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Regulation Package # 0511-02

CDSS MANUAL LETTER NO. CCL-12-03

TO: HOLDERS OF THE COMMUNITY CARE LICENSING MANUAL,
TITLE 22, DIVISION 6, CHAPTER 5, GROUP HOMES

Regulation Package # 0511-02

Effective 3/7/2012

Sections 84001 and 84061

This manual letter has been posted on the Office of Regulations Development website at <http://www.dss.cahwnet.gov/ord/PG644.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-12-02. The latest prior manual letter containing Group Home regulation changes was Manual Letter No. CCL-10-09.

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Replace(s)
8 through 14.1
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Attachments

KJ

Article 1. GENERAL REQUIREMENTS AND DEFINITIONS**84000 GENERAL****84000**

- (a) Group homes, as defined in Section 80001g.(1), shall be governed by the provisions specified in this chapter and in Chapter 1, General Requirements.
- (b) Group homes shall not accept for placement children who are under the age of six years, unless the facility is licensed for that age group and meets the requirements of Subchapter 2, beginning with Section 84200.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1530, 1530.8, and 1531, Health and Safety Code; and Section 11467.1, Welfare and Institutions Code.

84001 DEFINITIONS**84001**

In addition to Section 80001, the following shall apply:

- (a) (1) "Approved schools, colleges or universities, including correspondence courses offered by the same," means those approved/authorized by the U.S. Department of Education, Office of Postsecondary Education or by the California Department of Consumer Affairs, Bureau for Private Postsecondary and Vocational Education, pursuant to Education Code Sections 94900 or 94915.
- (2) "Accredited schools, colleges or universities, including correspondence courses offered by the same," means those educational institutions or programs granted public recognition as meeting established standards and requirements of an accrediting agency authorized by the U.S. Secretary of Education.

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Authorized accrediting agencies include the Accrediting Commission, National Home Study, the Accrediting Bureau of Health Education Schools, the Association of Independent Colleges and Schools, the National Association of Trade and Technical Schools, and the Western Association of Schools and Colleges.

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- (3) "Affiliated with licensee" means members of board of directors, executive director, officers and individuals paid by the group home licensee as staff, consultant or contractor used to fulfill the plan of operation.

84001 **DEFINITIONS** (Continued)**84001**

- (4) "Assaultive Behavior" means violent, physical actions which are likely to cause immediate physical harm or danger to an individual or others.
- (A) Verbal Assault is not considered a form of assaultive behavior.
- (b) (1) "Behavior Management Consultant", for the purpose of this chapter, means a person who designs and/or implements behavior modification intervention services and meets one of the following requirements as specified in California Code of Regulations, Title 17, Sections 54344(d).

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Section 54344(d) of the California Code of Regulations, Title 17 says in part:

- (d)(1)
- (A) Possesses a valid license as a psychologist from the Medical Board of California or Psychology Examining Board;
- (B) Is a licensed clinical social worker pursuant to Business and Professions Code, Sections 4996 through 4998.7;
- (C) Is a licensed marriage family and child counselor pursuant to Business and Professions Code, Sections 4980 through 4984.7; or
- (D) Is any other licensed professional whose California licensure permits the design and/or implementation of behavior modification intervention services.

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- (c) (1) "Certificate holder" means a person who has a current administrator's certificate issued by the Department regardless of whether the person is employed as an administrator in a group home.
- (2) "Child" means a person who is under 18 placed in a licensed group home by a regional center, a parent or guardian, or a public child placement agency with or without a court order. "Child" also means a person who is:
- (A) 18 or 19, meets the requirements of Welfare and Institutions Code section 11403, and continues to be provided with care and supervision by the group home, or
- (B) 18-22 as specified in the definition for "child with special health care needs" under subsection (c)(3) and continues to be provided with care and supervision by the group home.

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Welfare and Institutions Code section 11403 provides:

"... (b) ... Effective January 1, 2012, a nonminor former dependent child or ward of the juvenile court who is receiving AFDC-FC benefits pursuant to Section 11405 shall be eligible to continue to receive aid up to 19 years of age, effective January 1, 2013, up to 20 years of age, and effective January 1, 2014, up to 21 years of age, as long as the nonminor is otherwise eligible for AFDC-FC benefits under this subdivision. This subdivision shall apply when one or more of the following conditions exist:

- (1) The nonminor is completing secondary education or a program leading to an equivalent credential.
- (2) The nonminor is enrolled in an institution which provides postsecondary or vocational education.
- (3) The nonminor is participating in a program or activity designed to promote, or remove barriers to employment.
- (4) The nonminor is employed for at least 80 hours per month.
- (5) The nonminor is incapable of doing any of the activities described in subparagraphs (1) to (4), inclusive, due to a medical condition, and that incapability is supported by regularly updated information in the case plan of the nonminor. The requirement to update the case plan under this paragraph shall not apply to nonminor former dependents or wards in receipt of Kin-GAP program or Adoption Assistance Program payments."

