

FINDING OF EMERGENCY

These regulations are being implemented on an emergency basis for the immediate preservation of the public peace, health and safety, or general welfare, within the meaning of Government Code Section 11346.1.

DESCRIPTION OF SPECIFIC FACTS WHICH CONSTITUTE THE EMERGENCY

1. The passage of Senate Bill (SB) 855 (Chapter 664, Statutes of 2004) creates a new community care licensing category named “Crisis Nurseries”. Crisis nurseries are facilities that provide short-term, 24-hour non-medical residential care and supervision for children under six years of age who are voluntarily placed for up to 30 days by their parents/guardian due to a family crisis or stressful situation or, who are temporarily placed by a county child welfare services agency for no more than 14 days. To ensure the immediate protection and preservation of the health and safety of children cared for in crisis nurseries, these regulations establish the minimum health and safety standards that these facilities must follow, including the training and education standards for all facility staff.
2. A delay in implementation of these regulations would provide inadequate or inconsistent care to foster children placed in crisis nurseries.
3. The non-emergency rulemaking process set forth in the Administrative Procedure Act is sufficiently lengthy that it is not possible to implement regulations on an immediate basis as required by SB 855.
4. Delay in the implementation of health and safety standards for crisis nurseries would put CDSS at risk of legal action.
5. Failure to implement these regulations may jeopardize the health and safety of children being placed in licensed crisis nursery care.
6. Senate Bill 855, Section 11 provides for the adoption of emergency regulations and that such regulations shall not be subject to the review and approval of the Office of Administrative Law.
7. Therefore, in order to protect the health and safety of children in crisis nursery care, these regulations are adopted on an emergency basis to be effective immediately upon filing with the Secretary of State.

INFORMATIVE DIGEST

Crisis nurseries, a type of temporary or emergency care for children at risk of abuse and/or neglect, were first developed in the early 1970's. Crisis nursery programs were also designed to offer an array of support services to the families and caregivers of these children.

Recognizing the effectiveness of crisis nursery care and the need for additional programs, in 1986 Congress passed the *Temporary Child Care for Children with Disabilities and Crisis Nurseries Act*. This Act established federal funding to create temporary child care demonstration projects including crisis nursery services.

Since 1988, competitive grants have been awarded to private and public agencies across the United States to assist them in developing crisis nursery services. However, federal funding for crisis nurseries was recently reduced creating a financial hardship for the few California facilities providing the crisis nursery services. As a remedy, a collaboration of these facilities that are licensed as Group Homes for Children under six years of age, requested certain waivers to the regulations to help off-set rising cost because they maintain their programs and goals are different than those of other group homes. The children placed in their facilities are voluntarily placed by a parent experiencing stress in their life. They argued that the group home requirements were making it difficult for them to remain solvent.

SB 855, Chapter 664, Statute of 2004, creates a new community care licensing category for crisis nurseries. Crisis nurseries are defined as facilities providing short-term, 24-hour nonmedical residential care and supervision for children under six years of age who are voluntarily placed for up to 30 days by their parents/guardian due to a family crisis or stressful situation or, who are temporarily placed by a county child welfare services agency for no more than 14 days.

Some unique aspects of crisis nurseries allowed by statute are:

- Can accept voluntary and AFDC/FC children (on a limited basis)
- Fully trained volunteers may be counted in their staff-to-child ratio.
- Maximum licensed capacity of 14.
- Crisis nurseries are required to provide a monthly report to the Department indicating the total number of voluntarily placed children and those children placed by a child welfare services agency and length of stay for each child.
- Crisis nurseries may provide day care services for children less than six years of age at the same site as the crisis nursery.

As required by statute, the Department has developed emergency regulations that establish minimum health and safety standards for children cared for by crisis nurseries. The intent of developing, adopting and implementing Crisis Nursery Programs Regulations is to provide a safe and supportive environment for children as well as a non-threatening non-punitive resource for parents who may be experiencing a family crisis or stressful situation.

COST ESTIMATE

1. Costs or Savings to State Agencies: No fiscal impact exists because these regulations do not affect any State agency or program.
2. Costs to Local Agencies or School Districts: No additional costs or savings are anticipated because these regulations make only technical, non-substantive or clarifying changes to current laws and regulations.
3. Nondiscretionary Costs or Savings to Local Agencies: None.
4. Federal Funding to State Agencies: No fiscal impact exists because these regulations do not affect any federally funded State agency or program.

LOCAL MANDATE STATEMENT

These regulations do impose a mandate upon local agencies but not upon school districts. The mandate is not required to be reimbursed pursuant to part 7 (commencing with Section 17500) of Division 4 of the California Constitution because implementation of the regulations will result in no additional costs or savings because these regulations make only technical, non-substantive or clarifying changes to current laws and regulations.

AUTHORITY AND REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Health and Safety Code Sections 1516, 1516(k), 1530, and 1548; and Welfare and Institutions Code Section 11400(t). Subject regulations implement and make specific Health and Safety Code Sections 1501, 1502, 1503, 1503.5, 1505, 1506, 1507, 1508, 1509, 1511, 1513, 1516, 1520, 1520.3, 1520.5, 1520.11, 1522, 1522.1, 1522.04, 1522.41(b)(4), 1523.1, 1524, 1524(e), 1524.5, 1525, 1525.5, 1526, 1526.5, 1526.8, 1530, 1530.5, 1531, 1533, 1534, 1536.1, 1538, 1538.5, 1540, 1540.1, 1541, 1547, 1548, 1549, 1550.5, 1551, 1558, 1558.1, 1562, 1596.782, and 1596.866; and Welfare and Institutions Code Sections 11400, 11402(h), 11406(c), 11467.1, 16001.9, 17710, and 17730; Government Code Section 13143; Senate Bill 855, (Chapter 664, Statutes of 2004); Unruh Civil Rights Act, Civil Code Section 51; and Gresher v. Anderson (2005) 127 Cal. App. 4th 88.