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Regulation Package No. 0316-04

CDSS MANUAL LETTER NO. CCL-16-10

TO: HOLDERS OF THE COMMUNITY CARE LICENSING MANUAL,
TITLE 22, DIVISION 6, CHAPTER 7.3, CRISIS NURSERIES

Regulation Package # 0316-04

Effective 7/7/16

Sections 89374, 89387

This manual letter has been posted on the Office of Regulations Development website at <http://www.cdss.ca.gov/ord/PG639.htm>.

This is an editorial package filed pursuant to California Code of Regulations (CCR), Title 1, section 100. These changes make the regulations consistent with Health and Safety (H&S) Code sections 1530.7 and 1503.2 and, otherwise, do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any CCR provisions. The changes made are without regulatory effect because they either (1) delete a regulatory provision for which all statutory authority has been repealed, (2) make a regulatory provision consistent with changes to California statutes, (3) change authority or reference citations or (4) revise grammar or syntax errors [1 CCR sections 100 (a)(2),(a)(4),(a)(5) and (a)(6)].

It is the intent of the Department based on its statutory authority to promulgate regulations that ensure children in foster care have the right to be accorded safe, healthful and comfortable home accommodation free from toxic exposure to carbon monoxide and the right to be free of the risks and toxic exposure of secondhand smoke from all tobacco products while at home and when being transported by care providers.

These amendments are necessary to comply with Assembly Bill (AB) 352 (Chapter 292, Statutes of 2013) and AB 2386 (Chapter 503, Statutes of 2014).

FILING INSTRUCTIONS

Revisions to all manuals are indicated by a vertical line in the left margin. The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Community Care Licensing changes was Manual Letter No. CCL-16-09. The latest prior manual letter containing Crisis Nurseries regulations changes was Manual Letter No. CCL-15-06.

<u>Page(s)</u>	<u>Replace(s) Page(s)</u>
118 through 119.1	118 through 119.1
144 through 145	144 through 145

Attachment

OC

86572.1 DISCIPLINE POLICIES AND PROCEDURES**86572.1**

- (a) The licensee shall ensure that a written discipline policies and procedures plan is developed, maintained and implemented.
- (b) The licensee shall ensure that a copy of the discipline policies and procedures is provided to parents, staff, legal guardians, and authorized representatives.
- (c) Discipline for children shall be education-based, consistent among caregivers, and include the following:
 - (1) Redirecting the child's attention.
 - (2) Focusing on the rule to learn and the reason for the rule.
 - (3) Providing acceptable alternatives.
 - (4) Providing time away from the precipitating situation.
 - (5) Arranging the environment to allow safe testing of limits.
- (d) Discipline shall not include confinement to cribs, high chairs, playpens or other similar furniture or equipment.
- (e) The licensee shall prohibit any form of discipline that violates a child's personal rights as specified in Section 86572, Personal Rights.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1516, and 1531, Health and Safety Code.

86572.2 COMPLAINT PROCEDURES**86572.2**

- (a) The licensee shall ensure that written complaint procedures by which children, parents, legal guardians, or authorized representatives are permitted to file complaints, without fear of retaliation, with the crisis nursery regarding crisis nursery staff or operations are developed, maintained, and implemented.
 - (1) Parents, staff, legal guardian, or authorized representatives shall receive copies of such procedures.
 - (2) Signed copies of such procedures shall be maintained in each child's record.

86572.2 COMPLAINT PROCEDURES (Continued)**86572.2**

- (3) Such procedures shall be posted in a location in the crisis nursery that is accessible to children, their parents, legal guardians or authorized representatives.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1516, and 1531, Health and Safety Code.

