

FINAL STATEMENT OF REASONS

a) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Title 22, Division 6, Chapter 7.5

Specific Purpose/Factual Basis:

Title 22, Division 6, Chapter 7.5 is being renumbered to Title 22, Division 6, Chapter 9.5. Article 1 title is amended to better reflect what is included within. Also, this chapter is being rearranged for clarity, consistency and ease of use; institutional language is being replaced with more user-friendly language; and unnecessary requirements are being repealed throughout. Further, throughout this chapter the term "facility" is being changed to "home," and the term "licensee" is being changed to "caregiver;" these terms are more user-friendly and less institutional. Furthermore, it is California's position that licensing and approval of homes have required the same core health and safety standards to all foster family homes; therefore, wherever necessary the term "licensing agency" is being amended to read "licensing/approval agency," since not all foster family homes are licensed, some are approved. Cross-references are updated where necessary.

Section 89200(b) et seq. (Renumbered from 87000 et seq.)

Specific Purpose/Factual Basis:

This section is being renumbered. The chapter title mentioned in Section 89200(b) is amended to add "Foster" to Family Home, which had been omitted inadvertently.

Section 89201 et seq. (Renumbered from 87001 et seq.)

Specific Purpose/Factual Basis:

This section is being renumbered and the numbering system is being changed from "a. - z." to "(a) - (z)" for clarity and consistency with the rest of the chapter.

Section 89201(a)(3) (New)

Specific Purpose:

The specific purpose of this section is to adopt a definition for the term "Approval Agency."

Factual Basis:

This section is necessary to adopt in regulation a definition of the term "Approval Agency" to identify the existing entity that has approval responsibilities for foster family homes. This definition is consistent with the federal Adoptions and Safe Families Act of 1997, Public Law 105-89 (ASFA) terminology to clarify that the Department has been in continual compliance.

Section 89201(a)(4) (New)

Specific Purpose:

The specific purpose of this section is to adopt a definition for the term "Approved Home."

Factual Basis:

This section is necessary to adopt in regulations a definition of the term "Approved Home" to define a home of a relative or nonrelative extended family member that has been approved, using the same standards as those used for licensed homes and is exempt from licensure. Prior to the implementation of Assembly Bill 1695, Chapter 653, Statutes of 2001, nonrelative extended family members were required to be licensed. This definition is consistent with ASFA terminology to clarify that the Department has been in continual compliance.

Section 89201(a)(5) (Renumbered from 87001a.(3))

Specific Purpose/Factual Basis:

This section is renumbered.

Section 89201(c)(1)

Specific Purpose:

The specific purpose of this section is to define the term "California Department of Justice Clearance."

Factual Basis:

This definition is necessary because the ability to be licensed or employed in a community care facility depends upon whether the individual has a criminal record clearance. A criminal record clearance as defined in Section 89201(c)(15) includes a "California Department of Justice Clearance." In addition, clients or persons who are placing clients in community care facilities and who depend upon the Department for protection must have a clear definition of a "California Department of Justice Clearance." It is necessary that they understand what a clearance means, including what kinds of infractions of the law are not

included when a "California Department of Justice Clearance" is issued. Subsequent sections are renumbered accordingly.

Section 89201(c)(4)

Specific Purpose:

The specific purpose of this section is to adopt a definition for the term "Caregiver."

Factual Basis:

This section is necessary to adopt a definition for the term "Caregiver." This term is now used in place of the term "Licensee" when referring to the individual having the authority and responsibility for the operation of a home. The term "Caregiver" is more user-friendly and less institutional.

Section 89201(c)(5)

Specific Purpose:

The specific purpose of this section is to adopt a definition for the term "Caregiver's Family."

Factual Basis:

This definition is necessary to identify family members of the foster parent. The term "Caregiver's Family" is more user-friendly and less institutional.

Section 89201(c)(6) (Renumbered from 87001c.(3))

Specific Purpose/Factual Basis:

This section is renumbered.

Section 87001c.(4)

Specific Purpose:

The specific purpose of this amendment is to repeal the term and definition of "Certified Pending" which is obsolete and no longer used in Foster Family Homes regulations.

Factual Basis:

This amendment is necessary to repeal the term and definition of "Certified Pending" from the regulations. This term is repealed because federal and state law since 1998, have required that all core health and safety requirements must be met before a license is issued

and therefore, prohibits certified license pending Foster Family Home licenses. There are no exceptions for pending or provisional licenses.

Section 89201(c)(7) (Renumbered from 87001c.(5)) and Handbook Section 89201(c)(6)(A)

Specific Purpose:

This section is being renumbered and amended to clarify that a child may be a person up to 19 years of age who meets the requirements of Section 11403 of the Welfare and Institutions Code. Welfare and Institutions Code Section 11403 is provided in Handbook.

Factual Basis:

These amendments are necessary to add language that is consistent with existing law, and that will expand the definition of "child" to include those identified in the Welfare and Institutions Code Code Section 11403. This allows eligible children to remain in care beyond age 18 under specified circumstances without the need for an age exception. The new Handbook referencing the Welfare and Institutions Code 11403 is added for ease of use.

Section 89201(c)(8) (New)

Specific Purpose:

The specific purpose of this section is to adopt a definition for the term "Child Abuse Central Index."

Factual Basis

This adoption is necessary because existing regulations state that all license applicants, employees and adults associated with a licensed facility must submit a Child Abuse Central Index form so that the Department may conduct a search of the Child Abuse Central Index. This definition is taken from the definition of the Child Abuse Central Index within the California Department of Justice produced brochure, dated 2000, about the Child Protection Program.

Section 89201(c)(9) (New)

Specific Purpose:

The specific purpose of this amendment is to adopt a definition of the term "Child Abuse Central Index Clearance."

Factual Basis:

This adoption is necessary because the ability to be licensed or employed in a community care facility that cares for children depends upon whether the individual has a "Child Abuse Central Index Clearance." In addition, clients or persons who are placing clients in facilities that care for children and who depend upon the Department for protection, must have a clear definition of a "Child Abuse Central Index Clearance."

Section 89201(c)(10) (Renumbered from Section 87001c.(6)) and Handbook Section 89201(c)(9)(C)

Specific Purpose:

Section 89201(c)(10) is being renumbered and amended to clarify that a "Child with Special Health Care Needs" is a child who is under 18 years of age or a person up to 22 years of age or younger, who meets the requirements of Section 17710(a) of the Welfare and Insitutions Code and the conditions that follow. Handbook Section 89201(c)(9)(C) is added to provide the language of Section 17710(a) of the Welfare and Insitutions Code.

Factual Basis:

This amendment is necessary to add language to the definition that is consistent with existing law, and that will allow a foster child, 22 years of age or younger, with special health care needs to remain in the home without need for an age exception provided the requirements of Section 17710(a) of the Welfare and Institutions Code are met. Section 17710(a) of the Welfare and Institutions Code is being added in Handbook for ease of use.

Section 89201(c)(11)(A) (Renumbered from 87001c.(7)(A))

Specific Purpose:

This section is renumbered and amended to add language to the current definition that specify documents that must be submitted by the applicant for a completed application.

Factual Basis:

This amendment is necessary to clarify existing law and regulatory requirements. Clarification is provided that a fire clearance, if applicable, may be requested from the local fire authority having jurisdiction. The phrase "or 'Exemption,' as defined in regulation Section 89201(e)(4), and a FBI clearance, exemption or evidence of compliance with FBI requirements as specified in Health and Safety Code Sectin 1522(d)(1)(D)" was added to clarify existing law and regulatory requirements.

Section 89201(c)(12) (Renumbered from Section 87001c.(8))

Specific Purpose/Factual Basis:

This section is renumbered. Editorial amendments are made to change the phrase "... provisions of Section 1800 et seq. of the Probate Code..." to "... provisions commencing with Section 1800 of the Probate Code..." for clarity and consistency.

Section 89201(c)(13) (Renumbered from Section 87001c.(9) et seq.)

Specific Purpose/Factual Basis:

This section is renumbered and amended for clarity and ease of use. User-friendly language is used to simplify the requirement of the caregiver to provide verifiable documentation, upon the Department's request, that they have the legal right to occupy the home. Sections 87001c.(9)(A), (B), and (C) are repealed in favor of generic language "documentation" to allow for other forms of identification.

Final Modification:

Following the adoption of these emergency regulations, it was realized that the repealing of the list of types of verifiable documents, that may be submitted by the applicant and accepted by the Department to show "Control of Property," needed to be added back with modifications so that field staff has some guidance as to what are some of those types of documents. The modified list now includes "any other documents acceptable to the Department (for example, but not limited to, utility bills, insurance statement, etc.)." This addition makes it clear that other types of verifiable documents showing control of property are allowed by the Department, even if they're not specifically listed.

Section 87001(c)(14) et seq. (New)

Specific Purpose:

The specific purpose of these sections is to define the term "Conviction."

Factual Basis:

These sections are necessary to define conviction because existing regulations state the actions that the Department is required to take if the Department learns that an individual has been "convicted of a crime."

Section 89201(c)(15) (New)

Specific Purpose:

The specific purpose of this section is to define the term "Criminal Record Clearance."

Factual Basis:

This section is necessary because the ability to be licensed or employed in a community care facility depends upon whether the individual has a "criminal record clearance." In addition, clients or persons who are placing clients in community care facilities and who depend upon the Department for protection must have a clear definition of a criminal record clearance. It is necessary that they understand that criminal record clearance means both a California Department of Justice and a FBI clearance or evidence of FBI requirements as specified in Health and Safety Code Section 1522(d)(1)(D).

Sections 89201(d)(1) and (d)(2) (Renumbered from Sections 87001d.(1), d.(2), and Handbook)

Specific Purpose/Factual Basis:

These sections are renumbered and amended for clarity, consistency and ease of use.

Section 89201(d)(3) (Renumbered from 87001d.(3) and Handbook)

Specific Purpose/Factual Basis:

This section is renumbered and amended for clarity, consistency and ease of use.

Section 89201(d)(4) (Renumbered from 87001d.(4))

Specific Purpose/Factual Basis:

This section is renumbered and amended grammatically.

Section 89201(d)(5) (New)

Specific Purpose:

The specific purpose of this section is to define the term "Documented Alternative Plan (DAP)."

Factual Basis:

This section is necessary to define "Documented Alternative Plan (DAP)" because regulations state in specific sections of Article 3, that the caregiver may submit a DAP to the Department for consideration. It is important for caregivers to understand that when a DAP is submitted the alternative must be equally protective to meet the intent of the regulation.

Section 89201(e)(1) (Renumbered from Section 87001e.(1))

Specific Purpose/Factual Basis:

This section is renumbered and amended for clarity and consistency.

Section 87001e.(2)

Specific Purpose:

The specific purpose of this amendment is to repeal the term and definition of "Emergency Approval to Operate" which is obsolete and no longer used in Foster Family Homes regulations.

Factual Basis:

This amendment is necessary to repeal the term and definition of "Emergency Approval to Operate" from the foster family home regulations. This term is repealed because federal and state law since 1998, have required that all core health and safety requirements must be met before a license is issued and therefore, prohibits the issuance of an "Emergency Approval to Operate."

Sections 89201(e)(2) (Renumbered from Sections 87001e.(3))

Specific Purpose/Factual Basis:

This section is renumbered and amended for clarity, consistency and ease of use.

Section 89201(e)(3) (Renumbered from Section 87001e.(4))

Specific Purpose/Factual Basis:

This section is renumbered. The amendments are necessary to add clarifying language explaining that an exception is nontransferable and specific to a child. Language was also added to clarify that the exception must provide an equally protective manner to meet the intent of the specific regulation(s). It is important that the caregiver understands that documentation of the unique needs or circumstances of a specific child must be submitted as part of the exception request. Further, language is added to clarify that exception does not apply to the regulations included in Article 3 of this chapter.

Section 89201(e)(4) (Renumbered from Section 87001e.(5))

Specific Purpose:

The specific purpose of this amendment is to clarify the meaning of an exemption.

Factual Basis:

This amendment is necessary to clarify what it means to be granted an exemption as allowed under Health and Safety Code Section 1522(g). Health and Safety Code Section 1522(g) is referenced in Handbook for ease of use.

Final Modification:

This section is further amended to correct a cross reference.

Section 89201(e)(5) (Renumbered from Section 87001e.(6))

Specific Purpose/Factual Basis:

This definition is repealed as an unnecessary term.

Section 89201(f)(1) (Renumbered from 87001f.(1))

Specific Purpose/Factual Basis:

This section is renumbered and amended for clarity.

Section 89201(f)(1)(F) (New)

Specific Purpose/Factual Basis:

The section adds a provision to the family health care definition that will allow providers to assist a foster child with other procedures such as injections, to the list of health care services that may be provided to a child by the provider. This provision is added to be consistent with those services allowed under Section 89475, Health Related Services.

