

NOTICE PUBLICATION/REGULATIONS SUBMISSION

REGULAR

(See Instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2014-1216-03	REGULATORY ACTION NUMBER 2015-1228-015	EMERGENCY NUMBER
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ENDORSED - FILED
in the office of the Secretary of State
of the State of California

FEB 10 2016

1:32 PM

For use by Office of Administrative Law (OAL) only	
NOTICE	REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY
California Department of Social Services

AGENCY FILE NUMBER (if any)
ORD # 0614-07

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER 2014, 52-2	PUBLICATION DATE 12/26/2014

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Family Child Care Home Capacity	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND Sections 102352, 102416.5, 102417, 102421
	REPEAL
TITLE(S) 22, MPP	

3. TYPE OF FILING

<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmission of disapproved or withdrawn nonemergency filing (Gov. Code §511349.3, 11349.4)	<input type="checkbox"/> Resubmission of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify) _____	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)
15-Day Renote, available from November 18, 2015 to December 2, 2015.

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

<input checked="" type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> §100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input checked="" type="checkbox"/> Department of Finance (Form STD. 399) (SAM 56660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify) _____		

7. CONTACT PERSON Oliver Chu	TELEPHONE NUMBER (916) 657-3588	FAX NUMBER (Optional) (916) 657-3286	E-MAIL ADDRESS (Optional) oliver.chu@dss.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 12/18/15
TYPED NAME AND TITLE OF SIGNATORY Brian Dougherty, Deputy Director, Administration Division	

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ENDORSED APPROVED

FEB 10 2016

Office of Administrative Law

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Amend Section 102352 to read:

102352 **DEFINITIONS**
(Continued)

102352

(f) (1) (Continued)

(A) "Small Family Child Care Home" means a home that provides family child care for up to six children, or for up to eight children if the criteria in Section 102416.5(b) are met. These capacities include children under age 10 who ~~live~~ reside in at the licensee's home.

(B) "Large Family Child Care Home" means a home that provides family child care for up to 12 children, or for up to 14 children if the criteria in Section 102416.5(~~b~~e) are met. These capacities include children under age 10 who ~~live~~ reside in at the licensee's home and the assistant provider's children under age 10.

Authority cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.74, 1596.75, 1596.77, 1596.770, 1596.78, 1596.791, ~~1596.81(b)~~, 1597.44, and 1597.465, Health and Safety Code; and Section 244, Government Code.

Amend Section 102416.5 to read:

102416.5 STAFFING RATIO AND CAPACITY

102416.5

- (a) The capacity specified on the license shall be the maximum number of children for whom care ~~can~~ may be provided at any one time.
- (b) For a ~~sSmall~~ ~~fFamily~~ ~~eChild~~ ~~eCare~~ ~~hHome~~, the maximum number of children for whom care shall may be provided at any one time, including children under age 10 who live in reside at the licensee's home, shall be one of the following:
 - (1) Four infants; or
 - (2) Six children, no more than three of whom may be infants; or
 - (3) More than six and up to eight children, without an additional adult attendant, only if the criteria in Section 1597.44 of the Health and Safety Code are met.

HANDBOOK BEGINS HERE

- ~~(3)~~ Health and Safety Code ~~S~~section 1597.44 states:

A small family day care home may provide care for more than six and up to eight children, without an additional adult attendant, if all of the following conditions are met:

- ~~(A)~~(a) ~~At least two of the children are~~ one child is enrolled in and attending kindergarten or elementary school and a second child is at least six years of age.
- ~~(B)~~(b) No more than two infants are cared for during any time when more than six children are cared for.
- ~~(C)~~(c) The licensee notifies each parent that the facility is caring for two additional schoolage children and that there may be up to seven or eight children in the home at one time.
- ~~(D)~~(d) The licensee obtains the written consent of the property owner when the family day care home is operated on property that is leased or rented.

HANDBOOK ENDS HERE

- (c) The total licensed capacity for a Small Family Child Care Home shall not exceed eight children.

(ed) For a ~~H~~Large ~~F~~Family ~~C~~Child ~~C~~Care ~~H~~Home, the maximum number of children for whom care ~~shall~~ may be provided at any one time when there is an assistant provider in the home, including children under age 10 who ~~live in~~ reside at the licensee's home and the assistant provider's children under age 10, shall be either:

- (1) Twelve children, no more than four of whom may be infants; or
- (2) More than twelve and up to fourteen children only if the criteria in Section 1597.465 of the Health and Safety Code are met.

