations regarding criminal record clearance are necessary and applicable to crisis nurseries for the protection and safety of children in care.

Section 86519.1

The Department reviewed existing standards found in the General Licensing Regulations Title 22, Division 6, Article 3, and Section 80019.1, and Foster Family Homes, Title 22, Chapter 9.5, Article 3, and Section 89219.1. These regulations are necessary for clarity and consistency and to inform the applicant which crimes are exempted and the criteria the Department uses to grant criminal exemptions.

Section 86519.2

The Department reviewed existing standards found in the General Licensing Regulations Title 22, Division 6, Article 3, and Section 80019, and Foster Family Homes, Title 22, Chapter 9.5, Article 3, and Section 89219.2. These regulations are necessary for the protection and safety of children in care in crisis nurseries because it requires that the Department check the Child Abuse Registry before granting a license.

Section 86520

The Department reviewed existing standards found in the General Licensing Regulations Title 22, Division 6, Article 3, and Section 80020. These regulations are necessary for crisis nurseries for the protection, health, and safety of the children in care in this facility type, and inform licensees that they are required to secure and maintain an appropriate fire clearance.

Section 86522, et seq.

The Department reviewed existing standards found in the General Licensing Regulations Title 22, Division 6, Article 3, and Section 80022. These regulations are necessary to clarify that crisis nurseries are required to develop and follow a specific plan of operation.

Section 86523

The Department reviewed existing standards found in the Foster Family Homes, Title 22, Chapter 9.5, Article 3, and Section 89323. These regulations are necessary to clarify that licensees are required to develop and follow an emergency plan that includes safety measures for the protection, safety and health of the children in care in crisis nurseries.

Section 86524

The Department reviewed existing standards found in the General Licensing Regulations Title 22, Division 6, Article 3, and Section 80024, and Foster Family Homes, Title 22, Chapter 9.5, Article 2, and Section 89224. These regulations are necessary to inform crisis nurseries that the Department has the authority to waive or grant exemptions if the request demonstrates how the intent of the regulation will be met.

Section 86526

The Department reviewed existing standards found in the Foster Family Homes, Title 22, Chapter 9.5, Article 2, and Section 89226. These regulations are necessary to establish standards to safeguard a child's personal property and valuables.

Section 86527

The Department reviewed existing standards found in the General Licensing Regulations Title 22, Division 6, Article 3, and Section 80027. These regulations are necessary to clarify for the Department the process for reviewing an application and the procedure to follow if the application is incomplete or the licensee has had a prior license revoked.

Section 86528

The Department reviewed existing standards found in the General Licensing Regulations Title 22, Division 6, Article 3, and Section 80028, and Foster Family Homes, Title 22, Chapter 9.5, Article 2, and Section 89228. These regulations are necessary for the protection, safety, and health of the children in care in crisis nurseries because it establishes standards for issuing specific license capacity.

Section 86531, et seq.

The Department reviewed existing standards found in the General Licensing Regulations Title 22, Division 6, Article 3, and Section 80031. These regulations are necessary to clarify for the Department the time frames for approving or denying a crisis nurseries license or for issuing a provisional license.

Section 86531.1

The Department reviewed existing standards found in the Group Home Regulations Title 22, Division 6, Article 3, and Section 84031.1. These regulations are necessary to ensure that crisis nurseries are issued a provisional license for the first 12 months of operation, to allow the Department time to conduct a comprehensive compliance review of the crisis nursery.

Section 86531.2

The Department reviewed existing standards found in the Group Home Regulations Title 22, Division 6, Article 3, and Section 84031.2. These regulations are necessary to ensure that the Department gives written notice to the applicant as to whether or not the permanent license was approved.

Section 86534

The Department reviewed existing standards found in the General Licensing Regulations Title 22, Division 6, Article 3, and Section 80034. These regulations are necessary to ensure that crisis nurseries operate within substantial compliance and that a licensee understands under what conditions to submit a new application.

Section 86535

The Department reviewed existing standards found in the General Licensing Regulations Title 22, Division 6, Article 3, and Section 80035, and Foster Family Homes, Title 22, Chapter 9.5, Article 2, and Section 89235. These regulations are necessary to ensure that crisis nurseries operate within substantial compliance and that a licensee understands the conditions for forfeiture of a crisis nursery license.