Section 89201(f)(2) (New)

Specific Purpose:

The specific purpose of this section is to define the term "Federal Bureau of Investigation (FBI) Clearance."

Factual Basis:

This adoption is necessary because the ability to be licensed or employed in a community care facility depends upon whether the individual has a criminal record clearance. A criminal record clearance as defined in Section 89201(c)(14) includes a "Federal Bureau of Investigation (FBI) Clearance." In addition, clients or persons who are placing clients in community care facilities and who depend upon the Department for protection must have a clear definition of a "Federal Bureau of Investigation Clearance." It is necessary that they understand what a clearance means, including what kinds of infractions of the law are not included when a "Federal Bureau of Investigation (FBI) Clearance" is issued.

Section 89201(f)(3) (Renumbered from Section 87001f.(2))

Specific Purpose:

The specific purpose of this section is to renumber the section and make technical changes for clarity.

Factual Basis:

This amendment is necessary to clarify, as defined in Section 1502(a)(5) and Section 1595.2 of the Health and Safety Code, that a foster family home license can be issued for six or fewer children or up to eight for the purpose of placing siblings or half siblings together in foster care. Changes were made to be consistent with ASFA terminology and to clarify that the Department has been in continual compliance.

Section 89201(g)(1) (Renumbered from Section 87001g.(1))

Specific Purpose/Factual Basis:

This section is renumbered and amended for clarity and simplicity of language and to add another type of guardianship through the Juvenile Court by referencing Section 360 of the Welfare and Institutions Code.

Sections 89201(h)(1) and (2) (Renumbered from Section 87001h.(1) and (2))

Specific Purpose:

These sections are renumbered. Section 89201(h)(2) is further amended to modify the definition of "home" for clarity and ease of use.

Factual Basis:

These amendments are necessary to modify the definition of "home" to comply with terminology used by ASFA. ASFA requires that all foster family homes meet the same core health and safety requirements. The term "home" as defined applies to licensed homes only. The word "licensed" is removed from the definition for clarity of use for licensed and approved homes.

Section 89201(i)(1) (New)

Specific Purpose:

The purpose of this section is to define the term "Independent Living Program (ILP)."

Factual Basis:

This section is necessary to define the term "Independent Living Program (ILP)" because foster care children must be allowed the greatest level of independence in accordance with 42 USC, Section 677 of the Social Security Act. This is also a new right to be afforded children in foster care pursuant to Welfare and Institutions Code Section 16001.9 and has been incorporated into the new Personal Rights Section 89372 of these regulations.

Sections 89201(i)(2) and (3) (Renumbered from Sections 87001i.(1) and (2))

Specific Purpose/Factual Basis:

These sections are renumbered. Section 87001(i)(2) is further amended to clarify the caregiver's role on the individualized health care plan team. These amendments are made for clarity, consistency, and ease of use.

Section 89201(i)(4) (Renumbered from Section 87001i.(3))

Specific Purpose/Factual Basis:

This section is renumbered.

Sections 87001i.(1), (2), and (3)

Specific Purpose:

The specific purpose of these sections is to repeal the definitions for "license," "licensee," and "licensee's family."

Factual Basis:

The repeal of the definition of the term "License" is necessary because it is an incorrect reference of a licensed home. Community Care Licensing licenses homes, not caregivers.

The repeal of the definition of the term "Licensee" is necessary because that term has been replaced with the term "Caregiver" to identify individuals who have the authority and responsibility for the operation a foster family home.

The repeal of the definition of the term "Licensee's Family" is repealed because it has been replaced with the term "Caregiver's Family."

These terms are deleted for clarity and consistency. The Department is replacing old institutional language in favor of more home-like terminology.

Section 89201(1)(1) (Renumbered from Section 87001l.(4))

Specific Purpose/Factual Basis:

This section is renumbered and amended for clarity and consistency.

Section 89201(1)(2) (New)

Specific Purpose:

The specific purpose of this amendment is to define the term "Licensed Home."

Factual Basis:

This adoption is necessary to define the term "Licensed Home" which specifically identifies a home as being authorized by Community Care Licensing to operate as a licensed foster family home rather than as a relative and nonrelative extended family member who are approved and not licensed. This is a new term for an existing process to conform with ASFA terminology. This definition was added for clarity, consistency, and ease of use.

Section 89201(m)(1)(A) (Renumbered from Section 87001m.(1)(A))

Specific Purpose/Factual Basis:

This section is renumbered and amended for clarity, consistency, and ease of use.

Section 89201(m)(2) (New)

Specific Purpose/Factual Basis:

The specific purpose of this section is to define the term "Medical Professional" as a Health Care Professional.

Section 89201(n)(1) (Renumbered from 87001n.(1))

Specific Purpose/Factual Basis:

This section is renumbered and amended to delete reference to a regulatory section that is being repealed. Language was added to reference the new regulatory Section 89370 that requires specific information to be included in the Needs and Services Plan. Modifications were made for clarity, consistency and ease of use.

Section 89201(n)(2) and Handbook Section 89201(A) (New)

Specific Purpose:

The specific purpose of this section is to define the term "Nonrelative Extended Family Member" and to provide in handbook the language in Welfare and Institutions Code Section 362.7.

Factual Basis:

This adoption is necessary to define term "Nonrelative Extended Family Member" because an approved nonrelative extended family member as defined in Welfare and Institutions Code Section 362.7 is exempt from licensure. This definition is necessary so that it is clear who would be considered a nonrelative extended family member. The handbook section was added for reference and ease of use.

Sections 89201(n)(3), (3)(A), and Handbook Section 89201(n)(3)(C) (Renumbered from Sections 87001n.(2), (2)(A) and Handbook Section 87001n.(3)(C))

Specific Purpose/Factual Basis:

These sections are renumbered and amended for clarity, consistency and ease of use.

Section 87001p.(5)

Specific Purpose:

The specific purpose of this amendment is to repeal the definition of the term "Provisional License" which is obsolete and no longer used in Foster Family Homes regulations.

Factual Basis:

The repeal of the definition of the term "Provisional License" is necessary because provisional licenses are temporary licenses issued for a specific period of time. Federal and state law since 1998, have required that all core health and safety requirements must be met before a license is issued and therefore, prohibits provisional licenses. There are no exceptions for provisional licenses.

Section 89201(r)(1) (New) and Section 89201(r)(2) (Renumbered from Section 87001r.(1))

Specific Purpose:

Section 89201(r)(1) provides a definition of the term "Rehabilitation." Section 89201(r)(2) is renumbered from Section 87001r.(1).

Factual Basis:

The adoption of the definition of "Rehabilitation" is necessary because the Department provides individuals without a criminal record clearance, who meet specific criteria, an opportunity to request an exemption so that they may be licensed, employed in, or present in a community care facility. One of the factors the Department considers when granting an exemption is whether or not the individual can demonstrate rehabilitation. Therefore, it is important to provide a definition for those who may be affected. Existing Section 87001r.(1) is renumbered to new Section 89201(r)(2).

Post-Hearing Modification

Section 89201(s)(2) (New)

Specific Purpose:

The specific purpose of this section is to adopt in regulation a definition for "Sexual Orientation."

Factual Basis:

This adoption is necessary because language is incorporated into Section 89372, Personal Rights, that uses the term "Sexual Orientation." It is necessary to clearly define this term and its use because caregivers must ensure that gay, lesbian and bisexual children in foster care are not harassed or intimidated because of their sexual orientation. This definition is consistent with state statute and case law. It is not the intent of the regulation to limit the expansion of the definition by statute or case law (Unruh Civil Rights Act, Civil Code Section 51 and California Fair Employment and Housing Act, Government Code Section 12921). Current Sections 89201(s)(2) through (s)(5) are renumbered to Sections 89201(s)(3) through (s)(6) respectively.

Sections 89201(s)(3) and (4) (Renumbered from Sections 87001s.(3) and (4))

Specific Purpose:

The specific purpose of these amendments is to renumber the sections and add reference cites of authority.

Factual Basis:

Section 89201(s)(3) is amended to reference Section 1507 of the Health and Safety Code and Section 17710(i) of the Welfare and Institutions Code. Section 89201(s)(4) is amended to reference Section 17710(h) of the Welfare and Institutions Code.

Section 87001s.(6)

Specific Purpose:

The specific purpose of this amendment is to repeal the definition of the term "Substantial Compliance" from foster family homes regulations.

Factual Basis:

The repeal of the definition of the term "Substantial Compliance" is necessary because it was used in reference to "Provisional License" which is not allowed in accordance with meeting ASFA requirements. Full compliance is required prior to being licensed or approved. This definition is repealed for clarity.

Section 89201(t)(1) (New)

Specific Purpose:

The specific purpose of this section is to define the term "Transitional Independent Living Plan (TILP)."

Factual Basis:

This section is necessary to define the term "Transitional Independent Living Plan (TILP)" because foster care children must have a plan to transition from foster care to emancipation in accordance to 42 USC, Section 677 of the Social Security Act. This is a also a new right to be afforded children in foster care pursuant to Welfare and Institutions Code Section 16001.9 and has been incorporated into the new Personal Rights Section 89372 of this regulations.

Section 89201(u)(1) et seq. (Renumbered from Section 87001u.(1) et seq.

Specific Purpose/Factual Basis:

The specific purpose of these amendments is to renumber the sections and make technical, clarifying changes. It specifically clarifies situations constituting unlicensed care. Further, Section 89201(u)(1)(C)(1) is amended for clarification of existing law (Health and Safety Code Section 1505(l)(2)). Relative is not included because a relative is exempt from licensing whether approved or not.

Section 87001v.(1)

Specific Purpose:

The specific purpose of this amendment is to repeal the definition of "Ventilator Dependent Child" from foster family homes regulations. This term is unnecessary and duplicative.

Factual Basis:

The repeal of the definition of the term "Ventilator Dependent Child" is necessary to eliminate unnecessary language for clarity and ease of use. This term is defined in the definition of "Child" by cross-referencing Welfare and Institutions Code Section 17710(a).

Section 89201(v)(1) (New)

Specific Purpose:

The specific purpose of this section is to provide a definition for the term "Volunteer" to be consistent with existing law.

Factual Basis:

This adoption is necessary because this term is still used in statute, Section 1522(b)(1)(D) of the Health and Safety Code.

Section 89201(w)(1) (Renumbered from Section 87001w.(1))

Specific Purpose:

The specific purpose of this amendment is to clarify the definition of the term "waiver."

Factual Basis:

This amendment is necessary to provide clarification to the definition of waiver. Home-wide has been added to the definition to specify that a waiver is applicable to the home only. This amendment clarifies that the waiver approves an equally protective manner of complying with the intent of a specific regulatory requirement. Clarifying language informs caregivers that the request must provide demonstration of the unique needs or circumstances of the home-wide need or circumstance. Further, language is added to clarify that the term waiver does not apply to the regulations included in Article 3 of this chapter.

Section 89202 et seq.

Specific Purpose/ Factual Basis:

This section is adopted to incorporate by reference forms that are used in the Foster Family Homes regulations. These forms are not printed in the California Code of Regulations or CDSS' Manual of Policies and Procedures because it would be cumbersome and impractical. However, these forms are readily available from CDSS.

Final Modification:

Section 89202(f) is adopted to incorporate by reference PUB 396 (5/02) (Foster Youth Rights Poster). This publication is referenced in the Foster Family Homes regulations, Section 89468(f)(1). This publication is not printed in the California Code of Regulations or CDSS' Manual of Policies and Procedures because it would be cumbersome and impractical. However, this publication is readily available from CDSS and CDSS' Internet Page.

Article 2 and Section 89205 (Renumbered from Section 87005)

Specific Purpose and Factual Basis:

This article is renamed from "Licensing" to "Administrative." The sections included in this article are being renumbered starting with Section 87005 which is being renumbered to Section 89205.

Section 89206 et seq. (Renumbered from Section 87006 et seq.)

Specific Purpose/Factual Basis:

This section is renumbered from Section 87006 et seq. to Section 89206 et seq.; technical changes are made for clarity and consistency; and in Section 89206(b) reference to inapplicable Health and Safety Code Section 1538 is repealed and pertinent language from Health and Safety Code Section 1533 is added in handbook.

Final Modification:

Section 89206(a) is amended to correct the formatting of a cross reference from Section 89201u.(1) to Section 89201(u)(1).

Section 89207 et seq. (Renumbered from Section 87007 et seq.)

Specific Purpose/Factual Basis:

This section is renumbered and rearranged for clarity, consistency and ease of use; language that is not relevant to the foster family home regulations is repealed; the pertinent part of Section 1505 of the Health and Safety Code is included in handbook; and the provisions that are duplicative of statute in handbook are repealed from regulations.

