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Regulation Package #0511-02

CDSS MANUAL LETTER NO. CCL-12-01

TO: HOLDERS OF THE COMMUNITY CARE LICENSING MANUAL,
TITLE 22, DIVISION 6, CHAPTER 1, GENERAL LICENSING
REQUIREMENTS

Regulation Package #0511-02

Effective 3/7/2012

Sections 80001 and 80075

This manual letter has been posted on the Office of Regulations Development website at <http://www.dss.cahwnet.gov/ord/PG643.htm>.

These regulations make specific provisions of the law [Health and Safety Code (H&SC) and Welfare and Institutions Code (W&IC)] that permit a child to remain in foster care past age 18 under certain conditions. Currently, law allows:

- A youth who, prior to turning 18, is in foster care and attending high school or the equivalent level of vocational or technical training on a full-time basis or pursuing a high school equivalency certificate may continue to remain in foster care and receive Aid to Families with Dependent Children-Foster Care (AFDC-FC) benefits until age 19 if he or she is expected to complete full-time education or training or receive a high school equivalency certificate by that age (W&IC section 11403).
- A youth with special health care needs or a developmental disability may remain in foster care after he or she turns 18 if he or she resides in a licensed foster family home, small family home, group home, or certified family home, is completing a publicly funded education program, and expected to complete the program by age 22, and there is agreement by all parties involved that foster care continue (H&SC section 1507.2; W&IC sections 17710 and 17732.1).

These regulations were considered at the Department's public hearings held on September 14, 2011.

FILING INSTRUCTIONS

Revisions to all manuals are indicated by a vertical line in the left margin. 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-11-01. The latest prior manual letter containing General Licensing Requirements regulation changes was Manual Letter No. CCL-09-04.

Page(s)

6 through 11

23 and 24

127 through 129.1

Replace(s)

6 through 11

23 and 24

127 through 129.1

Attachments

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CHAPTER 1 -- GENERAL LICENSING REQUIREMENTS**Article 1. GENERAL DEFINITIONS****80000****GENERAL****80000**

- (a) The general regulations in this chapter shall apply to all community care facilities regulated by Division 6, Chapters 2, 4, through 7, and Chapter 9, except where specifically exempted. Additional or special requirements found in the corresponding chapters pertaining to each category shall apply only to such individual facility categories.
- (b) The licensee shall ensure compliance with all applicable law and regulations.
- (c) Repealed by Manual Letter No. CCL-91-26, effective 5/28/91.
- (d) Repealed by Manual Letter No. CCL-91-26, effective 5/28/91.
- (e) Repealed by Manual Letter No. CCL-91-26, effective 5/28/91.
- (f) Repealed by Manual Letter No. CCL-91-01, effective 1/9/91.
- (g) Repealed by Manual Letter No. CCL-91-01, effective 1/9/91.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 5453 and 5458, Welfare and Institutions Code; Sections 1501, 1502, 1502(a)(7), 1530 and 1531, Health and Safety Code.

80001 DEFINITIONS**80001**

The following general definitions shall apply wherever the terms are used throughout Division 6, Chapters 1 through 1, 2, 4 through 7, 8.8, and 9, except where specifically noted otherwise. Additional definitions found at the beginning of each chapter in this division shall apply only to such specific facility category.

- (a) (1) "Activities of Daily Living" (ADLs) mean the following six activities:
- (A) Bathing: Cleaning the body using a tub, shower or sponge bath, including getting a basin of water, managing faucets, getting in and out of tub or shower, reaching head and body parts for soaping, rinsing and drying.
 - (B) Dressing: Putting on and taking off, fastening and unfastening garments and undergarments and special devices such as back or leg braces, corsets, elastic stockings/garments and artificial limbs or splints.
 - (C) Toileting: Getting on and off a toilet or commode, emptying a commode, managing clothes, wiping and cleaning the body after toileting, and using and emptying a bedpan and urinal.
 - (D) Transferring: Moving from one sitting or lying position to another sitting or lying position (e.g., from bed to or from a wheelchair, or sofa, coming to a standing position and/or repositioning to promote circulation and to prevent skin breakdown).
 - (E) Continence: Ability to control bowel and bladder as well as to use ostomy and/or catheter receptacles, and to apply diapers and disposable barrier pads.
 - (F) Eating: Reaching for, picking up, grasping a utensil and cup; getting food on a utensil; bringing food, utensil, and cup to mouth; manipulating food on plate; and cleaning face and hands as necessary following meal.