Section 86540, et seq.

The Department reviewed existing standards found in the General Licensing Regulations Title 22, Division 6, Article 4, and Section 80040, and Foster Family Homes, Title 22, Chapter 9.5, Article 2, and Section 89240. These regulations are necessary to clearly explain that the Department has the authority to deny an initial license application and also to inform applicants of their right to appeal a denial.

Section 86542

The Department reviewed existing standards found in the General Licensing Regulations Title 22, Division 6, Article 4, and Section 80042, and Foster Family Homes Title 22, Chapter 9.5, Article 2, and Section 89242. These regulations are necessary for the protection and safety of the children in care in crisis nurseries and to clearly inform licensees the reasons and circumstances the Department may revoke or suspend a license.

Section 86544

The Department reviewed existing standards found in General Licensing Regulations Title 22, Division 6, Article 4, and Section 80044, and Foster Family Homes Title 22, Chapter 9.5, Article 2, and Section 89244. These regulations are necessary for the protection and safety of the children in care in crisis nurseries and to clearly inform licensees that the Department has the authority to inspect a crisis nursery at any time with or without advance notice to observe the physical condition of the children.

Section 86545

The Department reviewed existing standards found in General Licensing Regulations Title 22, Division 6, Article 4, and Section 80045, and Foster Family Homes Title 22, Chapter 9.5, Article 2, and Section 89245. These regulations are necessary for the protection and safety of the children in care in crisis nurseries and to clearly inform licensees that the Department has the authority to conduct evaluation visits of a crisis nursery to secure compliance or prevent a violation.

Section 86546

The Department reviewed existing standards found in the General Licensing Regulations Title 22, Division 6, Article 4, and Section 80046, and Foster Family Homes, Title 22, Chapter 9.5, Article 2, and Section 89246. These regulations are necessary for the protection and safety of the children in care in crisis nurseries and to clearly inform licensees that the Department has the authority to prohibit any person from being a member of the board of directors or employee of a crisis nursery if the person is engaged in any conduct specified in this regulation.

Section 86552

The Department reviewed existing standards found in the General Licensing Regulations Title 22, Division 6, Article 5, and Section 80052, and Foster Family Homes Title 22, Chapter 9.5, Article 2, and Section 89252. These regulations are necessary to establish standards for issuing notices of deficiencies.

Section 86553

The Department reviewed existing standards found in the General Licensing Regulations Title 22, Division 6, Article 5, and Section 80053. These regulations are necessary for the health and safety of the children in care in crisis nurseries, because they ensure that licensees who are found in violation become compliant with the plan of correction specified in the notice of deficiency and comport with applicable laws and regulations.

Section 86554

The Department reviewed existing standards found in the General Licensing Regulations Title 22, Division 6, Article 5, and Section 80054. These regulations are necessary to inform licensees that the department has the authority to establish the assessment of penalties for non-compliance.

Section 86555

The Department reviewed existing standards found in the General Licensing Regulations Title 22, Division 6, Article 5, and Section 80055. These regulations are necessary to establish standards for an administrative review process of any notice of deficiency or penalty while also informing licensees of their right to have the notice or penalty reviewed by the Department.

Section 86555.1

The Department reviewed existing standards found in the General Licensing Regulations Title 22, Division 6, Article 5, and Section 80055.1, and Foster Family Homes Title 22, Chapter 9.5, Article 2, and Section 89255.1. These regulations are necessary to establish the Department's authority to approve payment arrangements of civil penalties and to revoke a license if a licensee fails to pay civil penalties.

Section 86558

The Department reviewed existing standards found in the General Licensing Regulations Title 22, Division 6, Article 5, and Section 80058, and Foster Family Homes Title 22, Chapter 9.5, Article 2, and Section 89255. These regulations are necessary for the protection and safety of children in care in crisis nurseries and to establish standards for assessing civil penalties for unlicensed crisis nurseries. These regulations are necessary to inform licensees of the amount of civil penalties and method of payment.

Section 86559

The Department reviewed existing standards found in the General Licensing Regulations Title 22, Division 6, Article 5, and Section 80059, and Foster Family Homes Title 22, Chapter 9.5, Article 2, and Section 89256. These regulations are necessary to establish an appeal process for crisis nurseries cited for operating without a license.