HANDBOOK BEGINS HERE

(2) Health and Safety Code ~~S~~section 1597.465 states:

A large family day care home may provide care for more than 12 children and up to and including 14 children, if all of the following conditions are met:

- (A)(a) ~~At least two of the children are~~ one child is enrolled in and attending kindergarten or elementary school and a second child is at least six years of age.
- (B)(b) ~~No more than three infants are cared for during any time when more than 12 children are being cared for.~~
- (C)(c) ~~The licensee notifies a parent that the facility is caring for two additional schoolage children and that there may be up to 13 or 14 children in the home at one time.~~
- (D)(d) ~~The licensee obtains the written consent of the property owner when the family day care home is operated on property that is leased or rented.~~

HANDBOOK ENDS HERE

- (e) If no assistant provider is present at a Large Family Child Care Home, then the licensee shall comply with the capacity requirements for a Small Family Child Care Home as specified in subsections (b) and (c).
- (f) The total licensed capacity for a Large Family Child Care Home shall not exceed fourteen children.
- (g) For the purpose of meeting the criteria in Sections 1597.44 and 1597.465 of the Health and Safety Code, for a school age child who is under age six, the licensee shall maintain documentation verifying the child's enrollment and attendance at kindergarten, including transitional kindergarten, or elementary school.

- (1) The documentation requirement shall be met by either of the following:
 - (A) Documentation from the school in which the child is enrolled and attending verifying the child's enrollment and attendance, or
 - (B) A signed and dated statement from the child's authorized representative verifying the child's enrollment and attendance.
- (2) The documentation and statement described in paragraph (1) shall include the name of the child, the name of the school the child is enrolled in and attending, the date of the child's enrollment and the date the child started attending the school.
- (3) The licensee shall obtain the documentation or statement described in paragraph (1) at the beginning of each school year, no later than 30 calendar days from the date the child begins attending school, until the child is six years of age. If a child enrolls in and begins attending school after the school year has commenced, then the licensee shall obtain the documentation or statement described in paragraph (1) upon enrollment or within 30 calendar days following the child's enrollment.
- (4) The documentation or statement described in paragraph (1) shall be maintained in the child's record pursuant to Section 102421.
- (h) For a Family Child Care Home that meets the criteria in Sections 1597.44 or 1597.465 of the Health and Safety Code to care for up to two additional children, the licensee shall maintain proof of parent notification in the child's record pursuant to Section 102421.
 - (1) For a Small Family Child Care Home that meets the criteria to care for up to two additional children, the licensee shall maintain proof of parent notification as specified in Section 1597.44(c) of the Health and Safety Code.
 - (2) For a Large Family Child Care Home that meets the criteria to care for up to two additional children, the licensee shall maintain proof of parent notification as specified in Section 1597.465(c) of the Health and Safety Code.
- (i) For the purpose of meeting the criteria in Sections 1597.44 and 1597.465 of the Health and Safety Code "school age child" means a child who meets one of the following criteria:
 - (1) Is enrolled in and attending kindergarten, including transitional kindergarten, or elementary school; or
 - (2) Is at least six years of age.

Authority cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.78, 1597.44, and 1597.465, ~~and 1597.57~~, Health and Safety Code.

Amend Section 102417 to read:

102417 OPERATION OF A FAMILY CHILD CARE HOME 102417
(Continued)

- (o) The licensee shall maintain documentation of proof of control of property at the ~~f~~Family ~~e~~Child ~~e~~Care ~~h~~Home for review by the Department.
- (1) If the licensee owns or is buying the home, ~~this~~ "proof of control of property" is a copy of the property deed, the property tax statement, or a payment coupon from the mortgage company or bank.
- (2) If the licensee is operating on rented or leased property, ~~this~~ "proof of control of property" is a copy of the rental agreement or lease.
- (p) A prospective Family Child Care Home licensee who resides in a rental property shall provide written notice of intent to operate a Family Child Care Home to the landlord or owner of the rental property prior to the commencement of operation of the Family Child Care Home in accordance with Section 1597.40(d) of the Health and Safety Code. The licensee shall maintain proof of this notification at the Family Child Care Home for review by the Department.
- (1) The licensee shall provide the landlord or owner of the rental property with a completed LIC 9151 (Rev. 8/14) Property Owner/Landlord Notification, which is incorporated by reference, for this purpose and maintain a copy of the completed form at the Family Child Care Home for review by the Department.