HANDBOOK BEGINS HERE

See also the definition of "Client Who Relies Upon Others to Perform All Activities of Daily Living" in Section 80001c.(7).

HANDBOOK ENDS HERE

- (2) "Administrator" means the licensee, or the adult designated by the licensee to act in his/her behalf in the overall management of the facility.
- (3) "Adult" means a person who is 18 years of age or older.
- (4) "Adult Community Care Facility" (Adult CCF) means adult residential facilities (ARF) and social rehabilitation facilities (SFR).

80001 DEFINITIONS (Continued)**80001**

- (5) "Adult Residential Facility" means any facility of any capacity that provides 24-hour-a-day nonmedical care and supervision to the following:
- (A) persons 18 years of age through 59 years of age; and
 - (B) persons 60 years of age and older only in accordance with Section 85068.4.
- (6) "Applicant" means any individual, firm, partnership, association, corporation, county, city, public agency or other government entity that has made application for community care facility license, administrator certificate, or special permit.
- (7) "Authorized Representative" means any person or entity authorized by law to act on behalf of any client. Such person or entity may include but not be limited to a minor's parent, a legal guardian, a conservator or a public placement agency.
- (8) "Automated External Defibrillator" (AED) means a light-weight, portable device used to administer an electric shock through the chest wall to the heart. Built-in computers assess the patient's heart rhythm, determine whether defibrillation (electrical shock) is needed and then administer the shock. Audible and/or visual prompts guide the user through the process.
- (b) (1) "Basic Rate" means the rate charged by a facility to provide basic services. For SSI/SSP recipients, the basic rate means the established nonmedical out-of-home care rate which includes any exempt income allowance but does not include that amount allocated for the recipient's personal and incidental needs.
- (2) "Basic Services" means those services required by applicable law and regulation to be provided by the licensee in order to obtain and maintain a community care facility license.
- (c) (1) "California Clearance" means an individual has no felony or misdemeanor convictions reported by the California Department of Justice. However, the individual may have been arrested with no criminal conviction, convicted of a minor traffic offense or adjudicated as a juvenile.
- (2) "Capacity" means the maximum number of persons authorized to be provided care and supervision at any one time in any licensed facility.

80001 **DEFINITIONS** (Continued)**80001**

- (3) "Care and Supervision" means any one or more of the following activities provided by a person or facility to meet the needs of the clients:
- (A) Assistance in dressing, grooming, bathing and other personal hygiene.
 - (B) Assistance with taking medication, as specified in Section 80075.
 - (C) Central storing and/or distribution of medications, as specified in Section 80075.
 - (D) Arrangement of and assistance with medical and dental care.
 - (E) Maintenance of house rules for the protection of clients.
 - (F) Supervision of client schedules and activities.
 - (G) Maintenance and/or supervision of client cash resources or property.
 - (H) Monitoring food intake or special diets.
 - (I) Providing basic services as defined in Section 80001b.(2).
- (4) "Cash Resources" means:
- (A) Monetary gifts.
 - (B) Tax credits and/or refunds.
 - (C) Earnings from employment or workshops.
 - (D) Personal and incidental need allowances from funding sources including but not limited to SSI/SSP.
 - (E) Allowances paid to children.
 - (F) Any other similar resources as determined by the licensing agency.
- (5) "Certified administrator" means an administrator who has been issued a group home or adult residential facility certificate by the Department and whose certificate is current.