Section 89209 (Renumbered from Section 87009)

Specific Purpose/Factual Basis:

This section is renumbered and Section 89209(a) is amended for clarity.

Section 89218 et seq. (Renumbered from Section 87018 et seq.)

Specific Purpose/Factual Basis:

These amendments are necessary to renumber the section; amend Section 89218(a) for clarity; adopt Section 89218(c)(3) to expand existing regulations to allow for other types of documents that the applicant can provide to show control of property; repeal non-substantive Sections 87018(c)(8), (c)(11), and (c)(12); adopt Section 89218(c)(12) to require caregivers to provide a statement whether or not they will handle the children's money, personal property and/or valuables; renumber Section 89218(f) from Section 87036(a) and amend to repeal reference to "annual" because there are no annual processing fees; delete Handbook Sections 87018(c)(5)(A), (c)(6)(A), and (c)(10)(A); and renumber subsections accordingly. These amendments are made for clarity, consistency and ease of use.

Handbook Section 89219(a)(1)(D) (Renumbered from Handbook Section 87019 (a)(1)(D))

Specific Purpose/Factual Basis:

This section is amended to repeal the volunteer fingerprint exemption criteria from handbook. This volunteer exemption language was amended by SB 1992, Chapter 311, Statutes of 2000.

Sections 89219(b) through (b)(5) (Renumbered from Sections 87019(b) through (b)(5))

Specific Purpose/Factual Basis:

These sections are renumbered and amended for clarity and consistency. Old institutional language is replaced with user-friendly, home-like terminology.

Section 87019(b)(6) et seq.

Specific Purpose:

The purpose of this amendment is to repeal the volunteer fingerprint exemption criteria.

Factual Basis:

These sections are repealed because they were placed into this regulation affecting all community care facilities in error. The volunteer exemption criteria is specified in Health and Safety Code Section 1522(b)(4)(B) which affects adult day care and adult day support centers only and does not apply to any other community care facility category.

Sections 89219(b)(6) and (b)(7) (Renumbered from Section 87019(b)(7))

Specific Purpose/Factual Basis:

These sections are renumbered and amended for clarity and consistency. Section 89219(b)(7) is renumbered from Section 87019(b)(7)(B). Old institutional language is replaced with user-friendly, home-like terminology.

Section 89219(c) (Renumbered from Section 87019(c))

Specific Purpose/Factual Basis:

This section is renumbered and amended for clarity. References to "certified family home" and "administrator" are repealed because not all foster family homes are certified and foster family homes don't have administrators but caregivers. A cross-reference to Section 89219(b), which identifies who can be exempt is included. The phrase "and shall comply with FBI requirements" is added for clarity.

Final Modification:

Section 89219(c) is amended to make a grammatical correction by adding a comma in the phrase, "... California criminal record clearance or exemption, and shall comply with ..."

Section 89219(d)

Specific Purpose:

The specific purpose of this adoption is to require that prior to the presence in the home and unless exempted under Section 89219(b), all individuals specified in Section 89219(a) must obtain a California criminal record clearance or exemption and comply with the FBI requirements as specified in Section 1522(d)(1)(D) of the Health and Safety Code.

Factual Basis:

This adoption is necessary to clarify that the individuals cross-referenced in Section 89219(a) must obtain a California criminal record clearance or exemption and comply with FBI requirements as required in Health and Safety Code Section 1522(d)(1)(D) prior to their presence in the home. It is important that caregivers understand that specific individuals must be cleared prior to their presence in the home. Current language in 87019(d) is moved to new Section 89219(e).

Sections 89219(e) through (e)(1)(B)1. (Renumbered from Section 87019(d) through (d)(1)(B)1.)

Specific Purpose/Factual Basis:

These sections are renumbered and amended for clarity, consistency and ease of use.

Section 89219(e)(1)(C) (Renumbered from Section 87019(g))

Specific Purpose/Factual Basis:

This section is renumbered and amended for clarity, consistency and ease of use. This amendment is necessary to ensure that the caregiver is aware that they should be notified whether or not there is a criminal records clearance on specific individuals associated with the home.

Section 89219(f) (Renumbered from Section 87019(d)(2) et seq.)

Specific Purpose:

These sections are renumbered and amended for clarity, consistency and ease of use.

Section 87019(e)

Specific Purpose:

The specific purpose of this amendment is to repeal the volunteer fingerprint exemption criteria from the foster family homes regulations.

Factual Basis:

This section is repealed because this volunteer exemption language was repealed by Senate Bill (SB) 1992, Chapter 311, Statutes of 2000.

Section 89219(g) et seq. (Renumbered from Section 87019(h) et seq.)

Specific Purpose/Factual Basis:

This section is renumbered.

Final Modification:

Section 89219(g) is further amended to correct a cross reference.

Section 89219(h) et seq. (Renumbered from Section 87019(f) et seq.)

Specific Purpose:

This section is renumbered and amended for clarity, consistency and ease of use.

Factual Basis:

These amendments are necessary for clarity because a caregiver or individual associated with the home may request a transfer of their criminal record clearance or exemption upon providing specific documentation to the Department. Sections 89219(h)(2) et seq. is amended to specify that valid identification must be submitted and the limitation of what is considered valid identification is removed.

Section 89219(i) (Renumbered from Section 87019(i) et seq.)

Specific Purpose/Factual Basis:

This section is renumbered.

Sections 89219.1(a) et seq. and (b) et seq. (Renumbered from Sections 87019.1(a) et seq. and (b) et seq.)

Specific Purpose/Factual Basis:

These sections are renumbered and amended for clarity, consistency and ease of use. Further, Section 89219.1(a)(3) is amended to clarify that and individual may request an exemption in writing if the conditions set forth in Section 1522(c)(5) of the Health and Safety Code are met. Section 1522(c)(5) of the Health and Safety Code is provided in Handbook.

Final Modification:

Section 89219.1(a)(3) is amended for grammatical purposes by repealing the word "to."

Section 89219.1(c) (New)

Specific Purpose/Factual Basis:

This section is adopted to cross-reference, in regulation, Section 1522(g) of the Health and Safety Code because exemptions shall not be granted for crimes listed in that Health and Safety Code section. The pertinent language of Section 1522(g) of the Health and Safety Code is provided in handbook for ease of use as well as a summary of the crimes cross-referenced in Health and Safety Code Section 1522(g).

Final Modification:

Handbook Section 89219.1(c)(1)(B) is amended to make an editorial correction for clarity. On the second paragraph, second line, the letter "a" was inadvertently omitted from the word "allowed." This is a typographical error. Also, Section 89219.1(g)(2)(A)2. is amended to make a grammatical correction by replacing the comma before the word "or" with a semicolon for consistency.

Handbook Section 87019.1(d)

Specific Purpose/Factual Basis:

This handbook section is deleted as unnecessary.

Sections 89219.1(d) through (i)(4) (Renumbered from Sections 87019.1(e) through (j)(4) respectively)

Specific Purpose/Factual Basis:

These sections are renumbered and amended for clarity, consistency and ease of use. Section 89219.1(g)(1) et seq. is amended to specify that valid identification must be submitted and the limitation of what is considered valid identification is removed.

Section 89219.2 et seq. (Renumbered from 87019.2 et seq.)

Specific Purpose/Factual Basis:

This section is renumbered and the amendments made throughout the section are for clarity, consistency and ease of use.

Section 89219.2(c) et seq.

Specific Purpose:

These sections are adopted to state the process by which a CACI may be transferred.

Factual Basis:

The California Department of Justice (DOJ) processes requests sent by the Department for the transfer of Criminal Records Clearances. When California DOJ initially processes a criminal record clearance, a CACI is processed simultaneously, therefore, a transfer request for a criminal record clearance has always automatically triggered a request for a transfer of a CACI. These sections make this clear and identifies the forms that are currently in use for this existing process.

Section 89224 et seq. (Renumbered from Section 87024 et seq.)

Specific Purpose:

This section is renumbered. Language is amended to clarify that exceptions and waivers shall not be granted for any provisions of Article 3, Caregiver Standards. Subsequent sections are renumbered and amended for clarity, consistency and ease of use. Handbook Section 87024(b)(3) is deleted and Section 89224(b)(4) is renumbered to Section 89224(c).

Factual Basis:

These amendments are necessary to ensure that caregivers comply with the requirements of Article 3 and have clear understanding that waivers and exceptions shall not be granted for any of the regulatory requirements of Article 3. Waivers and exceptions shall not be granted because the requirements are Health and Safety standards that must be met for licensure or approval of a foster family home in accordance with ASFA and AB 1695.

Section 89226 et seq. (Renumbered from Section 87026 et seq.)

Specific Purpose:

The specific purpose of this amendment is to renumber Section 87026 and repeal unnecessary language. The Department is replacing old institutional language in favor of more home-like language.

Factual Basis:

These amendments are necessary to: renumber Section 87026 to new Section 89226; repeal language that is not pertinent to foster family homes; and eliminate unnecessary and over burdensome requirements that are not appropriate for small homes. Foster family homes are private residences operated as home settings. These insitutional requirements for safeguarding cash resources, personal property and valuables are unnecessary. Most foster children do not have resources and any who do, the juvenile court oversees and orders safeguards and accounting, including bonding when necessary. The change in language supports the Department's position of modification to more user-friendly language.

Section 89227 et seq. (Renumbered from Section 87027 et seq.)

Specific Purpose/Factual Basis:

This section is renumbered. Handbook Section 89227(a)(1) is revised to clarify that as part of the application review, the licensing agency shall verify that all the requirements of Article 3 of this chapter have been satisfied; Section 1521.5 of the Health and Safety Code is provided for ease of use. Handbook Section 89227(c)(1) is updated because Section 1520.3 of the Health and Safety Code was modified to add bases for cessation of review. Clarifying language is added for consistency and ease of use. Also, Section 87034(b) is renumbered to Section 89227(b)(2) and amended to clarify that if an application is denied,

the applicant must file a new application if they still wish to be licensed. This section is renumbered and relocated to consolidate related regulatory requirements for ease of use.

Final Modification:

Handbook Section 89227(a)(1)(A) is amended to make an editorial correction necessary for clarity and consistency. The word "or" is changed to "of." This is a typographical error.

Section 89228 et seq. (Renumbered from Section 87028 et seq.)

Specific Purpose/Factual Basis:

This section is renumbered. Current Section 87028(a) is renumbered to Section 89231(c) to consolidate related regulatory requirements for clarity and ease of use.

Section 89229 et seq. (Renumbered from 87029 et seq.)

Specific Purpose:

The purpose of these amendments is to renumber Section 87029 and make editorial changes for clarity, consistency and ease of use.

Factual Basis:

These amendments are necessary to renumber Section 87029 to new Section 89229; to clarify that if an applicant withdraws an application, the Department must consent to it in writing; and to update the pertinent part of Health and Safety Code Section 1553 in handbook. These amendments are made for clarity, consistency, and ease of use.

Section 89231 et seq. (Renumbered from Section 87031 et seq.)

Specific Purpose/Factual Basis:

This section is renumbered. Section 89231(a) is amended to clarify that in order for the licensing agency to issue a license, an in-home visit is made pursuant to Section 89227(a) and is verified that all licensing requirements set forth in Article 3 of this chapter have been met. Section 89231(b) is adopted to provide the caregiver with clear understanding of their responsibility to be honest and to cooperate with the Department when seeking a foster family home license. Section 87028(a) is renumbered to 89231(c) and amended for clarity to consolidate related regulatory requirements. Handbook Section 87031(c)(1) is deleted. These amendments are made for clarity, consistency, and ease of use.

Section 89234 (title) and Section 89234(a) (Renumbered from Section 87034 (title and Section 87034(a))

Specific Purpose:

This section is renumbered and the title changed from "Submission of New Application" to "Changes to License" to more adequately reflect the content of the section. Section 89234(a) is amended to give direction to the caregiver on actions they must take when there is a change in location.

Factual Basis:

These amendments are necessary to ensure that clear directions are given to the caregiver. Current regulations do not provide clear direction to the caregiver on how and when notification must be given. This requirement cross-references other regulations to ensure proper notification and change of information is provided to the Department in a timely manner.

Section 87034(a)(1)

Specific Purpose/Factual Basis:

The purpose of this amendment is to repeal non-substantive language that does not pertain to the caregiver. This language is repealed because the requirement directs the actions of the Department and not the caregiver when granting capacity increases.

Handbook Section 89234(b) et seq. (Renumbered from Handbook Section 87034(a)(2) et seq.)

Specific Purpose/Factual Basis:

This handbook section was renumbered from 87034(a)(2) et seq. Clarifying language has been incorporated to inform the licensee on steps to take when making changes to the license. Language was added to allow the use of the placement worker's documentation to determine when the home has met core health and safety standards. These amendments are necessary for clarity, consistency and ease of use. Current Section 87034(b) is renumbered to Section 89227(b)(2).