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84001 DEFINITIONS (Continued)**84001**

(3) "Child with Special Health Care Needs" means a person who is 22 years of age or younger, who meets the requirements of Welfare and Institutions Code section 17710, subsection (a) and all of the following conditions:

(A) Has a medical condition that requires specialized in-home health care and

(B) Is one of the following:

1. A child who has been adjudged a dependent of the court under Welfare and Institutions Code section 300.
2. A child who has not been adjudged a dependent of the court under Welfare and Institutions Code section 300 but who is in the custody of the county welfare department.
3. A child with a developmental disability who is receiving services and case management from a regional center.

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Welfare and Institutions Code section 17710, subsection (a) provides:

"Child with special health care needs' means a child, or a person who is 22 years of age or younger who is completing a publicly funded education program, who has a condition that can rapidly deteriorate resulting in permanent injury or death or who has a medical condition that requires specialized in-home health care, and who either has been adjudged a dependent of the court pursuant to Section 300, has not been adjudged a dependent of the court pursuant to Section 300 but is in the custody of the county welfare department, or has a developmental disability and is receiving services and case management from a regional center."

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- (4) "Complete Request" means the vendor applicant has submitted and the Department has received all required information and materials necessary to approve or deny the request for certification program and/or course approval.
- (5) "Continuing Education Training Program Vendor" means a vendor approved by the Department to provide Continuing Education training courses to group home administrators and certificate holders to qualify them for renewal of their group home administrator certificate.

84001 DEFINITIONS (Continued)**84001**

- (d) (1) "Discipline" means a penalty assessed by the facility against a child for his/her violation of the group home's rules, commitment of illegal actions or damage to property.
- (e) (1) "Early Intervention" means the use of non-physical, de-escalation interventions to control injurious behavior. Techniques include, but are not limited to, suggesting alternative behavior, crisis communication and evasive techniques.
 - (2) "Emergency Intervention" means the justified use of early interventions and/or otherwise prohibited manual restraints to protect the child or others from harm.
 - (3) "Emergency Intervention Plan" means a written plan which addresses how emergency intervention techniques will be implemented by the licensee in compliance with the requirements specified in Section 84322.
 - (4) "Emergency Intervention Staff Training Plan" means a written plan which specifies the training provided to group home personnel regarding the use of emergency interventions, as specified in Section 84322 (g). The emergency intervention staff training plan is a component of the Emergency Intervention Plan.
- (f) (1) "Facility Manager" as defined in Health and Safety Code Section 1522.4(a)(1).

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- (A) Section 1522.4(a)(1) defines a "facility manager" as "a person on the premises with the authority and responsibility necessary to manage and control the day-to-day operation of a community care facility and supervise the clients." The facility manager, licensee, and administrator, or any combination thereof, may be the same person provided he or she meets all applicable requirements. If the administrator is also the facility manager for the same facility, this person shall be limited to the administration and management of only one facility.

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- (g) (1) "Group Home" means a facility which provides 24-hour care and supervision to children, provides services specified in this chapter to a specific client group, and maintains a structured environment, with such services provided at least in part by staff employed by the licensee. The care and supervision provided by a group home shall be nonmedical except as permitted by Welfare and Institutions Code Section 17736(b). Since small family and foster family homes, by definition, care for six or fewer children only, any facility providing 24-hour care for seven or more children must be licensed as a group home.
 - (2) "Group Home Program Statement" means a written plan which identifies the client population, program structure and supervision, and provides specific program information. The group home program statement must contain all the elements required in the plan of operation, as specified in Section 84022.

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(A) Welfare and Institutions Code Section 17736(b) reads in pertinent part:

Counties, regional centers and foster family agencies shall permit...the licensee and other personnel meeting and requirements of paragraphs (3), (5), and (6) of subdivision (c) of Section 17731 to provide, in a group home, specialized in-home health care to a child, as described in his or her individualized health care plan, provided that the child was placed as of November 1, 1993.

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- | (h) (1) "Health Care Professional" means a physician or an individual who is licensed or certified under Division 2 of the Business and Professions Code to perform the necessary client care procedures prescribed by a physician. Such health care professionals include the following: Registered Nurse, Public Health Nurse, Licensed Vocational Nurse, Psychiatric Technician, Physical Therapist, Occupational Therapist and Respiratory Therapist.

- | (i) (1) "Incident Report" means a written report required by the Department to report incidents as specified in Sections 80061 and 84061.

- (2) "Individualized Health Care Plan" means the written plan developed by an individualized health care plan team and approved by the team physician, or other health care professional designated by the physician to serve on the team, for the provision of specialized in-home health care.