Section 86561 et seq.

The Department reviewed existing standards found in the General Licensing Regulations Title 22, Division 6, Article 6, and Section 80061, and Foster Family Homes Title 22, Chapter 9.5, Article 3, and Section 89361. These regulations are necessary for the protection, safety, and health of children in care in crisis nurseries. These regulations establish reporting requirement standards that the licensee must provide to the Department if any one of the incidents described in this section should occur and also for reporting substantiated complaints.

Section 86562

The Department reviewed existing standards found in the General Licensing Regulations Title 22, Division 6, Article 6, and Section 80062. These regulations are necessary for the protection of children in care in crisis nurseries. These regulations require that the licensees show evidence of sufficient financial resources necessary to maintain the standards of service required herein.

Section 86563

The Department reviewed existing standards found in the General Licensing Regulations Title 22, Division 6, Article 6, and Section 80063. These regulations are necessary to clearly inform the members of the board of directors of their duties and responsibilities regarding the operation of a crisis nursery.

Section 86564, et seq.

The Department reviewed existing standards found in the General Licensing Regulations Title 22, Division 6, Article 6, and Section 80064. These regulations are necessary for the protection and safety of children in care in crisis nurseries, because these regulations establish modified staffing levels, minimum qualifications and education requirements for the administrator, and standards and training for the lead caregiver and caregiver staff.

Section 86565

The Department also reviewed existing standards found in Group Home Regulations Title 22, Division 6, Article 6, and Section 84065. These regulations are necessary for the protection, safety and health of children in care in crisis nurseries. These regulations inform licensees of specific trainings and education requirements necessary for persons supervising children in care in crisis nurseries.

Section 86565(f)

The Department also reviewed existing standards found in Child Care Centers, Division 12, Chapter 1, Article 6, and Section 101216.6, dealing with recreational activities for children in similar age groups at or near bodies of water. To be consistent with existing standards governing licensed facilities for children in similar age groups, and for the protection and safety of children in care in crisis nurseries, these regulations are necessary and applicable.

Section 86565.2

The Department reviewed existing standards found in the Group Homes Regulations Title 22, Division 6, Article 6, and Section 84065.2. These regulations are necessary for the protection, safety, and health of children in care in crisis nurseries, and to ensure that caregiver staff and volunteer staff of crisis nurseries perform the necessary duties to properly supervise the children in care.

Section 86566

The Department reviewed existing standards found in the General Licensing Regulations Title 22, Division 6, Article 6, and Section 80066, and Child Care Centers, Division 12, Chapter 1, Article 6, and Section 101217. The information required by these regulations is necessary for the protection and safety of children in care in crisis nurseries, because it allows the Department to easily verify caregiver staff's identifying information. These

regulations ensure that staff meet the experience, education and training requirements and are applicable and consistent with existing standards governing licensed facilities for children in similar age groups.

Section 86568.1

The Department reviewed existing standards found in Group Home Regulations Title 22, Division 6, Article 6, and Section 84068.1. These regulations are necessary for clarity and to ensure that crisis nursery staff obtains specific information necessary in assessing the needs of children during intake. These requirements are for the safety, health and protection of the children placed in crisis nurseries.

Section 86568.2

The Department reviewed existing standards found in Foster Family Homes Title 22, Chapter 9.5, Article 4, and Section 89468. These regulations are necessary for consistency and to clarify and ensure that an initial assessment plan is completed for each child placed in a crisis nursery in order to appropriately meet the child's needs.

Section 86568.4

The Department reviewed existing standards found in Group Home Regulations Title 22, Division 6, Article 6, and Section 84068.4. These regulations are necessary to clarify emergency circumstances under which a child may be removed or discharged from the care of crisis nurseries. This section also inform crisis nursery staff that the records of such children are to be maintained in the facility and made available for review by licensing staff upon request.

Section 86570

The Department reviewed existing standards found in the General Licensing Regulations Title 22, Division 6, Article 6, and Section 80070. These regulations are necessary for consistency and to meet the requirements that specify how children's records are to be maintained on each child in crisis nursery, what specific information each record shall contain to assist in the treatment and care of the child, and make the record accessible to the Department for review upon request.

