

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



January 31, 2002

Regulation Packages #1200-24

CDSS MANUAL LETTER NO. CCL-01-19

TO: HOLDERS OF THE COMMUNITY CARE LICENSING MANUAL, TITLE 22, DIVISION 12,
CHAPTER 3, FAMILY CHILD CARE HOMES

Regulation Package #1200-24**Effective 7/27/01****Section 102395 and 10402.1.**

Senate Bill 933 (Chapter 311, Statutes of 1998) and AB 1659 (Chapter 881, Statutes of 1999) required that prior to an individual's presence or employment in a community care facility, a residential care facility for the elderly, a residential care facility for the chronically ill, or a child care facility, the individual have fingerprints submitted for purposes of a criminal background check. The Statutes provide for the imposition of an immediate civil penalty of \$100 per violation on a licensee who permits a person to be present in a facility who violates this requirement. These regulations implement this legislative requirement. It is necessary for the department to place clear criteria and procedures for the implementation of these civil penalties into regulation.

These regulations were considered at the Department's public hearing held on May 16, 2001.

FILING INSTRUCTIONS

Revisions to all manuals are shown in graphic screen. The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Community Care Licensing changes was Manual Letter No. CCL-01-18. The latest prior manual letter Family Child Care Homes changes was Manual Letter No. CCL-00-26.

Page(s)

1 and 2
29.1 and 29.2
32 and 33
33.1

Replace(s)

Pages 1 and 2
Pages 29.1 and 29.2
Pages 32 and 33
Insert after page 33

Attachment

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FAMILY CHILD CARE HOMES

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102395 PENALTIES**102395**

- (a) An immediate penalty of \$100 per cited violation shall be assessed for the following:
- (1) Failure to submit fingerprints on any individual required to be fingerprinted under Health and Safety Code Section 1596.871 prior to the person's employment, residence or presence in the facility.
 - (2) Failure to provide a copy of the "Addendum to Notification of Parent's Rights Regarding Exclusion" of an individual from the home, to one parent or authorized representative of every child in care.
 - (A) The requirement to provide a copy shall include the parent of each new child enrolled as long as the exclusion is in effect.
 - (B) The copy shall be provided on the next day that the child receives care.
 - (3) Failure to provide a copy of the "Addendum to Notification of Parent's Rights Regarding Reinstatement" permitting an individual to return to the home, to every parent or authorized representative who received a copy of the "Addendum to Notification of Parent's Rights Regarding Exclusion" and whose child is still in care.
 - (4) Failure to obtain, and keep in the home, a parent's or authorized representative's signature indicating that he/she has been provided with each Addendum.
 - (A) This section shall be cited only if there is evidence that the parent or authorized representative was notified, but a signature was not obtained or was not maintained.
 - (5) Failure to provide signed addenda to the Department, when requested.
- (b) For purposes of Sections 102395(a)(2), (3) and (4) above, a violation shall be cited for each parent or authorized representative that has not been notified or has not signed the form acknowledging receipt of the notice.

HANDBOOK BEGINS HERE

For example:

If a home has 5 children from 5 different families enrolled and records indicate that the parents of 4 of the children have been notified, that will be one violation.

If a home has 5 children from 4 different families enrolled and records indicate that at least one parent of each of the children has been notified (4 parents), there is no violation.

HANDBOOK ENDS HERE

- (c) Progressive civil penalties specified in Health and Safety Code Section 1569.99 shall not apply to penalties assessed for violation of Sections 102395(a)(1) through (5) above.
- (d) Unless otherwise provided, all penalties are due and payable upon receipt of notice for payment, and shall be paid only by check or money order made payable to the agency indicated in the notice.

NOTE: Authority cited: Sections 1596.81 and 1596.8712(g), Health and Safety Code Reference: Sections 1596.871, 1596.8712(d) and 1596.99, Health and Safety Code.

102402 REVOCATION OR SUSPENSION OF A LICENSE OR REGISTRATION 102402

- (a) The Department shall have the authority to suspend or revoke any license for the following reasons:
- (1) Violation by the licensee of any of the laws, rules and regulations governing family **child** care homes.
 - (2) Aiding, abetting, or permitting the violation of any of the laws, rules and regulations governing family **child** care homes.
 - (3) Conduct in the operation or maintenance of a family day care home which is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility or the people of the State of California.
 - (4) The conviction of a licensee, or other person specified in Section 102369(b)(8), at any time during licensure, of a crime as defined in Sections 102370(b) and (c).
 - (5) Failure to comply with the requirements for training in preventive health practices, including pediatric cardiopulmonary resuscitation and pediatric first aid, as specified in Health and Safety Code Section 1596.866.
- (b) The Director may temporarily suspend any license prior to any hearing when, in the opinion of the Director, the action is necessary to protect any child in a family **child** care home from physical or mental abuse, abandonment or any other substantial threat to health or safety.
- (c) The Director shall notify the licensee of the temporary suspension and the effective date thereof and at the same time shall serve the provider with an accusation.
- (1) Upon receipt of a notice of defense to the accusation by the licensee, the Director shall, within 15 days, set the matter for hearing, and the hearing shall be held as soon as possible, but no later than 30 days after receipt of the notice.

102402 REVOCATION OR SUSPENSION OF A LICENSE OR REGISTRATION 102402
(Continued)

- (d) The temporary suspension shall remain in effect until such time as the hearing is completed and the Director has made a final determination on the merits.
- (1) The temporary suspension shall be deemed vacated if the Director fails to make a final determination of the merits within 30 days after the original hearing has been completed.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.885 and 1596.886, Health and Safety Code.

102402.1 DENIAL OR REVOCATION OF LICENSE FOR FAILURE TO PAY CIVIL PENALTIES 102402.1

- (a) The licensee shall be responsible for paying civil penalties.
- (1) Unless otherwise provided, the transfer, surrender, forfeiture or revocation of a license shall not affect the licensee's responsibility for paying any civil penalties accrued while the license was in effect.
- (b) The Department shall have the authority to deny or revoke any license for failure to pay civil penalty assessments.
- (1) The Department shall have the authority to approve payment arrangements acceptable to the Department.
- (2) The Department shall have the authority to approve the form of payment.
- (3) The licensee's failure to pay civil penalty assessments pursuant to a payment plan approved by the Department may result in the denial or revocation of any license, and/or any other appropriate action.
- (c) Any Denial or revocation of the license for failure to pay civil penalties may be appealed as provided by Health and Safety Code Section 1596.887.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.871 and 1596.99, Health and Safety Code.

102403	LICENSEE COMPLAINTS	102403
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- (a) Each licensee shall have the right, without prejudice or risk of discriminatory treatment by the Department, to bring to the attention of the Department any action or behavior by the departmental representative that he/she believes is a wrongful application of these regulations, or capricious enforcement of them.
- (b) The licensee shall have the right to complain to the Department regarding a review of any disputed issues.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.81(b) and 1597.56, Health and Safety Code.

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