80001 DEFINITIONS (Continued)**80001**

- (6) "Child Abuse Central Index" means the California Department of Justice maintained statewide, multi-jurisdictional, centralized index of child abuse investigation reports. These reports pertain to alleged incidents of physical abuse, sexual abuse, mental/emotional abuse and/or severe neglect. Each child protection agency (police, sheriff, county welfare and probation departments) is required by law to forward to the California Department of Justice a report of every child abuse incident it investigates, unless an incident is determined to be unfounded.
- (7) "Child Abuse Central Index Clearance" means that the California Department of Justice has conducted a name search of the index and the search did not result in a match or the search resulted in a match but the California Department of Social Services determined after an investigation that the allegation of child abuse or neglect was not substantiated.
- (8) "Child Care Center" means any facility of any capacity other than a family day care home as defined in Section 102352f.(1) in which less than 24-hour per day nonmedical supervision is provided for children in a group setting.
- (9) "Client" means a child or adult who is receiving care and supervision in a community care facility. Client includes "resident" as used in the Community Care Facility Act.
- (10) "Client Who Relies Upon Others To Perform All Activities of Daily Living" means a client who is unable to perform all six activities of daily living without physical assistance.

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(See also the definition of Activities of Daily Living in Section 80001a(1).)

HANDBOOK ENDS HERE

- (11) Close friend. "Close friend" means a person who is attached to another by feelings of personal regard as indicated by both parties involved.
- (12) "Community Care Facility" means any facility, place or building where nonmedical care and supervision, as defined in Section 80001c.(2) are provided.
- (13) "Community Treatment Facility" means any residential facility that provides mental health treatment services to children in a group setting which has the capacity to provide secure containment. The facility's program components shall be subject to program standards developed and enforced by the State Department of Mental Health pursuant to Section 4094 of the Welfare and Institutions Code.

80001 DEFINITIONS (Continued)

80001

- (14) "Completed Application" means:
- (A) The applicant has submitted and the licensing agency has received all required materials including: an approved fire clearance, if appropriate, from the State Fire Marshal; a criminal record clearance on the applicant and any other individuals specified in Section 80019.
 - (B) The licensing agency has completed a site visit to the facility.
- (15) "Conservator" means a person appointed by the Superior Court pursuant to the provisions of Section 1800 et seq. of the Probate Code or Section 5350 of the Welfare and Institutions Code, to care for the person, or estate, or person and estate, of another.
- (16) "Consultant" means a person professionally qualified by training or experience to provide expert information on a particular subject.
- (17) "Control of Property" means the right to enter, occupy, and maintain the operation of the facility property within regulatory requirements. Evidence of control of property may include, but is not limited to the following:
- (A) a Grant Deed showing ownership; or
 - (B) the lease agreement or rental agreement; or
 - (C) a court order or similar document which shows the authority to control the property pending outcome of a probate proceeding or an estate settlement.
- (18) "Conviction" means:
- (A) A criminal conviction in California; or
 - (B) Any criminal conviction of another state, federal, military or other jurisdiction, which if committed or attempted in California, would have been punishable as a crime in California.
- (19) "Criminal Record Clearance" means an individual has a California clearance and an FBI clearance.
- (d) (1) "Day" means calendar day unless otherwise specified.

80001 **DEFINITIONS** (Continued)**80001**

(v) (Reserved)

(w) (1) "Waiver" means a nontransferable written authorization issued by the licensing agency to use alternative means which meet the intent of a specific regulation and which are based on a facility-wide need or circumstance.

(2) Repealed by Manual Letter No. 98-05, effective 10/1/98.