Section 86572

The Department reviewed existing standards found in the General Licensing Regulations Title 22, Division 6, Article 6, and Section 80072, and Small Foster Homes Title 22, Division 6, Article 6, and Section 83072. These regulations are necessary to ensure that children in crisis nurseries are accorded their personal rights, receive a copy of those rights, and are treated with dignity.

Section 86572.1

The Department reviewed existing standards found in Small Foster Homes Title 22, Division 6, Article 6, and Section 83072.1. These regulations are necessary to clarify to licensees that they are required to develop and follow written discipline policies to avoid confusion for providers and licensing staff when disciplining children in care in crisis nurseries.

Section 86572.2

The Department reviewed existing standards found in Group Home Regulations Title 22, Division 6, Article 6, and Section 84072.2. These regulations are necessary to clarify that crisis nurseries are required to establish procedures for dealing with complaints.

Section 86574

The Department reviewed existing standards found in Foster Family Homes Title 22, Chapter 9.5, Article 3, and Section 89374, and Group Home Regulations Title 22, Division 6, Subchapter 2, Article 6, and Section 84274. These regulations are necessary for the protection and safety of children in crisis nursery care who may need to be transported to appointments and also to clearly inform licensees that all drivers must obey and comply with all applicable vehicle code laws.

Section 86575, et seq.

The Department reviewed existing standards found in the General Licensing Regulations Title 22, Division 6, Article 6, and Section 80075. These regulations are necessary for the protection and health of children in care in crisis nurseries to establish safety measures for protecting their health and ensuring that the children receive first aid services if needed, as well as medical and dental health care. These regulations also establish procedures for handling medication and disposing of unused prescription medication.

Section 86576, et seq.

The Department reviewed existing standards found in the General Licensing Regulations Title 22, Division 6, Article 6, and Section 80075. These regulations establish procedures for handling, preparing, and serving food and are necessary to ensure that crisis nurseries properly feed children in care. These requirements are for the safety, health and protection of the children placed in crisis nurseries.

Section 86577, et seq.

The Department reviewed existing standards found in Group Home Regulations Title 22, Division 6, Subchapter 2, Article 6, and Section 84277. These regulations are necessary to avoid confusion of providers and licensed staff as to the type of personal services specific to children under the age of six that are required be provided for each child.

These regulations are also necessary to establish procedures for maintaining proper hygiene for the protection and health of children in care in crisis nurseries. These requirements are for the safety, health and protection of the children placed in crisis nurseries.

Section 86578

The Department reviewed existing standards found in the General Licensing Regulations Title 22, Division 6, Article 6, and Section 80078. These regulations are necessary to clarify that crisis nurseries are responsible at all times for providing care and supervision of the children. These requirements are for the safety, health and protection of the children placed in crisis nurseries.

Section 86578.1

The Department reviewed existing standards found in Group Home Regulations Title 22, Division 6, Subchapter 2, Article 6, and Section 84278.1. These regulations are necessary to clarify that crisis nurseries are responsible for ensuring that staff use universal health precautions and preventive sanitation practices to protect the health of children in care. These regulations establish hygiene standards that are applicable for crisis nurseries.

Section 86579

The Department reviewed existing standards found in Group Home Regulations Title 22, Division 6, Subchapter 2, Article 6, and Section 84279. These regulations are necessary to clarify that licensees provide planned activities designed to meet the physical, cognitive, social, and emotional needs of the children in care. These requirements are for the safety and health of the children placed in crisis nurseries.

Section 86586

The Department reviewed existing standards found in the General Licensing Regulations Title 22, Division 6, Article 7, and Section 80086. These regulations are necessary to clarify that crisis nurseries are required to inform the Department of any construction or alterations to the building where the crisis nursery is housed and of the importance of obtaining the appropriate building permits.

Section 86587

The Department reviewed existing standards found in the General Licensing Regulations Title 22, Division 6, Article 7, and Section 80087. These regulations are necessary to clarify that crisis nurseries are responsible for ensuring that the buildings and grounds are safe and secure for the children in care.

Section 86587.1

The Department reviewed existing standards found in Small Foster Homes Title 22, Division 6, Article 7, and Section 83087.2, and Foster Family Homes, Title 22, Chapter 9.5, Article 3, and Section 89387.1. These regulations clarify for crisis nurseries that they are responsible for providing children safe and secure outdoor space for outside activity. These requirements are for the physical and well-being of children placed in crisis nurseries.