- (3) "Individualized Health Care Plan Team" means those individuals who develop an individualized health care plan for a child with special health care needs. This team must include the child's primary care physician or other health care professional designated by the physician, any involved medical team, the county social worker or regional center caseworker, and any health care professional designated to monitor the specialized in-home health care provided to the child as stated in the child's individualized health care plan. The individualized health care plan team may include, but shall not be limited to, a public health nurse, representatives from the California Children's Services Program or the Child Health and Disability Prevention Program, regional centers, the county mental health department and where reunification is the goal, the parent or parents, if available. In addition, the individualized health care plan team may include the prospective specialized group home licensee who shall not participate in any team determination required by Sections 84065.1(a)(1)(B) and (b)(2).

- (4) "Initial Certification Training Program Vendor" means a vendor approved by the Department to provide the initial forty (40) hour certification training program to persons who do not possess a valid group home administrator certificate.

- | (j) (Reserved)

- | (k) (Reserved)

84001 DEFINITIONS (Continued)

84001

- (l) (Reserved)
- (m) (1) "Manual Restraint" means the use of a hands-on or other physically applied technique to physically limit the freedom of movement of a child. Techniques include, but are not limited to, forced escorts; holding; prone restraints; or other containment techniques, including protective separation.
- (2) "Manual Restraint Plan" means a written plan which addresses how manual restraints will or will not be implemented by the licensee in compliance with the requirements specified in Sections 84322(e) and (f). The manual restraint plan is a component of the emergency intervention plan.
- (3) "Mechanical Restraint" means any physical device or equipment which restricts the movement of the whole or a portion of a child's body, including, but not limited to, handcuffs, restraining sheets, restraining chairs, leather cuffs and belts or any other similar method.
- (4) "Medical Conditions Requiring Specialized In-Home Health Care" means, provided that care may be safely and adequately administered in the home:
- (A) A dependency upon one or more of the following: enteral feeding tube, total parenteral feeding, a cardiorespiratory monitor, intravenous therapy, a ventilator, oxygen support, urinary catheterization, renal dialysis, ministrations imposed by tracheostomy, colostomy, ileostomy, ileal conduit, or other medical or surgical procedures or special medication regimens, including injection, and intravenous medication; or
- (B) Conditions such as AIDS, premature birth, congenital defects, severe seizure disorders, severe asthma, bronchopulmonary dysplasia, and severe gastroesophageal reflux when his/her condition could rapidly deteriorate causing permanent injury or death.
- (5) "Minor parent program" means a group home program that serves pregnant minors and minor parents with children younger than six years of age, who are dependents of the court, nondependents, voluntary and/or regional center placements, and reside in the group home with the minor parent, who is the primary caregiver of the young child.
- (n) (1) "Needs and Services Plan" means a time-limited, goal-oriented written plan, implemented by the licensee, which identifies the specific needs of an individual child, including those items specified in Sections 84068.2 and 84168.3; and delineates those services necessary in order to meet the child's identified needs.
- (o) (Reserved)

84001 **DEFINITIONS** (Continued)**84001**

- (p) (1) "Physical Restraining Device" means any physical or mechanical device, material, or equipment attached or adjacent to a child's body which the child cannot remove easily and which restricts the child's freedom of movement. Restraining devices include leg restraints, arm restraints, soft ties or vests, wheel chair safety bars, and full length bedrails.
- (2) "Protective Separation" means the voluntary or involuntary removal of a child for the purpose of protecting the child from injuring himself, herself or others.
- (3) "Protective Separation Room" means an unlocked room specifically designated and designed for the involuntary separation of a child from other children for a limited time period for the purpose of protecting the child from injuring or endangering himself, herself or others.
- (q) (1) "Qualified Mental Retardation Professional" means a person described in Title 22, Division 5, Chapter 8, Section 76834.

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Section 76834 defines a "qualified mental retardation professional" as "a person who has specialized training or two (2) years of experience in treating or working with the developmentally disabled and is one of the following:

- (A) A psychologist with a master's degree from an accredited program.
- (B) A physician as defined in Section 76826.
- (C) An educator with a degree in education from an accredited program.
- (D) A Social Worker with a bachelor's degree in:
- (1) Social work from an accredited program; or
- (2) A field other than social work and at least three (3) years of social work experience under the supervision of a social worker with a master's degree.
- (E) A physical therapist as defined in Section 76825.
- (F) An occupational therapist as defined in Section 76822.
- (G) A speech pathologist as defined in Section 76840.
- (H) An audiologist as defined in Section 76802.

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84001 **DEFINITIONS** (Continued)**84001**

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- (I) A registered nurse as defined in Section 76835.
- (J) A recreation therapist as defined in Section 76834.
- (K) A rehabilitation counselor as defined in Section 76836.