Section 89235 et seq. (Renumbered from 87035 et seq.)

Specific Purpose:

The specific purpose of this amendment is to repeal non-substantive duplicative language and to renumber Section 87035 et seq. for clarity and consistency. Language in Section 87035(b), (c), and (d) that reference "emergency approval to operate and provisional license," and that regulates persons other than the licensee is repealed. The terms emergency approval to operate and provisional license are obsolete terms. Both state and

federal law prohibit provisional or emergency licenses. Language in new Section 89235(b) is modified to instruct the person with control of the property, who continues to operate the home if a caregiver dies, to file a new application.

Factual Basis:

This amendment is necessary to repeal non-substantive duplicative language for clarity, consistency and ease of use and to renumber the section. The terms "emergency approval to operate" and "provisional license" are obsolete and are no longer used in foster care. These terms are repealed because federal and state law since 1998, have required that all core health and safety requirements must be met before a license is issued and therefore, prohibits provisional Foster Family Home licenses. There are no exceptions for pending or provisional licenses. Language regulating persons other than the licensee in circumstances where the caregiver dies or abandons the home is inapplicable. Jurisdiction in these circumstances is found in Section 89206. Language regarding examples of evidence of caregiver's death is repealed and a cross-reference to such definition is added.

Final Modification:

Handbook Section 89235(a)(1) is amended to include the phrase "provides in pertinent part" at the end of the first line. This phrase, although included in the emergency adoption, was inadvertently left without the underline, which indicates new language. Further, Section 89235(b) is amended to repeal the comma in the phrase "... or abandons the home and a responsible adult with..." This is a grammatical correction.

Article 4 (Title) (Repealed)

Specific Purpose/Factual Basis:

Due to the reorganization of Title 22, Division 6, Chapter 7.5, this article title is repealed.

Section 89240 et seq. (Renumbered from Section 87040)

Specific Purpose:

The specific purpose of these amendments is to renumber the section, amend the title of the section, update handbook and make editorial changes for clarity, consistency and ease of use.

Factual Basis:

These amendments are necessary to renumber the section; amend the section title which applies to the denial of a foster family home license not only the initial license; update handbook sections to reflect current law; and amend current language for clarity, consistency and ease of use. Further, in Section 89240(a) the statement in reference to provisional license is repealed because the term provisional license is obsolete. Section 89240(c) is amended to clarify that the appeal of the denial of the application shall be made

in accordance to Section 1551 of the Health and Safety Code. Section 89240(d) is adopted to further clarify that the proceedings to hear an appeal of a denial shall be conducted pursuant to Section 1551(a) of the Health and Safety Code.

Final Modification:

Handbook Section 89240(a)(3)(B)(a) is amended to correct an inadvertent error by repealing the word "such" and replacing it with the letter "a" in the phrase "... that child to be placed in ~~such a~~ situation where ..."

Section 89242 et seq. (Renumbered from Section 87042 et seq.)

Specific Purpose/Factual Basis:

This section is renumbered; amendments are made for clarity and consistency; and handbook is updated to reflect current law for clarity, consistency and ease of use.

Section 89244 et seq. (Renumbered from Section 87044 et seq.)

Specific Purpose/Factual Basis:

This section is renumbered; amendments are made for clarity and consistency; and handbook is updated to reflect current law for clarity, consistency and ease of use. Further, Section 89244(a) is amended to add the term "reproduce" to the statement that informs the caregiver of the licensing agency's authority to interview the child and inspect the home. Adding the term "reproduce" to subsection (b) provides clarification to the caregiver that the licensing agency has the authority to reproduce all records relating to the operation of the home, without prior consent.

Section 89245 et seq. (Renumbered from Section 87045 et seq.)

Specific Purpose/Factual Basis:

This section is renumbered; amendments are made for clarity and consistency; and handbook is updated to reflect current law for clarity, consistency and ease of use.

Section 89246 et seq. (Renumbered from Section 87046 et seq.)

Specific Purpose/Factual Basis:

This section is renumbered; amendments are made for clarity, consistency and ease of use.

Section 89252 et seq. (Renumbered from Section 87052 et seq.)

Specific Purpose/Factual Basis:

This section is renumbered and amended for clarity, consistency and ease of use. Further Section 87053(a) is renumbered to Section 89252(d)(6) and Handbook Section 87051(a) is renumbered to Handbook Section 89252(e) for consolidation of related regulatory requirements.

Section 89254 (Renumbered from Section 87054)

Specific Purpose/Factual Basis:

This section is renumbered.

Section 89255 et seq. (Renumbered from Section 87055 et seq.)

Specific Purpose/Factual Basis:

This section is renumbered; amendments are made for clarity, consistency and ease of use.

Section 89255.1 (Renumbered from Section 87055.1)

Specific Purpose/Factual Basis:

This section is renumbered.

Section 89256 (Renumbered from Section 87056)

Specific Purpose/Factual Basis:

This section is renumbered.

Sections 89261 and 89261(a)

Specific Purpose/Factual Basis:

This section is adopted and titled "Reporting Procedures." Current Section 87061(b) is renumbered to new Section 89261(a) to retain administrative reporting functions together. The regulation provides procedures that caregivers must follow when reporting certain incidents to the licensing agency.

Article 7 (Title) (Repealed)

Specific Purpose/Factual Basis:

Due to the reorganization of Title 22, Division 6, Chapter 7.5, this article title is repealed.

Section 89286 et seq. (Renumbered from Section 87086 et seq.)

Specific Purpose/Factual Basis:

This section is renumbered.

Article 3.

Specific Purpose/Factual Basis:

The title of Article 3 is amended from "Application Procedures" to "License/Approval Standards" to better reflect what is included within.

Section 89317 et seq. (Renumbered from Section 87017 et seq.)

Specific Purpose:

The specific purpose of this amendment is renumber the section and to repeal language that is no longer pertinent to foster family homes regulations for clarity.

Factual Basis:

Unnecessary language in Sections 87017(c)(2) et seq. regarding the training, education and experience required is repealed. The language is redundant and duplicative as the requirements are in the new Section 89405 Training Requirements. Handbook Section 87017(d) is being renumbered to new training requirement Section 89405(b) for clarity and uniformity in the regulations.

Section 89319 (New)

Specific Purpose:

The specific purpose of this section is to adopt Section 89319 titled "Criminal Record Clearance Requirement."

Factual Basis:

This section is necessary to adopt in regulations a new section that clarifies the existing requirement to obtain a criminal record review from the California Department of Social Services or county as appropriate. Such review requires the submission of fingerprints pursuant to Health and Safety Code Section 1522 and the search of the Child Abuse

Clearance Index and child abuse records. This section clarifies that an authorized search of the California Law Enforcement Telecommunications Systems (CLETS) may be conducted for licensure or approval of a home.

Section 89323 (New)

Specific Purpose:

The specific purpose of this section is to adopt new Section 89323 titled "Emergency Plan." This new section simplifies an existing regulation.

Factual Basis:

This section is necessary to simplify specific requirements for each caregiver to have an emergency plan. Current Section 87023, Disaster and Mass Casualty Plan, is an institutional requirement that is being repealed and replaced with more user-friendly home-like language and requirements.

Article 6 (Title) (Repealed)

Specific Purpose/Factual Basis:

Due to the reorganization of Title 22, Division 6, Chapter 7.5, this article title is repealed.

Section 89361 et seq. (Renumbered from Section 87061 et seq.)

Specific Purpose:

The specific purpose of this section is to renumber the section, clarify existing law, and repeal unnecessary institutional requirements. The Department is replacing old institutional language in favor of more home-like terminology.

Factual Basis:

It is necessary to clarify reporting time frames and to differentiate the reporting of merely a change in mailing address for departmental record keeping versus a change in location of a home. The amendments provide clarification of existing law where a change in household composition requires immediate notification and compliance per Health and Safety Code Section 1522(b). Reference to Section 2500, Title 17, California Code of Regulations is repealed. Foster Family Homes are private residences operated as home settings. Section 89361(d) is adopted because it is necessary to clarify that a change in location, subject to Health and Safety Code Section 1524, is very different from a mere change in mailing address. Section 1524 provides that a change in location results in the loss of a license. This is not so of a mere change in mailing address. The Department has used the reasonable notice standard that is used in the rental community, that of 30 days, in order to assure that the new home is licensed concurrent with the move. Section 1524 provides the authority to implement this standard in regulation. Modification in Section 89361(f)(2)

clarifies existing law. The change in language supports the Department's position of modification to more user-friendly language.

Section 89370 et seq.

Specific Purpose:

The specific purpose of this amendment is to adopt new Section 89370. This new section simplifies existing Section 87070. Institutional language is replaced with more home-like terminology.

Factual Basis:

This amendment is necessary to adopt new Section 89370 into regulations. Current Section 87070 is being repealed because it was written with institutional facilities in mind and contains both language and requirements that are inappropriate for a home. New language is adopted to convey simply that requirement to safeguard and keep confidential children's records. Clarifying language was added to replace institutional language for ease of use. The change in language supports the Department's position to use more home-like language.

Section 89372 et seq.

Specific Purpose:

The specific purpose of this amendment is to adopt new Section 89372 that incorporates language from Assembly Bill (AB) 899 and AB 427 about the personal rights of the children living in a foster family home. This amendment also adds language for clarification of implementing appropriate levels of independence.

Factual Basis:

This amendment is necessary to adopt new Section 89372 into regulations. Existing Personal Rights Section 87072 is being repealed. This amendment retained all existing rights in Section 87072 and added rights from AB 899. The rights were arranged according to similar rights. A new right in Section 89372(c)(17) was added for increasing independence for youth in accordance with Health and Safety Code Section 1559.110. This section incorporates new personal rights to be afforded foster care children as mandated by new current law under Assembly Bill 899. Clarifying language to accord the child the greatest level of independence as outlined in the child's Needs and Services Plan or Transitional Independent Living Plan is added. These changes are necessary to implement Welfare and Institutions Code Section 16001.9 and Health and Safety Code Section 1559.110.

Final Modification:

Section 89372(b) is amended to insert commas around the phrase "and given at admission a copy" for clarity. Also, Section 89372(c)(17)(E) is amended to correct the spelling of the word "activities."

Further, a new Section 89372(c)(3) is adopted to make clear in our regulations that a child in foster care shall be treated with respect and shall not be harassed, discriminated against, or intimidated because of their sex, race, color, religion, ancestry, national origin, disability, medical condition, sexual orientation or perception of having one or more of these characteristics. This adoption clarifies protections that are in existing law under the Unruh Civil Rights Act, Civil Code Section 51, and California Fair Employment and Housing Act, Government Code Section 12921, as well as longstanding Departmental policy. Subsequent sections are renumbered accordingly.

Section 89373 (Renumbered from Section 87073)

Specific Purpose/Factual Basis:

This section is renumbered and language is added regarding an alternative to the telephone access requirements for a foster care child. Alternatives to telephone services, such as cell phones, must be approved and documented. This amendment recognizes changing technology while retaining departmental discretion.

Section 89374

Specific Purpose/Factual Basis:

This section is adopted to make allowances to applicable transportation requirements for caregivers when they are transporting a foster care child. This amendment simplifies the transportation requirement. Current Section 87074 is repealed and more generic language is adopted. The change in language supports the Department's position of modification to more user-friendly language.

Section 89376 et seq.

Specific Purpose:

The specific purpose of this section is to adopt new Section 89376. This new section simplifies existing law (current Section 87076). Institutional language is replaced with more home-like terminology.

Factual Basis:

This new section is adopted while current Section 87076 is repealed. The new language simplifies the Food Service requirement. Current Section 87076 includes the USDA Basic Food Guide and is being repealed because it was written with institutional facilities in mind.

It contains both language and requirements that are inappropriate for a home. New language is adopted to convey the requirement to supply healthy nutritious food to foster children. The change in language supports the Department's position of modification to more user-friendly language.

Section 89378 et seq. (Renumbered from Section 87078 et seq.)

Specific Purpose/Factual Basis:

This section is renumbered. Amendments are done to clarify that children are to have increasing independence in accordance with age and ability as outlined in the child's Needs and Services Plan or Transitional Independent Living Plan (TILP). Changes are made for clarity, consistency and ease of use.

Section 89379 et seq. (Renumbered from Section 87079)

Specific Purpose/Factual Basis:

This section is renumbered. Unnecessary language is repealed and new language that allows foster care children independence and participation in school sponsored extra-curricular activities is added. These amendments are made for clarity, consistency and ease of use.