Section 86587.2

The Department reviewed existing standards found in Group Home Regulations Title 22, Division 6, Subchapter 2, Article 6, and Section 84287.3. These regulations clearly inform licensees of their duty to provide indoor activity space for children in their care, as well as providing age-appropriate toys and activities. These requirements are for the safety, health and protection of the children placed in crisis nurseries.

Section 86588

The Department reviewed existing standards found in the General Licensing Regulations Title 22, Division 6, Article 7, and Section 80088. These regulations clearly establish physical living standards for the physical comfort and well-being of the children in care. These requirements are for the safety, health and protection of the children in crisis nurseries.

2nd 15-Day Renotice Statement

Pursuant to Government Code Section 11346.8, a 2nd 15-day renotice and complete text of modifications made to the regulations were made available to the public following the 1st 15-Day Renotice from October 22, 2007 to November 6, 2007.

As a result of the 2nd 15-Day Renotice, comments were received from the Youth Law Center (YLC). The Youth Law Center's comments and the Department's responses follow numerically.

Section 86501.5

Comment:

YLC commented, "Delete the revision date after each form or change text of regulation where each form is cited to indicate that a revised form or other form approved by the Department may be used.

"If the Licensing Forms (LICs) are going to be included in the definitions, the revision dates should be deleted or the substantive text where each form is referenced should be revised to add-"or any subsequent revision". Otherwise the regulations will need to be changed every time a form needs to be revised. Revisions to the forms may need to happen in the absence of legislative changes relating to crisis nurseries.(e.g. a federal law change regarding the form of consent needed to access consumer credit records)."

Response:

The revision dates for the forms listed in Section 86501.5 are necessary to clarify that the forms are the most updated forms available to the public and necessary to comply with California Code of Regulations, Title 1, Section 20(c). No change was made to the proposed regulations based on this comment.

Section 86507(b)(2)

Comment:

YLC commented, "Delete subsection (b). It's a little confusing to have exemptions from the crisis nursery category of types of care that are already outside the scope of the definition of crisis nursery. For example (b)(2) seems to require a FFA foster family home housing a child under age 6 to comply with the crisis nursery regulations."

Response:

The requirements in Section 86507(b) are necessary to clarify the types of facilities or situations that are exempt from licensure and not subject to licensing standards as proposed by this chapter. No change was made to the proposed regulations based on this comment.

Section 86521(a)(2)

Comment:

YLC commented, "Delete "children's safety" and insert "safety of the water source" Should the private water source be checked as frequently as necessary to ensure the safety of the water rather than to ensure children's safety?"

Response:

In response to the comment related to Section 86521(a)(2), the regulation requires licensees to test their water source and to provide evidence of the testing to ensure safety of children in care. Making the suggested change would not add additional protections for children in care that are not already specified. No change was made to the proposed regulations based on this comment.

Handbook Section 86561(e)(2)(D)

Comment:

YLC commented, "Keep in handbook subsection (d) of 1538.5 regarding penalty for violation. The regulation handbook section that quotes statute should keep in the penalty for violating the provision when it is relevant."

Response:

The changes in the proposed regulations were not made as a result of the second 15-day renote and are, therefore, outside the scope of this comment period. No change was made to the proposed regulation based on this comment.

Section 86561(i)

Comment:

YLC commented, "Add (i). Each crisis nursery that accepts children placed directly by a county child welfare services agency shall annually provide a summary report to the Department that indicates the total number of children placed directly by a county child welfare services agency, the length of stay and age for each child, the average length of stay for all of the children placed directly by the county, and the reasons given by the county for the use of the crisis nursery for each child placed. The regulations should reflect the changes required by SB 104."

Response:

In response to the comment regarding the reporting requirements specified in SB 104 which will become law on January 1, 2008, these provisions are self executing. Regulations implement, interpret, or make specific the law; since these provisions are self executing no change to the proposed regulations are required.

Section 86565(e) and (f)

Comment:

YLC commented, "Retain the former (e)(2) or change (f) to require ratio of 1:2 for water safety certified for all children, not just infants."