HANDBOOK BEGINS HERE

Health and Safety Code section 1597.40(d) states:

- (1) A prospective family day care home provider, who resides in a rental property, shall provide 30 days' written notice to the landlord or owner of the rental property prior to the commencement of operation of the family day care home.
- (2) For family day care home providers who have relocated an existing licensed family day care home program to a rental property on or after January 1, 1997, less than 30 days' written notice may be provided in cases where the department approves the operation of the new location of the family day care home in less than 30 days, or the home is licensed in less than 30 days, in order that service to the children served in the former location not be interrupted.
- (3) A family day care home provider in operation on rental or

leased property as of January 1, 1997, shall notify the landlord or property owner in writing at the time of the annual license fee renewal, or by March 31, 1997, whichever occurs later.

- (4) Notwithstanding any other provision of law, upon commencement of, or knowledge of, the operation of a family day care home on his or her property, the landlord or property owner may require the family day care home provider to pay an increased security deposit for operation of the family day care home. The increase in deposit may be required notwithstanding that a lesser amount is required of tenants who do not operate family day care homes. In no event, however, shall the total security deposit charged exceed the maximum allowable under existing law.
- (5) Section 1596.890 shall not apply to this subdivision.

HANDBOOK ENDS HERE

(pq) A licensee who operates on rented or leased property, and who wishes to increase the capacity of the ~~f~~Family ~~e~~Child ~~e~~Care ~~h~~Home as specified in Section 102416.5(b)(3) or Section 102416.5(~~ed~~)(~~1~~2), shall obtain the written consent of the property owner/landlord to increase the home's capacity to eight or 14 children.

(1) The licensee shall maintain the original of the completed and signed LIC 9149 (Rev. 8/14) Property Owner/Landlord eConsent, which is incorporated by reference, ~~form shall be~~ attached to the ~~f~~Family ~~e~~Child ~~e~~Care ~~h~~Home's license and ~~kept~~ on file in the home.

(qr) A signed and dated copy of LIC 9052 (Rev. 4/88), Notice of Employee Rights, shall be maintained in the employee's personnel record.

(rs) Upon notice from the Department to remove an individual from the home, pursuant to Health and Safety Code Section 1596.871(c)(2), or to exclude an individual from the home, pursuant to Health and Safety Code Section 1596.8897, the licensee shall;

(1) (Continued)

(3) Obtain a signed and dated receipt from one parent or authorized representative that acknowledges that he/she was given a copy of the addendum specified in Section 102417(~~rs~~)(2).

(4) Maintain copies of the signed and dated receipt required in Section 102417(~~rs~~)(3) in each child's file. Copies shall be made available to the Department upon request.

Authority cited: Section 1596.81, Health and Safety Code.

Reference: Sections ~~1596.72, 1596.73~~, 1596.78, ~~1596.81(b)~~, 1596.841, 1596.846(b) and (c), ~~1596.871(c)(2)~~, 1596.880, 1596.881, 1596.882, ~~1596.8897~~, 1597.30, ~~1597.40~~, 1597.44, 1597.45, 1597.46, 1597.465, 1597.531 and 1597.54(b)(2), Health and Safety Code.

Amend Section 102421 to read:

102421 CHILD'S RECORDS

102421

- (a) The licensee shall maintain, in each child's record, the signed and dated notice form required in Section 102419(d).
- (1) The licensee shall ~~kept~~ keep the signed and dated notice form for at least three years following termination of service to the child.
- (b) The licensee shall maintain, in each child's record, a copy of the emergency information card as required in Section 102417(g)(7).
- (c) In any case in which the licensee cares for an additional child pursuant to Section 102416.5(b) for a Small Family Child Care Home or Section 102416.5(d) for a Large Family Child Care Home, the licensee shall maintain, in the child's record, a copy of documentation verifying the child's enrollment and attendance at kindergarten, including transitional kindergarten, or elementary school as required in Section 102416.5(g).
- (d) In any case in which the licensee cares for an additional child pursuant to Section 102416.5(b) for a Small Family Child Care Home or Section 102416.5(d) for a Large Family Child Care Home, the licensee shall maintain, in the child's record, proof of parent notification that the facility is caring for an additional child as required in Section 102416.5(h).
- (1) The licensee shall maintain a completed and signed LIC 9150 (Rev. 8/14) Parental Notification Additional Children in Care, which is incorporated by reference, for this purpose.
- (e)(e) In any case in which a licensee releases a minor to a peace officer pursuant to Section 305 of the Welfare and Institutions Code, the licensee shall provide the peace officer with the address and telephone number of the minor's parent or authorized representative in order to enable the peace officer to make the notification required by Section 308 of the Welfare and Institutions Code