Section 89387 et seq. (Renumbered from Section 87087)

Specific Purpose:

The specific purpose of this amendment is to renumber Section 87087, repeal non-substantive language, and incorporate language from existing regulatory sections.

Factual Basis:

Existing regulatory requirements from Sections 87088 and 87064 were placed in new Section 89387 to consolidate related regulatory requirements for clarity, consistency and ease of use. Amendments are made to repeal non-substantive language and to modify exiting language for clarity, consistency and ease of use.

Section 89387(a) (Renumbered from Section 87087(a))

Specific Purpose/Factual Basis:

This section is renumbered and amended to add language that allows a documented alternative plan. This codifies the Department's recognition that in some situations it may be appropriate to allow on a case by case basis equally protective alternatives to the bedroom requirements.

Sections 89387(a)(5), (a)(5)(A), and (a)(5)(B) (Renumbered from Sections 87088(b), (b)(1), and (b)(2))

Specific Purpose/Factual Basis:

These sections are renumbered and Handbook Section 87087(a)(3) is deleted.

Section 89387(a)(6) (Renumbered from 87088(l))

Specific Purpose/Factual Basis:

This section is renumbered.

Section 89387(a)(7) (Renumbered from Section 87088(c))

Specific Purpose/Factual Basis:

This section is renumbered.

Section 89387(a)(8) (Renumbered from Section 87087(a)(5))

Specific Purpose/Factual Basis:

This section is renumbered. Section 87087(a)(5)(B) is repealed because it is confusing and unclear. The subject matter is covered in Definitions Section 89201(c)(6), Criminal Records Clearance Section 89219, and Capacity Determination Section 89228.

Section 87087(b)(1)

Specific Purpose/Factual Basis:

This section is repealed because the requirement to keep the home free of flies and other insects is covered in the general requirements of sanitation.

Section 89387(d) (Renumbered from Section 87087(d))

Specific Purpose/Factual Basis:

This section is renumbered and amended to add an age and capacity component to the swimming pool requirements. The component is added because most incidents of children drowning occur with children age 10 or younger. In addition, it is added to reasonably and safely accommodate homes taking older children.

Sections 89387(d)(1), (2) and (4) are current requirements using The Swimming Pool Act as definitional references or clarifying language; Section 89387(d)(3), exit alarms are an equally protective alternative to existing CCL pool requirements recognized by The Swimming Pool Act and are incorporated under the authority of Health and Safety Code

Section 115926; Section 89387(d)(5) is adopted to refer to additional requirements for windows that are in sleeping rooms; Sections 89387(d)(6) is adopted from the Swimming Pool Act to allow for equally protective means of providing pool safety that is authorized by the building authority in the form of a permit or other official documentation and Section 89387(d)(6)(A) is added to require the caregiver who uses this section to provide the Department with verification. Section 89387(d)(6)(A) is renumbered to (d)(6)(B). Section 87087(d)(2) is renumbered to 89387(e) and amended for clarity.

Final Modification:

Section 89387(d) et seq. is amended as follows: Section (d) is amended for clarity by repealing the last phrase of the section and adopting a new section (d)(1) which makes it clear to the caregiver which safety features shall be used to assure inaccessibility of swimming pools and other bodies of water; current sections (d)(1) and (d)(2) are renumbered to (d)(1)(A) and (d)(1)(B) respectively. Section (d)(3) is renumbered to (d)(1)(C) and amended by adding the words "or windows" to clarify that the exit alarm requirement applies to doors or windows providing direct access to the pool; cross references are updated. A new Section (d)(1)(C)1. is adopted to allow the caregiver, when it is feasible and authorized by the Department, the use of a partial enclosure in combination with the exit alarms on doors or windows to comply with the requirement that swimming pools and other bodies of water be inaccessible. Section (d)(4) is repealed; the intent of this requirement is to provide a safety feature to assure the inaccessibility of swimming pools and other bodies of water. This language is institutional and burdensome and not compatible with a homelike environment. This requirement is now met in amended Sections 89387(d)(1)(A), (B), (C), (D), and 89387(e). This amendment supports the Department's position of modification to more user-friendly language. Section (d)(5) is renumbered to (d)(1)(C)2. Sections (d)(6), (d)(6)(A) and (d)(6)(B) are renumbered to (d)(1)(D), (d)(1)(D)1., and (d)(1)(D)2. respectively and cross references are updated.

Section 89387(e) is amended to clarify that an above-ground pool less than 60 inches in height shall be made inaccessible when not in use by removing or making the ladder inaccessible and by the use of a barricade. This requirement provides clarity and is consistent with current regulatory requirements to isolate the pool from the home by use of an enclosure, that in addition to meeting other requirements, must be a minimum of 60 inches in height. This amendment is necessary because the regulations allow for the pool structure itself to be used as a barricade.

Section 89387(f) (Renumbered from Section 87087(e))

Specific Purpose/Factual Basis:

This section is renumbered.

Section 89387(g) (Renumbered from Section 87064(c)(1))

Specific Purpose/Factual Basis:

This section is renumbered.

Section 89387(i) (Renumbered from Section 87088(a), (a)(1) and (a)(2))

Specific Purpose/Factual Basis:

This section is renumbered. Redundant language in Sections 87088(a)(1) and (2) is repealed. The intent of the requirement is met with the amendments.

Section 89387(j) (Renumbered from Section 87088(d))

Specific Purpose/Factual Basis:

This section is renumbered.

Section 89387(k) (Renumbered from Section 87088(e))

Specific Purpose/Factual Basis:

This section is renumbered and amended to repeal redundant language from Sections 87088(e)(1) and (e)(1)(A). The intent of the requirement is met with the amendments.

Section 89387(l) (Renumbered from Section 87088(f))

Specific Purpose/Factual Basis:

This section is renumbered and amended to provide clear language for the caregiver to ensure child safety when there is a fireplace, open-faced heater, or woodstove in the home.

Final Modification:

This section is further amended for clarity.

Section 89387(m) (Renumbered from Section 87088(h))

Specific Purpose/Factual Basis:

This section is renumbered.

Section 89387(n) (Renumbered from Section 87088(i))

Specific Purpose/Factual Basis:

This section is renumbered and amended to simplify the requirement for the caregiver to provide hot water at safe temperature. The language is more home-like and user-friendly. Section 87088(i)(1) is repealed to remove language that is unnecessary and redundant.

Section 89387(o) (Renumbered from Section 87088(j))

This section is renumbered and amended for clarity. Sections 87088(j)(1), (2), and (3) are repealed to remove unnecessary institutional language. The intent of the regulatory requirement is met with the amendments.

Section 89387(p) (Renumbered from Section 87088(m))

Specific Purpose/Factual Basis:

This section is renumbered.

Section 89387(q)

Specific Purpose:

The adoption of this section clarifies the use of security window bars and adds language that requires each bedroom or sleeping room provide at least one operable window or door that allows emergency exit to the outside.

Factual Basis

This section is necessary to add the requirement that each bedroom or sleeping room have at least one operable window or door to allow safe, direct exit to the outside in case of an emergency. It also provides specific requirements that the caregiver must follow if window bars are used. This section is added to meet the requirements of Health and Safety Code Section 1531.4. A handbook section is added to provide the language of Health and Safety Code Section 1531.4.

Section 89387.1 et seq. (Renumbered from Section 87087.2 et seq.)

Specific Purpose/Factual Basis:

This section is renumbered and amended for simplicity. Existing language on outdoor activity space in Sections 87087.2(a)(1), (2), (3), and (4) is repealed because it was written with institutional facilities in mind and contains both language and requirements that are inappropriate for a home-like setting. The change in language supports the Department's position to more user-friendly language

Section 89387.2 et seq. (Renumbered from Section 87087.4 et seq.)

Specific Purpose/Factual Basis:

This section is renumbered. Section 89387.2 (b) is amended to clarify that a child, based on age and maturity and as documented in the child's Needs and Services Plan or TILP, can be allowed access to medications, disinfectants and cleaning solutions. Non-substantive, institutional Sections 87087.4(c) and (d) are repealed for clarity, consistency and ease of use.

Section 89388 et seq. (New)

Specific Purpose:

This section is adopted and titled "Cooperation and Compliance." Section 89388 is adopted to require the caregiver to maintain and cooperate with all caregiver standards. Current Section 87012(a) is renumbered to Section 89388(b) and amended for clarity.

Factual Basis:

This section is necessary to combine related regulatory requirements for caregivers to comply and cooperate with all caregiver standards as stated in Health and Safety Code Section 1520.1. This amendment is necessary for clarity, consistency and ease of use.

Article 4.

Specific Purpose/Factual Basis:

Article 4. titled "Placement" is adopted.

Section 89400 et seq.

Specific Purpose:

The specific purpose of this section is to adopt Section 89400. This section incorporates in regulations new statutory clarifying language of the Welfare and Institutions Code Section 16507.5 as amended by AB 1695.

Factual Basis:

This section is necessary to incorporate new language clarifying statutory requirement of AB 1695. The language clarifies that licensure is not an entitlement to placement Handbook Section 89400(a)(1) is added to reference Welfare and Institutions Code Section 16507.5 for ease of use.

Section 89405 et seq.

Specific Purpose:

Section 89405 "Training Requirements" is adopted. Section 89405(a) is adopted to require that at least one person providing care and supervision to the child be trained in Cardiopulmonary Resuscitation (CPR) and also for the caregiver to complete the training required in Section 1529.2 of the Health and Safety Code as well as other required training. Handbook Section 89405(a)(1) is provided with the language of Section 1529.2 of the Health and Safety Code for ease of use. Current Handbook Section 87017(d) et seq. is renumbered to Section 89405(b) et seq.

Factual Basis:

Section 89405 is necessary to incorporate new clarifying language outlining training requirements for caregivers. Section 89405(a) requires that at least one person providing care and supervision to the child be CPR-trained and incorporates training requirements for caregivers from Health and Safety Code Section 1529.2 which is provided in handbook. Further, Handbook Section 87017(d) et seq. which provide examples of acceptable course, seminar, conference, or training topics are renumbered to Handbook Section 89405(b) et seq. for clarity, consistency and ease of use.

Final Modification:

Section 89405(a) is amended by repealing the word "or" from "and/or" to clearly state that the training required must consist of both CPR and first aid. Language referencing Section 1529.9 of the Health and Safety Code is repealed from this section and is now referenced in new Section 89405(b).

Section 89405(b) is adopted because current law requires the caregiver to complete a specific number of hours of training prior to placement of a child in the home and on an annual basis. Field staff and caregivers are misinterpreting the regulatory requirement. CPR and first aid training is being erroneously counted toward the required 12 hours of initial training. Regulations are not clear that caregivers must complete the CPR and first aid training in addition to the 12 hours of initial and 8 hours of annual training required. This adoption clarifies the caregiver's responsibility to complete first aid and CPR training in addition to the 12 hours of initial training prior to placement of a child in the home and 8 hours of annual training as required in Section 1529.9 of the Health and Safety Code.

Section 89410 et seq. (Renumbered from Section 87010 et seq.)

Specific Purpose/Factual Basis:

This section is renumbered. Section 87010(d) is repealed as duplicative unnecessary language regarding a ventilator dependent child. Needs of a ventilator dependent child is addressed in Article 5, the Special Health Care Needs section of the regulations by incorporation of reference to Welfare and Institutions Code Section 17710 et seq.

Section 89420 et seq. (Renumbered from Section 87020 et seq.)

Specific Purpose/Factual Basis:

This section is renumbered. Section 89420(a) is amended for clarity; Section 87020(a)(1) is repealed because it is a requirement for the licensing agency and not for the caregiver; Section 89420(b) is renumbered from Section 87072(a)(7)(D) and amended for clarity.

Final Modification:

Handbook Section 89420(a)(1) is amended to include the phrase "in pertinent part" at the end of the first line. This phrase, although included in the emergency adoption, was inadvertently left without the underline, which indicates new language.

Section 89421 et seq. (Renumbered from Section 87021 et seq.)

Specific Purpose:

The specific purpose of this amendment is to renumber section 87021, repeal initial licensure language that is obsolete and add the term "placement."

Factual Basis:

This amendment is necessary to clarify that evidence of an onsite water inspection is required prior to the first placement in the home. Section 87021 is renumbered to Section 89421 for consistency of format.

Section 89465 (Renumbered from Section 87065)

Specific Purpose/Factual Basis:

This section is renumbered and the title amended from "Personnel Requirements" to "Caregiver Requirements." The current title of this section is misleading, therefore it is changed so that it is clear that the information provided is regarding the caregiver.

Section 87065(a)

Specific Purpose/Factual Basis:

This section is repealed to delete language that is redundant and unnecessary. The requirement is met in renumbered Section 89465(a).