"The deletion of the language regarding the need to have water rescue ability and the inclusion of the water safety certified personnel at 1:2 ratio for infants and 1:6 infants suggests that 6 toddlers could be safely supervised by one water safety certified person and one non-swimmer near a pool, ocean, river or lake. For this age group a greater level of supervision is required when in bodies of water and other potentially dangerous activities. Ideally staffing should be 1:1 but must at least be 1:2."

Response:

The changes in the proposed regulations were not made as a result of the second 15-day renote and are, therefore, outside the scope of this comment period. No change was made to the proposed regulation based on this comment.

Section 86565(w)(1)(C)

Comment:

YLC commented, "Add (3) the plan of operation, including the plans to reduce stress resulting from transfer trauma and ensure consistency and continuity of care to children.

"Volunteer initial 8 hour training. The two hour block regarding the crisis nursery program should specifically include the plan of operation sections dealing with the care of the child including:..[N]ecessary steps to be taken to reduce stress to the child(ren) that may result in transfer trauma, such as admission and discharge, and changes in staffing patterns and the policies and procedures that ensure consistency and continuity of care to children under the age of 3 by minimizing the number of different caregivers or volunteers who would provide care and supervision."

Response:

The changes in the proposed regulations were not made as a result of the second 15-day renote and are, therefore, outside the scope of this comment period. However, the concerns raised in this comment are addressed in the intake procedures. There is no change to the proposed regulations based on this comment.

Section 86568.1(c)

Comment:

YLC commented, "Add new (c). Prior to accepting placement of a child by a county child welfare agency the crisis nursery shall obtain from the agency the reason for the selection of the crisis nursery as the placement choice as required by Health & Safety [Code] section 1516(g)(3). The regulations should reflect the changes required by SB 104."

Response:

The changes in the proposed regulations were not made as a result of the second 15-day renote and are, therefore, outside the scope of this comment period. No change was made to the proposed regulations based on this comment.

Section 86568.2(a)

Comment:

YLC commented, "Add (6) or at end (8) for county placed children, the reason for the crisis nursery as the placement choice. The regulations should reflect the changes required by SB 104."

Response:

In response to the comment regarding the county's obligation to inform the crisis nursery of the selection of the crisis nursery as the placement choice specified in SB 104 which will become law on January 1, 2008, these provisions are self executing. Regulations implement, interpret, or make specific the law; since these provisions are self executing no change to the proposed regulations are required.

Section 86572(a)(14)

Comment:

YLC commented, "Revise (14) to read as follows:

"[M]ake and receive confidential phone calls unless prohibited by court order, or, in the case of a child voluntarily placed by the parent, prohibited by the parent.

"(A) Reasonable restrictions may be imposed regarding the time, place and manner of calls.

"The regulations do not clarify the rights in the context of children under age 6. For county placed children must keep the basic foster care bill of rights but should adjust to make sense for the under 6 population."

Response:

In response to the comment regarding the county's obligation to inform the crisis nursery of the selection of the crisis nursery as the placement choice specified in SB 104 which will become law on January 1, 2008, these provisions are self executing. Regulations implement, interpret, or make specific the law; since these provisions are self executing no change to the proposed regulations are required.

Section 86572(a)(18)

Comment:

YLC commented, "Revise (18). Add (F) Restraining devices do not include high chairs, feeding tables, cribs, carriers, or car seats. Should clarify whether high chairs, cribs,

strollers, carriers, car seats are restraining devices and whether they must be cleared in advanced by Department. Section 86574 , transportation, requires use of restraint devices in vehicles."

Response:

The changes in the proposed regulations were not made as a result of this second 15-day renote and are, therefore, outside the scope of this comment period. However, in response to the comment regarding Section 86574, the regulation requires licensees to ensure that when children are being transported in vehicles, they are safely secured in accordance with the California Vehicle Code. No change was made to the proposed regulations based on this comment.

The changes in the proposed regulations were not made as a result of this second 15-day renote and are, therefore, outside the scope of this comment period. However, in response to the comment regarding Section 86574, the regulation requires licensees to ensure that when children are being transported in vehicles, they are safely secured in accordance with the California Vehicle Code. No change was made to the proposed regulations based on this comment.

At the Department's discretion, additional non-substantive grammatical and editorial changes are made following the 2nd 15-day renote period for clarity and consistency.