(x) (Reserved)

(y) (Reserved)

(z) (Reserved)

NOTE: Authority cited: Sections 1502, 1522.41(j), 1524(e), 1530, and 1530.9, Health and Safety Code. Reference: Sections 1501, 1502, 1502(a)(7) and (8), 1502.5, 1503, 1503.5, 1505, 1507, 1508, 1509, 1511, 1520, 1522, 1524, 1524(e), 1525, 1525.5, 1526, 1527, 1530, 1530.5, 1531, 1531.1, 1533, 1534, 1536.1, 1537, 1538.5, 1550, 1551, 1556, 1569.699(a), 1797.196, and 11834.11, Health and Safety Code; Sections 5453, 5458, 11006.9, and 17736(a) and (b), Welfare and Institutions Code; 29 CFR 1910.1030; and Joint Stipulation and Order for Settlement in the matter of *California Association of Mental Health Patients' Rights Advocates v. Cliff Allenby, et al.*, Santa Clara County Superior Court, No. 106-CV061397, issued November 14, 2008.

Article 2. LICENSE**80005 LICENSE REQUIRED****80005**

- (a) Unless a facility is exempt from licensure as specified in Section 80007, no adult, firm, partnership, association, corporation, county, city, public agency or other governmental entity shall operate, establish, manage, conduct or maintain a community care facility, or hold out, advertise or represent by any means to do so, without first obtaining a current valid license from the licensing agency.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1505, 1508, 1509, 1513 and 1531, Health and Safety Code.

80006 OPERATION WITHOUT A LICENSE**80006**

- (a) An unlicensed facility as defined in Section 80001u.(2), is in violation of Sections 1503.5 and/or 1508 of the Health and Safety Code unless exempted from licensure pursuant to Section 80007.
- (b) If the facility is alleged to be in violation of Sections 1503.5 and/or 1508 of the Health and Safety Code, the licensing agency shall conduct a site visit and/or evaluation of the facility pursuant to Health and Safety Code Section 1538.

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- (1) Health and Safety Code Section 1538(c) provides in part:

Upon receipt of a complaint, other than a complaint alleging denial of a statutory right of access to a community care facility, the state department shall make a preliminary review and, unless the state department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, it shall make an onsite inspection within 10 days after receiving the complaint, except where a visit would adversely affect the licensing investigation or the investigation of other agencies. In either event, the complainant shall be promptly informed of the state department's proposed course of action.

HANDBOOK ENDS HERE

- (c) If the facility is operating without a license, the licensing agency shall issue a notice of operation in violation of law and shall refer the case for criminal prosecution and/or civil proceedings.
- (d) The licensing agency shall have the authority to issue an immediate civil penalty pursuant to Section 80058 and Section 1547 of the Health and Safety Code.

80075 HEALTH-RELATED SERVICES (Continued)**80075**

- (F) Plastic tubing from the nasal canula (mask) to the oxygen source is long enough to allow the client movement within his/her room but does not constitute a hazard to the client or others.
 - (G) Clients use oxygen from a portable source when they are outside of their rooms or when walking in a day care setting.
 - (H) Equipment is operable.
 - (I) Facility staff have knowledge and ability to operate and care for the oxygen equipment.
 - (J) Equipment is removed from the facility when no longer in use by the client.
- | (f) Staff responsible for providing direct care and supervision shall receive training in first aid from persons qualified by agencies including but not limited to the American Red Cross.
- | (g) If the facility has no medical unit on the grounds, first aid supplies shall be maintained and be readily available in a central location in the facility.
- (1) The supplies shall include at least the following:
 - (A) A current edition of a first aid manual approved by the American Red Cross, the American Medical Association or a state or federal health agency.
 - (B) Sterile first aid dressings.
 - (C) Bandages or roller bandages.
 - (D) Adhesive tape.
 - (E) Scissors.
 - (F) Tweezers.
 - (G) Thermometers.
 - (H) Antiseptic solution.
- | (h) There shall be at least one person capable of and responsible for communicating with emergency personnel in the facility at all times. The following information shall be readily available:

80075 HEALTH-RELATED SERVICES (Continued)**80075**

- (1) The name, address and telephone number of each client's physician and dentist, and other medical and mental health providers, if any.
- (2) The name, address and telephone number of each emergency agency, including but not limited to the fire department, crisis center or paramedical unit. There shall be at least one medical resource available to be called at all times.
- (3) The name and telephone number of an ambulance service.