Section 89465(a) (Renumbered from Section 87065(b))

Specific Purpose/Factual Basis:

This section and renumbered. Section 89465(a)(2)(D) is necessary to adopt language that clarifies and references regulation that specifies when the licensing agency may determine when additional staff is needed.

Section 87065(c)

Specific Purpose/Factual Basis:

This section is repealed because it was adopted in error. The volunteer exemption criteria specified in Health and Safety Code Section 1522(b)(4)(B) affects adult day care and adult day support centers only and does not apply to any other community care facility category.

Section 89465(b) (Renumbered from Section 87065(d))

Specific Purpose/Factual Basis:

This section is renumbered and amended to clarify that the caregiver and any additional help, must be in good health and physically, mentally, and occupationally capable of complying these regulations.

Section 89465(c) and Handbook Sections 89465(c)(1) and (2) (Renumbered from Sections 87065(f) and (f)(1))

Specific Purpose/Factual Basis:

Section 89465(c) is renumbered from Section 87065(f) and amended for clarity and consistency. Section 87065(f)(1) is repealed from regulation and added as Handbook Section 89465(c)(1) because this is a regulatory requirement for the Department and not the caregiver and is provided for the caregiver as a reference to what the licensing agency will be asking for when there is a question about the physical and/or mental health of the caregiver, including any additional help. Handbook Section 89465(c)(2) is also added as a reference to the caregiver.

Section 89465(d) (Renumbered from Section 87065(e))

Specific Purpose/Factual Basis:

This section is renumbered.

Final Modification:

This section is amended to clearly state that all adults regularly present in the home must submit verification of their tuberculosis test results to the licensing agency prior to the placement of a child in the home. Such results must be less than a year old.

Section 87065(g)

Specific Purpose/Factual Basis:

This section is repealed to delete the requirement that gives the Department the authority to relieve foster family homes personnel of their duties if there is evidence of physical illness that poses a threat to the health and safety of children in care. This language is redundant. The requirement is met in Section 89465(b).

Section 89468 et seq. (Renumbered from Section 87068.1 et seq. and 87068.2 et seq.)

Specific Purpose:

The specific purpose of this amendment is to adopt new Section 89468. Language is incorporated from existing regulations 87068.1 and Section 87068.2 to consolidate related regulatory requirements for ease of use.

Factual Basis:

This amendment is necessary to adopt new Section 89468. Language is incorporated from existing regulations to combine related regulatory requirements for clarity, consistency and ease of use. Sections 87068.1(a), (b), (b)(1), (2), (3) are repealed because the requirements were written with institutional facilities in mind and they contain language and requirements that are inappropriate for a home. Section 87068.2(a) was renumbered to Section 89468(a) and amended to add language to clarify what information is required and from whom it should be received. Section 87068.2(a)(1) is repealed because information is requested from the placement worker and not the authorized representative. Section 87068.2(b) is repealed because there is no specific form required by the Department for the Needs and Services Plan. Sections 87068.2(c)(9) et seq. are repealed because the requirements were written with institutional facilities in mind and they contain language and requirements that are inappropriate for a home. Sections 87068.2(d) and (d)(1) are repealed because it is not the caregiver's responsibility to request the information from the social worker. It is the social worker's responsibility to provide the caregiver with the child's records. Section 87068.1(c) is renumbered to Section 89468(c) and amended to clarify what the caregiver should do with specific information after it is received. Section 89468(e) is adopted to add language identifying children's records that must be maintained by the caregiver and includes the Transitional Independent Living Plan for youth participating in the Independent Living Program (ILP) in accordance with Health and Safety Code Section 1559.110.

Post-hearing Modification

Section 89468(f)

Specific Purpose:

The specific purpose of this adoption is to acknowledge the intent of AB 899, however, notwithstanding the limitation expressed in Health and Safety Code section 1530.91(a), the Department shall continue its longstanding practice of affording every child in foster care an age- and developmentally-appropriate orientation to their personal rights. Children's residential facility regulations shall continue to reflect this Departmental practice of advising children of their personal rights.

Factual Basis:

Regulations currently require the caregiver to explain/review with every child, and the child's authorized representative, the personal rights afforded foster care children. This amendment is necessary to adopt the language of AB 899 that requires an explanation to children be age- and developmentally-appropriate. However, notwithstanding the limitation expressed in Health and Safety Code Section 1530.91(a), the Department shall continue its longstanding practice of affording every child in foster care an age- and developmentally-appropriate orientation to their personal rights.

Post-hearing Modification

Section 89468(f)(1)

Specific Purpose:

The specific purpose of this adoption is to incorporate a new posting requirement for foster family homes licensed for 6 or more children.

Factual Basis:

This amendment is necessary to adopt language that requires caregivers licensed for 6 or more children, regardless of actual capacity, in addition to complying with Section 89468(f), to post a listing of the personal rights (PUB 396) in an area accessible to the child and his or her authorized representative. These changes are necessary to implement Welfare and Institutions Code 16001.9 and Health and Safety Code Section 1530.91(a).

Section 89469 et seq. (Renumbered from Section 87069 et seq.)

Specific Purpose:

The specific purpose of this amendment is to renumber Section 87069 and repeal unnecessary language for clarity.

Factual Basis:

This amendment is necessary to renumber Section 87069 to Section 87469 and to make clarifying modifications to the regulatory requirement. Sections 87069(b) et seq. are repealed because the child's medical assessment is included in the case plan. The case plan contains all statutory requirements for the medical assessment and is provided by the social worker to the caregiver. Therefore, this requirement is unnecessary in this section. Section 87069(c) is renumbered to Section 89469(b).

Final Modification:

Section 89469(a) is amended to include the word "accepting" in the phrase "Within 30 days of accepting a child..." This word, although included in the emergency adoption, was inadvertently left without the underline, which indicates new language.

Section 89475 et seq. (Renumbered from Section 87075)

Specific Purpose:

The specific purpose of this amendment is renumber Section 87075 and to clarify and eliminate unnecessary language for health related services.

Factual Basis:

This amendment is necessary to renumber Section 87075 to Section 89475. Substantial modifications were made to eliminate unnecessary language for simplicity, clarification and ease of use.

Section 89475(a) (Renumbered from Section 87075(i))

Specific Purpose/Factual Basis:

This section is renumbered and amended to remove unnecessary cumbersome language. This amendment is necessary to eliminate institutional language in Section 87075(i) and (i)(1) and replace it with more home-like language to simply state the responsibility of the caregiver when providing family health care.

Section 89475(b) (Renumbered from Section 87075(g))

Specific Purpose/Factual Basis:

This section is renumbered and amended for clarity by eliminating institutional language and replacing it with more home-like language.

Section 89475(b)(2) (Renumbered from Section 87075(g)(2))

Specific Purpose/Factual Basis:

This section is renumbered. Substantial modifications were made to simplify the language to require the caregiver to maintain first aid supplies to meet the needs of the children in care. Reference to a ventilator dependent child is removed because the needs of the ventilator dependent child is addressed in the new Article 5, the Special Health Care Needs section of the regulations.

Section 89475(c) (Renumbered from Section 87075(d))

Specific Purpose/Factual Basis:

This section is renumbered and the requirements of current Sections 87075(e) et seq. and (f) et seq., are simplified and incorporated into this section with a more user-friendly, home-like language.

Article 5.

Specific Purpose/Factual Basis:

A new Article 5. titled "Special Health Care Needs" is adopted.

Section 89510.1 (Renumbered from Section 87010.1)

Specific Purpose/Factual Basis:

This section is renumbered.

Section 89510.2 (Renumbered from Section 87010.2)

Specific Purpose/Factual Basis:

This section is renumbered.

Section 89565.1 et seq. (Renumbered from Section 87065.1)

Specific Purpose/Factual Basis:

This section is renumbered. The section title is misleading and therefore changed so that it is clear that the information provided is regarding requirements pertaining to the caregiver.

Section 89566 (Renumbered from Section 87066)

Specific Purpose/Factual Basis:

This section is renumbered.

Section 89569.1 (Renumbered from Section 87069.1)

Specific Purpose/Factual Basis:

This section is renumbered.

Final Modification:

Section 89569.1(a)(7) is amended to correct the word "Services" in the phrase "Needs and Services Plan..."

Section 89570.1 (Renumbered from Section 87070.1)

Specific Purpose/Factual Basis:

This section is renumbered.

Section 89572.2 (Renumbered from Section 87072.2)

Specific Purpose/Factual Basis:

This section is renumbered.

Final Modification:

As a result of testimony received which suggests that this section is vague and not clear, this section is amended as follows: Section 89572.2(a) is amended to provide clarification that children with special health care needs must be afforded the same personal rights listed in Section 89372 with some modifications based on the child's medical needs. Section 89372.2(a)(1) is adopted to clearly state that children with special health care needs have the same right to be free of the administration of medications or chemical substances as any other child except as specifically provided in the child's individualized health care plan. Caregivers must have a clear understanding that medications cannot be distributed at their own discretion. Section 89572.2(b) is renumbered to (a)(2) and amended to clearly state that restraining/postural devices may be used only as required to treat the child's medical symptoms and addressed or outlined in the child's individualized health care plan. Caregivers must have a clear understanding that restraining/postural devices cannot be used at their discretion to treat behavioral problems related to emotional disturbance and other mental disorders. The following subsections are renumbered accordingly.

Section 89587.1 (Renumbered from Section 87087.1)

Specific Purpose/Factual Basis:

This section is renumbered.

Section 87007.1

Specific Purpose:

This section is repealed because "Certified License Pending Homes" are obsolete and no longer used in foster family homes regulations.

Factual Basis:

This section is repealed because it is not consistent with state or federal or state requirements. Since 1998, state and federal law (ASFA) have required that all core health and safety requirements must be met before a license is issued and therefore, prohibits provisional Foster Family Homes licenses. There are no exceptions for pending or provisional licenses.

Section 87012

Specific Purpose/Factual Basis:

This section is repealed. The current language in this section is unnecessary. Language addressing false claims in Section 87012(a) and (b) has been modified and renumbered to Section 89388(b).

Section 87022

Specific Purpose:

The specific purpose of this amendment is to repeal an unnecessary institutional requirement. The Department is replacing old institutional language in favor of more home-like terminology. Section 87022 is being repealed from the regulations for clarity and ease of use.

Factual Basis:

This amendment is necessary because a plan of operation is no longer required for foster family homes. Foster Family Homes are private residences operated as home settings. These institutional requirements are unnecessary and the intent is met in less stringent requirements in other foster family homes regulations. The change in language supports the Department's position of modification to more user-friendly language.

Section 87023

Specific Purpose:

The specific purpose of this amendment is to repeal unnecessary institutional requirements. The Department is replacing old institutional language in favor of more home-like language. Section 87023 is being repealed from the regulations for clarity and ease of use.

Factual Basis:

Current Section 87023, Disaster and Mass Casualty Plan, is an institutional requirement that is being repealed. Foster Family Homes are private residences operated as home settings. These institutional requirements are unnecessary and the intent is met in less stringent regulation Section 89323, Emergency Plan. The change in language supports the Department's position of modification to more user-friendly language.

Section 87025

Specific Purpose:

The specific purpose of this amendment is to repeal an unnecessary institutional requirement from the foster family homes regulations. Section 87025 is being repealed for clarity and ease of use.

Factual Basis:

This amendment is necessary because bonding is no longer a requirement for foster family homes. Foster family homes are private residences operated as home settings. These institutional requirements are unnecessary and the intent is met in less stringent requirements in new Section 89226, Safeguards for Cash Resources, Personal Property, and Valuables. The change in language supports the Department's position of modification to more user-friendly language.

Section 87030

Specific Purpose:

This section is repealed as obsolete. Provisional licenses are no longer used in foster family homes regulations.

Factual Basis:

This section is repealed because it is not consistent with state or federal requirements. Since 1998, state and federal law (ASFA) have required that all core health and safety requirements must be met before a license is issued and therefore, prohibits provisional Foster Family Homes licenses. There are no exceptions for pending or provisional licenses.

Section 87036

Specific Purpose/Factual Basis:

This section is repealed. Section 87036(a) was renumbered to Section 89218(f) for consolidation of related regulatory requirements and ease of use.

Section 87043

Specific Purpose/Factual Basis:

This section is repealed. The handbook section is deleted as unnecessary and irrelevant.

Article 5 (Title) (Repealed)

Specific Purpose/Factual Basis:

Due to the reorganization of Title 22, Division 6, Chapter 7.5, this article title is repealed.

Section 87051

Specific Purpose/Factual Basis:

This section is repealed. Handbook Section 87051(a) has been renumbered to Handbook Section 89252(e).

Section 87053

Specific Purpose/Factual Basis:

This section is repealed. Section 87053 has been renumbered to Section 89252(d)(6) for consolidation of related regulatory requirements.