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- (r) (1) "Reasonable and Prudent Parent Standard" means the standard characterized by careful and sensible parental decisions that maintain the child's health, safety, and best interest, that an administrator or facility manager, or his or her responsible designee, shall use when determining whether to allow a child in care to participate in extracurricular, enrichment and social activities.
- (2) "Runaway" means a child who absents himself or herself from the facility without permission from facility personnel.
- (3) "Runaway Plan" means a written plan which addresses how the licensee will respond to runaway situations.
- (s) (1) "Satellite Home" means a facility which is owned by, contracted with, or otherwise controlled by the licensee of another group home. The primary function of the satellite home is to provide residential services to children who are former clients of the primary group home and/or to children who receive direct services from the primary group home. As specified in Section 80008(b), each satellite home is required to independently meet regulations applicable to its licensed category.
- (2) "Social Work Staff" means at least one social worker or other professional person trained in the behavioral sciences who provides, either through employment or alternative means, those services specified in this chapter.
 - (A) Such alternative means shall include services provided by the social work staff of placement agencies only when such services are within the scope of the duties assigned to the worker by his/her agency.

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- (B) Placement agencies include but are not limited to regional centers, county welfare departments, and probation departments.

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- (3) "Specialized Group Home" means a licensed group home which provides specialized in-home health care to children.

84001 DEFINITIONS (Continued)**84001**

- (4) "Specialized In-Home Health Care" means health care identified by the child's physician as appropriately administered in the facility by a health care professional or by a licensee or staff trained by health care professionals pursuant to the child's individualized health care plan. For a child with special health care needs placed in a group home after November 1, 1993, these services must be provided by a health care professional.

(t) (Reserved)

(u) (Reserved)

- (v) (1) "Vendor" means a Department-approved institution, association, individual(s), or other entity that assumes full responsibility or control over a Department-approved Initial Certification Training Program and/or a Continuing Education Training Program.

- (2) "Vendor Applicant" means any institution, association, individual(s), or other entity that submits a request for approval of an Initial Certification Training Program and/or a Continuing Education Training Program.

(w) (Reserved)

(x) (Reserved)

(y) (Reserved)

(z) (Reserved)

NOTE: Authority cited: Sections 1522.41(j), 1530, 1530.8 and 1530.9, Health and Safety Code; and Section 17730, Welfare and Institutions Code. Reference: Sections 1501, 1502, 1503, 1507, 1507.2, 1522.4, 1522.41, 1522.41(j), 1530.8, and 1531, Health and Safety Code; Sections 362.04(a)(2), 362.05(a), 727(a)(4)(A), 11331.5(d), 11403, 11406(c), 17710, 17731, 17732.1 and 17736(a) and (b), Welfare and Institutions Code; and 45 CFR Section 1351.1(k).

84002 DEFINITIONS - FORMS**84002**

The following forms are incorporated by reference:

- (a) LIC 9165 (2/99), Board of Directors Statement.
- (b) PUB 326 (4/99), Facts You Need to Know, Group Home Board of Directors.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1520.1(b)(1) and (2), Health and Safety Code.

Article 6. CONTINUING REQUIREMENTS**84061 REPORTING REQUIREMENTS****84061**

- (a) In addition to Section 80061, the following shall apply.
- (b) The licensee shall ensure that the child's authorized representative is notified no later than the next working day if the following circumstances have occurred without the authorized representative's participation:
- (1) The child has been placed in the facility under emergency circumstances.
 - (2) The child has been removed from the facility.
 - (3) Each time the child has been placed in a manual restraint, to be reported as required in Section 84361.
- (c) The licensee shall ensure that the child's authorized representative is sent prior written notification regarding the need for nonemergency relocation of the child to another facility, including a satellite home.
- (d) The licensee shall ensure that the child's authorized representative is notified if the child is not enrolled in or regularly attending school.
- (e) Effective January 1, 2000, the licensee shall notify the Department, in writing, within ten (10) days of any change in the facility administrator.
- (f) The licensee shall notify the Department, in writing, within ten (10) days, of the hiring of a new administrator. The notification shall include the following:
- (1) Name and residence and mailing addresses of the new administrator.
 - (2) Date he/she assumed his/her position.
 - (3) Description of his/her background and qualifications, including documentation of required education and administrator certification.
 - (A) A photocopy of the documentation shall be permitted.
- (g) The licensee shall notify the licensing agency in writing within ten working days of acquiring a new member of the board of directors. The notification shall include the following:
- (1) Name and mailing address of the new member of the board of directors;
 - (2) Date he or she joined the board of directors, and
 - (3) A copy of the LIC 9165 signed by the new member of the board of directors.

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