HANDBOOK BEGINS HERE

- (4) It is recommended that the licensee obtain consent forms to permit the authorization of medical care.

HANDBOOK ENDS HERE

- (i) When a client requires prosthetic devices, or vision or hearing aids, the staff shall be familiar with the use of these devices and aids and shall assist the client with their utilization as needed.
- (j) Medications shall be centrally stored under the following circumstances:
 - (1) Preservation of the medication requires refrigeration.
 - (2) Any medication determined by the physician to be hazardous if kept in the personal possession of the client for whom it was prescribed.
 - (3) Because of physical arrangements and the condition or the habits of persons in the facility, the medications are determined by either the administrator or by the licensing agency to be a safety hazard.
- (k) The following requirements shall apply to medications which are centrally stored:
 - (1) Medication shall be kept in a safe and locked place that is not accessible to persons other than employees responsible for the supervision of the centrally stored medication.
 - (2) Each container shall identify the items specified in (7)(A) through (G) below.
 - (3) All medications shall be labeled and maintained in compliance with label instructions and state and federal laws.
 - (4) No person other than the dispensing pharmacist shall alter a prescription label.

80075 HEALTH-RELATED SERVICES (Continued)**80075**

- (5) Each client's medication shall be stored in its originally received container.
- (6) No medications shall be transferred between containers.
- (7) The licensee shall ensure the maintenance, for each client, of a record of centrally stored prescription medications which is retained for at least one year and includes the following:
 - (A) The name of the client for whom prescribed.
 - (B) The name of the prescribing physician.
 - (C) The drug name, strength and quantity.
 - (D) The date filled.
 - (E) The prescription number and the name of the issuing pharmacy.
 - (F) Expiration date.
 - (G) Number of refills.
 - (H) Instructions, if any, regarding control and custody of the medication.

(I) Prescription medications which are not taken with the client upon termination of services, or which are not to be retained shall be destroyed by the facility administrator, or a designated substitute, and one other adult who is not a client.

- (1) Both shall sign a record, to be retained for at least one year, which lists the following:
 - (A) Name of the client.
 - (B) The prescription number and the name of the pharmacy.
 - (C) The drug name, strength and quantity destroyed.
 - (D) The date of destruction.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507, 1530 and 1531, Health and Safety Code.

80075.1 AUTOMATED EXTERNAL DEFIBRILLATORS (AEDS)**80075.1**

- (a) In an adult community care facility, a licensee is permitted to maintain and operate an AED at the facility if all of the following requirements are met:
- (1) The licensee shall notify the licensing agency in writing that an AED is in the facility and will be used in accordance with all applicable federal and other state requirements.
 - (2) The AED shall be used in accordance with all applicable federal and other state requirements.
 - (3) The licensee shall maintain at the facility the following:
 - (A) A copy of the required physician's prescription for the AED.
 - (B) A training manual from an American Heart Association- or American Red Cross-recognized AED training class.
 - (C) A log of checks of operation of the AED containing the dates checked and the name of person checking.
 - (D) A copy of a valid AED operator's certificate for any employee(s) authorized by the licensee to operate the AED. The certificate shall indicate that the AED training course completed complies with the standards of the American Heart Association or the American Red Cross. If it does not, then other evidence indicating that the AED training course completed complies with the standards of the American Heart Association or the American Red Cross shall be available at the facility.
 - (E) A log of quarterly proficiency demonstrations for each holder of an AED operator's certificate who is authorized by the licensee to operate the AED. The log shall contain the dates of the demonstrations and the manner of demonstration.