Section 87064

Specific Purpose/Factual Basis:

This section is repealed. This section is duplicative and unnecessary. The intent of this section is met in other foster family homes regulations (Sections 89378, 89379, and 89387). This amendment supports the Department's position of modification to more user-friendly language.

Section 87068

Specific Purpose/Factual Basis:

This section is repealed. Language in this section is duplicative and unnecessary. The intent of this section is met in other regulatory Sections 89370 and 89378.

Section 87068.2

Specific Purpose/Factual Basis:

This section is repealed. Current Section 87068.2(a) through (d)(1) have been renumbered to Section 89468(a) and (b) to combine with related regulatory requirements for clarity, consistency, and ease of use.

Section 87068.3

Specific Purpose/Factual Basis:

This section is repealed. The relevant regulatory requirements contained in this section can be found in Sections 89370, Children's Records, and Section 89468, Admission Procedures. Pertinent language was modified, and combined with related regulatory requirements for clarity, consistency and ease of use.

Section 87070

Specific Purpose:

The specific purpose of this amendment is to repeal unnecessary institutional requirements. Section 87070 is being repealed for clarity and ease of use. The Department is repealing old institutional language in favor of more home-like terminology.

Factual Basis:

This amendment is necessary to repeal unnecessary institutional requirements. When Section 87070 was adopted it was with institutional facilities in mind and contain both language and requirements that are inappropriate for a home. The institutional requirements are contained in the child's case plan. New language in Section 89370 is adopted to convey simply the requirement to safeguard and keep confidential children's records. The change in language supports the Department's position of modification to more user-friendly language.

Section 87072

Specific Purpose:

This section is repealed.

Factual Basis:

This amendment is necessary to repeal Section 87072. Existing Personal Rights are being replaced with new statutory requirements to be afforded foster care children as mandated by Assembly Bill 899. All existing personal rights were retained in new Personal Rights Section 89372. The rights were rearranged according to similar rights. A new right in Section 89372(c)(17) was added for increasing independence for youth in accordance with Health and Safety Code Section 1559.110. Clarifying language to accord the child the greatest level of independence as outlined in the child's Needs and Services Plan or Transitional Independent Living Plan is added. These changes are necessary to implement Welfare and Institutions Code Section 16001.9.

Section 87072.1

Specific Purpose/Factual Basis:

This section is repealed. This section prohibits the use of discipline which violates a child's personal rights. This requirement is duplicative and unnecessary. New Section 89372 addresses the child's personal rights.

Section 87074

Specific Purpose/Factual Basis:

This section is repealed. Current institutional language that contained obsolete law is being replaced with language in new Section 89374 that simplifies the transportation requirement. The new language makes allowances to applicable transportation requirements for caregivers when they are transporting a foster care child. The amendment simplifies the requirement and provides language that supports the Department's position of modification to more user-friendly language.

Section 87075

Specific Purpose/Factual Basis:

Sections 87075(a), (b), and (c) are repealed because the language is duplicative of general care and supervision requirements in new Section 89378. The requirement in Section 87075(c)(2) for caregivers to report specific information to the child's authorized representative has been incorporated into Section 89361, Reporting Requirements, to ensure that this care and supervision is being provided.

Section 87075(e) is repealed because the language is unnecessary and the requirements in this section have been incorporated into new Section 89475(c).

Section 87075(f) is repealed to eliminate cumbersome institutional language and replace it with more home-like language. The requirements in this section have been incorporated into new Section 89475(c).

Section 87075(h) is repealed to eliminate cumbersome institutional language and replace it with more home-like language. The requirement in this section has been incorporated into new Section 89475(b).

Section 87075(j) is repealed because the requirement for someone to be responsible for communicating the emergency plan is addressed in regulatory requirements for care and supervision in Section 89378.

Sections 87075(j)(1), (j)(2), and (j)(3) are repealed because the requirement to ensure specific information is available in case of an emergency is addressed in Section 89323, Emergency Plan.

Section 87075(k) is repealed because requirements that address the needs of a child with a condition that requires special care, are addressed in the new Article 5, the Special Health Care Needs section of the regulations. Special Health Needs are covered in general by Welfare and Institutions Code Section 17710.

Sections 87075(l) et seq., (m) et seq., and (n) are repealed to eliminate cumbersome, institutional language. These requirements are addressed in Section 89475(c) in clear, home-like language.

Section 87076

Specific Purpose:

The specific purpose of this section is to repeal unnecessary institutional requirements. Section 87076 is being repealed for clarity and ease of use. The Department is replacing old institutional language in favor of more home-like terminology.

Factual Basis:

This section is repealed because it was written with institutional facilities in mind. It contains both language and requirements that are inappropriate for a home. These institutional requirements are unnecessary and the intent is met in less stringent foster family homes regulations Section 89376. The change in language supports the Department's position of modification to more user-friendly language.

Section 87088

Specific Purpose/Factual Basis:

This section is repealed. This repealed is necessary because this section has been amended to eliminate non-substantive and irrelevant language. The pertinent regulatory requirements can be found in new Section 89387.

Post-hearing Modification

Section 89221 (Renumbered to Section 89185)

Specific Purpose/Factual Basis:

The Foster Family Homes regulations have been renumbered to Title 22, Division 6, Chapter 9.5, starting with Section 89200. Current Section 89221 is part of Title 22, Division 6, Chapter 9 (Adoption Agencies) and therefore needs to be renumbered to prevent confusion.

b) Identification of Documents Upon Which Department Is Relying

Adoptions and Safe Families Act of 1997, Public Law 105-89
Assembly Bill (AB) 1544, Chapter 793, Statutes of 1997
Senate Bill (SB) 645, Chapter 949, Statutes of 1998
AB 2773, Chapter 1056, Statutes of 1998
AB 1695, Chapter 653, Statutes of 2001
AB 899, Chapter 683, Statutes of 2001
AB 427, Chapter 125, Statutes of 2001

c) Local Mandate Statement

The regulations do not impose a mandate on local agencies or school districts. There are no state-mandated costs in these regulations which require state reimbursement under Section 17500 et seq. of the Government Code.

d) Statement of Alternatives Considered

CDSS has determined that no reasonable alternative considered would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

e) Significant Adverse Economic Impact On Business

CDSS has determined that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

f) Testimony and Response

These regulations were considered as Item #2 at the public hearing(s) held on August 12, 13, and 14, 2002 in Monterey Park, Oakland, and Sacramento, California, respectively. Written testimony was received from the following during the 45-day comment period from June 28, 2002 to 5:00 p.m. August 14, 2002:

- Tom Barbane, Foster Care Licensing, Napa County Health and Human Services (Barbane)
- Maggie Roberts, Staff Attorney, Protection & Advocacy, Inc. (Roberts)

Oral testimony was received at the public hearing from the following:

- Fred Leiner, California State Care Providers Association (Leiner)

The comments received and the Department's responses to those comments follow. At the end of each comment is the name of the commenter in parentheses.

General Comments:

1. Comment:

"The first item I like to talk about is the CDSS Manual of Policies and Procedures, I've seen it, I have copies of it, I keep all the updates on and I think is outstanding. I like to see one section added, and that would be a section on Caregiver Rights. I've seen throughout the state, throughout many departments foster children's rights, birth-parent rights, but nothing in writing on the rights of caregivers and I'd like to see this section added, and that's my comment on the MPP." (Leiner)

Response:

Thank you for your comments. Caregivers are afforded rights contained on the LIC 9058 Applicant/Licensee Rights form. This form is available from the Department or on the Internet at www.cclid.ca.gov.

2. Comment:

"I have a comment on the new Title 22. I've seen copies of it, I've been fortunate to add, or send a three-page, four-page document to the committee working on it. They've accepted many of our recommendations. I think it's outstanding in that it gives the caregiver and easier document to read, understand, and follow. My one major concern is the youth sports outside of the public schools on the checking of, the background checking for criminal clearances of the coaches and things like that. And that's my only concern at this point right now." (Leiner)

Response:

Thank you for your comments. The Foster Family Homes Emergency Regulations Section 89378, Responsibility for Providing Care and Supervision, requires the caregiver to provide 24 hour care and supervision. If the caregiver delegates their responsibility, they must ensure all regulatory requirements for health and safety are met. This includes for example, fingerprinting and background checks. This may be done through reasonable inquiry. In group activities where the child is not left alone, fingerprinting is not required. The caregiver should coordinate the child's participation in group activities with the social worker. The child's participation in such activities should not be inconsistent with the child's case plan or needs and services plan.

3. Comment:

"Protection & Advocacy, Inc. (PAI)... objects to the use of the emergency regulation process for the adoption of these regulations. We believe that California Department of Social Services (the Department) has failed to state specific facts showing that adoption of these emergency regulations is necessary for the immediate preservation of the public peace, health, safety or general welfare within the meaning of Government Code, § 11346.1(b).

"We further believe that the use of the much shorter emergency regulations process in this case allows for insufficient time for the public and interested persons and organizations to familiarize themselves with these regulations and have the opportunity to make meaningful comments on these regulations. This is especially true given the fact that the proposed emergency regulations involve extensive changes to, as well as numerous renumbering and reordering of, provisions of the current regulations. These extensive and confusing changes make it time consuming and difficult to determine the potential impact of these regulations on children in foster homes and their caregivers.

"Finally, there are reasonable alternatives to the proposed regulations, particularly the proposed regulations pertaining to children with special health care needs, that would be more effective in carrying out the purpose for which the Act was enacted or would be as effective and would be less burdensome on children with special health care needs and/or the families that care for them. We have set forth suggested alternatives below.

"I. Introduction

"The Department is proposing to adopt, as emergency regulations, extensive regulations relating to the licensing of foster homes, the responsibilities of foster parents, and the rights of foster children. These emergency regulations, covering more than one hundred and fifty pages, involve repealing numerous existing regulations and replacing them with provisions that contain substantially modified language. These revised provisions often appear in completely different order with completely different section numbers than similar provisions of the current foster care regulations.

"The impetus behind this major overhaul of the current foster family regulations is to conform state regulations with the federal Adoptions and Safe Families Act (ASFA) of 1997 and with recent state legislation outlining the rights of foster children. ASFA, among other things, requires that approved foster care homes meet the same standards as licensed foster care homes

"The Department claims that its proposed emergency regulations are 'equally protective, less restrictive and more user friendly' as compared to current regulations. It also claims that the core health and safety requirements for foster families are essentially unchanged, but have undergone non-substantive modifications to more clearly show consistency with ASFA.

"The Department has chosen to revise its foster homes regulations, not by following the usual rulemaking process provided by Gov. Code § 11346 *et seq.*, but by adopting emergency regulations pursuant to Gov. Code § 11346.1. In doing so, the Department shortens the process for public dissemination and comment on these regulations. The Department justifies its use of the streamlined emergency regulation due process procedures by claiming that the recent enactment of AB 1695 (Ch. 653, Statutes of 2001), urgency legislation ensuring continuing state compliance with AFSA, necessitates immediate implementation. The Department also states that there is a significant possibility of reduction of federal funds if the Department does not quickly revise its foster family regulations to conform to federal law.

"II. DSS has Failed to State Specific Facts which Justify the Adoption of Emergency Regulations

"If a state agency makes a finding that the adoption of a regulation or order of repeal is necessary for the immediate preservation of the public peace, health, safety or general welfare, the agency may adopt the regulation or order as an emergency regulation or order of repeal. Gov. Code § 11346.1 (b). The finding of emergency shall be documented in a written statement containing a detailed description of the specific facts showing the need for immediate action. *Id.* The enactment of an urgency statute shall not, in and of itself, constitute the need for immediate action. *Id.* The Office of Administrative Law must review all emergency regulations and must make an independent determination whether the regulation is necessary for the 'immediate preservation of the public peace, health, and safety, or general welfare.' Gov. Code § 11349.6 (b).

"The Department claims that the proposed regulations are being enacted on an emergency basis for the immediate preservation of the public, peace, health and safety, or general welfare. The primary fact which the Department specifies as constituting an emergency is the recent enactment of urgency legislation requiring implementation by July 1, 2002 of regulation changes to comply with AFSA. The law is clear, however, that the enactment of an urgency statute does not, in and of itself, constitute the need for immediate action so as to justify emergency rulemaking. See Gov. Code § 11346.1(b).

"The only other factual bases provided by the Department for its emergency regulations are (1) the recent enactment of AB 899 (Chapter 683, Statutes of 2001) and (2) the 'significant possibility of claims cuts and reduction in Title IV-E participation if regulations are not promulgated by July 1, 2002'. Neither of these reasons constitute specific facts showing that immediate action is necessary.