Authority cited: Section 1596.81, Health and Safety Code.

Reference: Sections ~~1596.72, 1596.73, 1596.78, 1596.857, 1596.872, 1596.876, and 1597.30, 1597.44 and 1597.465,~~ Health and Safety Code.

PROPERTY OWNER/LANDLORD CONSENT**FAMILY CHILD CARE HOME**

Health and Safety Code, Sections 1597.44(d) and 1597.465(d) require, in part, that providers who lease or rent their residence obtain written consent from their property owner when they plan to provide care for more than six and up to eight children at a Small Family Child Care Home, or for more than 12 and up to 14 children at a Large Family Child Care Home. If you plan to increase the capacity of your Family Child Care Home, as specified, please have your property owner complete this consent form.*

I _____ give my consent for
(PRINT PROPERTY OWNER/LANDLORD NAME)

_____ who resides at
(PRINT APPLICANT/LICENSEE'S NAME)

_____ to increase the
(PRINT FACILITY ADDRESS)

CHECK ONE:

Small Family Child Care Home capacity to provide care for more than 6 and up to 8 children.

or

Large Family Child Care Home capacity to provide care for more than 12 and up to 14 children.

(PROPERTY OWNER/LANDLORD SIGNATURE)

(DATE)

*Property owner consent is not required if you plan to care for 6 or fewer children in your Small Family Child Care Home or for 12 or fewer children in your Large Family Child Care Home.

**Maintain this form attached to the license and
keep on file at the licensed Family Child Care Home.**

adopt

PARENT NOTIFICATION ADDITIONAL CHILDREN IN CARE

As required by Health and Safety Code Sections 1597.44(c) and 1597.465(c), you are hereby notified that: *(Check one)*

- I am licensed as a Small Family Child Care Home and may provide care for more than six and up to eight children when one child is enrolled in and attending kindergarten (including transitional kindergarten) or elementary school, and another child is at least six years old, and no more than two infants are in care.
- I am licensed as a Large Family Child Care Home, and with an assistant provider, may provide care for more than 12 and up to 14 children when one child is enrolled in and attending kindergarten (including transitional kindergarten) or elementary school, and another child is at least six years old, and no more than three infants are in care.

(PRINT FACILITY ADDRESS)

(CUT ALONG DOTTED LINE)

RECEIPT OF PARENT NOTIFICATION (Facility Copy) Additional Children in Care

I, _____, acknowledge receipt of the notification that this Small Family Child Care Home may be providing care for more than six and up to eight children, or that this Large Family Child Care Home may be providing care for more than 12 and up to 14 children in accordance with Health and Safety Code Sections 1597.44 and 1597.465.

(PARENT/AUTHORIZED REPRESENTATIVE SIGNATURE)

(DATE)

(CHILD'S NAME)

Maintain the completed and signed bottom half of this form in the child's record and provide the completed top half of this form to the child's parent or authorized representative.

adopt

PROPERTY OWNER/LANDLORD NOTIFICATION

FAMILY CHILD CARE HOME

As required by Health and Safety Code Section 1597.40(d), you are hereby notified as the property owner or landlord of the property located at:

_____ that
(PRINT FACILITY ADDRESS)

_____ is currently or will be
(PRINT APPLICANT'S/LICENSEE'S NAME)

operating a licensed Family Child Care Home at this address.

The sole purpose of this notice is to advise you of the current use or intended use of the above property. The property owner/landlord is prohibited by law from imposing any direct or indirect restrictions on, or prohibitions against, the tenant's operation of the Family Child Care Home on the rental property, in accordance with Health and Safety Code Section 1597.40.

(APPLICANT/LICENSEE SIGNATURE)

(DATE)

Maintain a copy of this completed form on file at the licensed Family Child Care Home.