"Assembly Bill AB 899 requires the Department to incorporate the 21 personal rights listed in Welfare & Institutions Code § 16001.9 into regulations. The Act does not specify a deadline for this implementation. Moreover, as the Department itself acknowledges in its 'Finding of Emergency' statement, the majority of the 21 statutory personal rights are already contained in the current Foster Family Homes regulations. See CCR, Tit. 22, Division 6, Chapter 7.5. The proposed regulations essentially renumber the personal rights to correspond with Welf. & Instit. Code § 16001.9. Although this may ultimately make the regulations more 'user-friendly', as the Department claims, there is certainly no urgency involved in the renumbering process which would justify emergency regulations.

"Finally, the possibility of reductions or cuts in federal funds is a speculation, not a specific fact requiring immediate action to preserve public peace or general welfare. If the significant possibility of a reduction of federal funds constituted an eminent threat to health, safety or welfare so as to justify emergency rulemaking, the door would be wide open for any number of rules and regulations to bypass the regular due process procedures for public rulemaking. Moreover, the Department has failed to establish that there is a significant risk of the loss of federal funds if these regulations were adopted according to non-emergency procedures. The federal law that these regulations seek to comply with was passed five years ago. The Department admits that California law has conformed to this statute since 1998 and since that time, all California foster family homes have been held to the same core health and safety standards as required by federal law. Therefore, the federal government would have no basis for reducing federal funds for non-compliance with federal foster care laws. Since, according to the Department itself, California has been in full compliance with AFSA for years, it should not matter for federal funding purposes whether proposed regulations which reflect the change in the law are adopted in August pursuant to rushed, emergency procedures, or are adopted a little later pursuant to fairer procedures. The Department is five years late in adopting conforming regulations regardless of which rulemaking procedures it uses.

"III. Significant Rights May Be Violated or Prejudiced if the Department Follows Emergency Rulemaking Procedures in This Case

"The proposed emergency regulations involve repealing numerous existing regulations and replacing them with provisions that contain substantially modified language and are often in completely different order with completely different section numbers than the current foster care regulations. Because of the length of the regulations involved and of the magnitude of language revisions, rescissions, as well as renumbering and reordering involved, it is time-consuming and confusing to compare the current and proposed new regulations. The myriad shifts and modifications involved make it

difficult to determine what the impact of the regulations, if any, will be on the health, safety and welfare of foster children.

"Many parents, foster parents, child advocates, and other interested persons are likely to have difficulty understanding how the proposed regulations affect children and their care providers. Because these proposed regulations constitute a substantial overhaul of current regulations, it is particularly important that the normal procedures and time frames for public comment are followed. Where as here, proposed regulations directly impact a particularly vulnerable population, (in this case, children who require foster care), it is essential that there is sufficient time allowed for meaningful public comment.

"For the above reasons, we urge the Department to follow the procedures for non-emergency rulemaking in adopting these proposed regulations.

"IV. The Proposed Regulations Pertaining to Personal Rights of Children with Special Health Care Needs are Vague and Confusing and Need Revising

"Before it can promulgate new regulations, The Department must determine that no reasonable alternative has been identified or brought to its attention that would be more affective in carrying out its purpose or would be as effective and less burdensome to affected persons than the proposed action. Gov. Code § 11346.5(7). The emergency regulations contain numerous changes to make the proposed emergency regulations 'equally protective, less restrictive and more user friendly' than current regulations. However, the Department failed to rewrite several provisions of the current law which critically need revision in order to equally protective and less restrictive of the rights of children with special health care needs..."

"V. Conclusion

"The Department has failed to state specific facts showing a need for emergency rulemaking to preserve the public, peace, health, and safety. Therefore, the Department should follow the laws and procedures for adopting non-emergency regulations. PAI is concerned that individuals and agencies with an interest in these regulations have not had sufficient time to familiarize themselves with and comment on the extensive and complicated revisions contained in the proposed emergency regulations." (Roberts)

Response:

Thank you for your comments. In response to Sections I, II, III and V of your comments, AB 1695, Chapter 653, Statutes of 2001, Section 21, provides the Department with the authority to adopt these regulations as Emergency Regulations in accordance with the Administrative Procedures Act.

In response to Section IV, there were no substantive changes to the regulations regarding special health care needs. All regulations pertaining to special health care

needs were relocated and grouped together into one article, Article 5. Special Health Care Needs.

Sections 89475(c)(1) and (c)(5)

4. Comment:

"There seems to be some confusion and conflicting language in Section 89475 (Health Related Services). In Sec. (c)(1) The caregiver shall 'assist children with the self administration of medication as needed.' That seems to conflict with (c)(5) 'Non prescription medication must be administered as directed by the appropriate medical personnel and documented by the caregiver.' Does this seem logical that a caregiver is trusted to give 24 hr. care to these kids, help them take very toxic medications then have to have a 'appropriate medical personal' (a doctor?) administer a aspirin? As a recruiter/licensing person I know first hand that we are losing foster parents and not finding replacements, due to a number of reasons and the lack of logical regulations and excessive 'documentation' are part of that." (Barbane)

Response:

Thank you for your comments. The regulations have been misconstrued. The Department believes that the requirements to administer non-prescription medication under Section 89475, Health Related Services, are less restrictive than those requirements for prescription medication. Sections 89475(c)(1), (2), and (3) apply to both prescription and non-prescription medication. Specifically, if the child's health condition requires the administration of medication (prescription or non-prescription), the caregiver is required to assist the child with self-administration of the medication as needed, ensure that instructions given by the appropriate medical professional are followed, and store the medication in the original unaltered label. The difference in the requirements for prescription versus non-prescription medication is with Sections 89475(c)(4) and 89475(c)(5). Section 89475(c)(4) requires that the prescription medication be administered as per the directions on the label or as advised by the physician in writing. This information is provided and documented by the doctor who writes the prescription and noted on the label of the medication. In such an instance, the caregiver has already made contact with the appropriate medical professional in order to have received the prescription. Section 89475(c)(5) requires the caregiver to administer the non-prescription medication as directed by the appropriate medical professional. In this instance, the caregiver must contact the appropriate medical professional and document the instructions given. For example, contact may be through telephone inquiry with an advice nurse.

Please re-read Article 4. Placement, Section 89475 Health Related Services if you need additional clarification.

Section 89572.2(a)

5. Comment:

"Subsection (a) of proposed regulation § 89572.2 states that: except as specified in this section, § 89372(a)(8) shall not apply to children with special health care needs. There is no subsection (8) (or in fact any subsections at all) of proposed § 89572(a). (This typographical error probably is the result of the confusion created by the massive renumbering and reordering of the regulations and exemplifies the challenges involved in deciphering the proposed regulations.) There is a subsection (c)(8) to § 89372 which is similar to (a)(8) in the section of the current regulations pertaining to personal rights. Subsection (c)(8) states the children have the right '[t]o be free of the administration of medications or chemical substances, unless authorized by a physician and, if required by a court order.' Thus, assuming that this is the provision referred to in proposed § 89572.2, the proposed regulation appears to allow foster care providers to administer medications or substances not authorized by a physician to children with special health care needs, but not to other children. This regulation does not refer to regulations or laws pertaining to the standards for administration of medication or chemical substances for children with special needs and therefore it is impermissibly vague. A foster caregiver could reasonably read this provision and feel that they could administer any type of amount of medications to such children according to their own discretion. Because many children with special health care needs take medications which have significant side effects and/or which might have dangerous interactions with other medications or chemical substances, it is critical that the regulations in this area be user friendly and unambiguous.

"To avoid the above problems, we suggest that the Department amend proposed § 89572.2 as follows:

"Section 89372(c)(8) shall not apply to children with special health care needs. Children with special health care needs have the right to be free of the administration of medications of chemical substances except as specifically provided in a child's individualized health care plan. Any medication, chemical substance or other treatment must only be administered in the dosage, frequency and manner described in the individualized health care plan and only by the person or person identified in the individualized health care plan.

"This suggested amendment would make the regulations clearer, more users friendly and conforms to current law pertaining to children with special needs in foster care. See Welf. & I Code § 17731. This suggested amendment would not involve any costs or place any burden on businesses." (Roberts)

Response:

Thank you for your comments. Reference to Section 89372(a)(8) is a typographical error. The correct reference cite shall be Section 89372(c)(8). We have considered your suggestion to Section 89572.2 and have made the following modifications:

89572.2 Personal Rights for Children with Special Health Care Needs

(a) ~~Except as specified in this section, Section 89372(a)(8) shall not apply to~~ Children with special health care needs- are afforded all the personal rights set forth in 89372, with the following modifications:

(1) Section 89372(c)(8) shall not apply to children with special health care needs. Children with Special Health Care Needs have the right to be free of the administration of medication or chemical substances except as specifically provided in a child's individualized health care plan.

Section 89572.2(b)

6. Comment:

"Subsection (b) to proposed § 89572.2 (Personal Rights for Children with Special Health Care Needs) is equally vague and needs revising. This subsection states that:

"In addition to Section 89372, but notwithstanding Section 89372(c)(19), a child with special health care needs has the right to be free from any restraining/postural support device imposed for purposes of discipline or convenience, and not required to treat the child's specific medical problems. (Continued).

"(2) Postural supports as specified in Sections 89372(c)19(a), half bedrails, and protective devices as specified in Section 89372(19)(F), may be used if prescribed in the individualized health care plan. The use of a postural support or protective device and the method of application shall be specified in the child's individualized health care plan and approved in writing by the child's physician.

"Again, this proposed regulation is confusing because it is not clear what is meant by '(Continued)'. Moreover, this provision is open to dangerous interpretation A caregiver could interpret this regulation as permitting physical restraints of children to control or 'treat' behavior problems related to emotional disturbance and other mental health disorders. Laws and regulations pertaining to mental health treatment facilities for children and adults make it clear, however, that use of physical restraints for behavioral intervention should only be used by staff specifically trained in the use of physical restraints for behavior intervention and only pursuant to rigid time and reporting standards under close monitoring by a doctor and under supervision of qualified health care staff and/or administrators. See, e.g., Welf. & Instit. Code § 4094; Cal. Code of Regulations, title 22, §§ 84802(e), 84803, 84805; CCR, tit. 9 § 1901 We believe that the regulations should be written to clearly show that: 1) the use

of restraining devices or manual restraints for behavior intervention or behavior control purposes by foster care providers is impermissible and 2) all restraining devices for protective or postural purposes must only be used only in strict conformance with the child's individualized health care plan and only where less restrictive measures have been tried and proven to be ineffective.

"We suggest that § 89572.2(b) be amended along the following lines:

"A child with special health care needs has the right to be free from any restraining, protective or postural support device imposed by the foster care providers for the purpose of discipline, convenience, or behavioral control or intervention. Care providers are prohibited from applying restraining or protective devices to a child unless the use of such device is (1) specifically prescribed in the child's individualized health plan; (2) approved in writing by the child's physician for the purpose of postural support or protecting the child from injury, such as falling out of the bed; and (3) there is written documentation that other less restrictive methods have been tried or considered and were not effective in protecting the child or providing postural support. Any such device may only be administered in the frequency, duration, and manner described in the individualized health care plan and only by the person or person identified in the individualized health care plan to apply such device.

"We believe that the suggested changes to § 89572.2 of the proposed regulations would make these regulations more protective of the rights of children with special health care needs and more user-friendly. These suggested changes do not involve any costs or unnecessary burden to businesses or interested parties." (Roberts)

Response:

Thank you for your comments. The word '(Continued)' enclosed in parenthesis is standard format used to denote that the language in the sections following remain unchanged. No substantive changes were made to the regulations regarding special health care needs. All foster family homes regulations pertaining to special health care needs were relocated and grouped together into one article titled, Article 5. Special Health Care Needs. We have considered your suggestion to Section 89572.2(b) and have made the following modifications:

89572.2 Personal Rights for Children with Special Health Care Needs

[Please see response to previous comment for the language of Sections 89572.2(a) and (a)(1)]

(b) (2) ~~In addition to Section 89372, but notwithstanding Section 89372(c)(19), a child shall not apply to children~~ with special health care needs. A child with special health care needs have the right to be free from any restraining/postural support device imposed for purposes of discipline or convenience, and not except as required to treat the child's specific medical

symptoms and addressed or outlined in the child's individualized health care plan. (Continued)

The Department believes the Foster Family Homes regulations support the rights of the child with Special Health Care Needs. Please re-read Section 89572.2 in the Emergency Regulations and the language that is "(Continued)" is the language in the sections previously numbered 87072.2(b)(1), (b)(1)(A), (b)(1)(B), and (b)(1)(C) which remained unchanged, except for the section number which the emergency regulations renumbered to 89572.2.

g) 15-Day Renotice Statement

Pursuant to Government Code Section 11346.8, a 15-day renotice and complete text of modifications made to the regulations were made available to the public following the public hearing. No written testimony on the modifications renoticed for public comment from December 10 to December 24, 2002 was received.