86574 TRANSPORTATION**86574**

- (a) The licensee shall ensure that all transportation provided for children in their care is provided in vehicles that are in safe operating condition and that drivers comply with all applicable laws.
- (b) No child shall be left unattended in a vehicle.
- (c) The licensee shall ensure that children are secured in the vehicle in an appropriate restraint device according to the California Vehicle Code and, if applicable, the manufacturers' instructions for the infant car seat(s).
- (1) The licensee shall ensure the use of other restraint or protective devices that are required due to the child's disabilities or physical and medical condition.
- (2) The licensee shall ensure that children are secured in the vehicle so that the child is not in danger of being injured by the vehicle's airbag.
- (d) The licensee and his/her staff are prohibited from smoking a tobacco product, or permitting any person from smoking a tobacco product in a motor vehicle that is regularly used to transport children, regardless of when the children are present. This prohibition applies when the motor vehicle is moving or at rest. Smoking has the same meaning as in subdivision (c) of Section 22950.5 of the Business and Professions Code, and tobacco product means a product or device as defined in subdivision (d) of Section 22950.5 of the Business and Professions Code.

86574 **TRANSPORTATION**
(continued)**86574**

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Business and Professions Code sections 22950.5(c) and (d) provide:

(c) "Smoking" means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, whether natural or synthetic, in any manner or in any form. "Smoking" includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking.

(d) (1) "Tobacco product" means any of the following:

(A) A product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, or snuff.

(B) An electronic device that delivers nicotine or other vaporized liquids to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, pipe, or hookah.

(C) Any component, part, or accessory of a tobacco product, whether or not sold separately.

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NOTE: Authority Cited: Section 1530 and 1559.110, Health and Safety Code. Reference: Sections 1501, 1516, 1530.7, 1531 and 118948, Health and Safety Code; and 22950.5(c) and (d), Business and Professions Code.

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86587 BUILDING AND GROUNDS (Continued) 86587

- (1) Storage areas for these items, shall be locked.
 - (2) Medicines shall be stored separately from these items, and as specified in Section 86575(b)(3).
 - (3) These items shall not be stored in food storage areas or in storage areas used by or for children.
 - (4) Firearms and other weapons shall not be allowed onto or stored on the crisis nursery premises.
- (h) Bedrooms shall meet, at a minimum, the following requirements:
- (1) No more than three children shall sleep in a bedroom when only cribs and toddler beds are used.
 - (2) No more than two children shall sleep in a bedroom when a twin bed is used in combination with a crib, toddler bed, or another twin bed.
 - (3) Bedrooms shall be large enough to allow for easy passage and comfortable use of any required assistive devices, including, but not limited to, wheelchairs, between beds and other furniture.
 - (4) Children of the opposite sex shall not share a bedroom unless each child is under five years of age.
 - (5) No room commonly used for other purposes shall be used as a bedroom.
 - (A) Such rooms shall include, but not be limited to, halls, stairways, unfinished attics or basements, garages, storage areas, and sheds or similar detached buildings.
 - (6) No bedroom shall be used as a public or general passageway to another room, bath, or toilet.
 - (7) No child's bedroom shall be used as a napping area by the Crisis Day Care.
- (i) Stairways, inclines, ramps, and open porches shall have hand railings and gates to prevent unsupervised climbing and shall be well lighted.
- (j) Surfaces accessible to children shall be free of lead paint.
- (k) The licensee shall prohibit smoking in or on the grounds of the crisis nursery.
- (l) Every Crisis Nursery shall have one or more carbon monoxide detectors in the facility that meets the standards established in Health and Safety Code Chapter 8 (commencing with Section 13260) of Part 2 of Division 12

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Health and Safety Code Section 13260 provides:

"This chapter shall be known and may be cited as the Carbon Monoxide Poisoning Prevention Act of 2010."

Health and Safety Code Section 13261 provides:

"The Legislature finds and declares all of the following:

(a) According to the American Medical Association, carbon monoxide is the leading cause of accidental poisoning deaths in the United States. The federal Centers for Disease Control and Prevention estimate that carbon monoxide kills approximately 500 people each year and injures another 20,000 people nationwide.

(b) According to the United States Environmental Protection Agency, a person cannot see or smell carbon monoxide. At high levels carbon monoxide can kill a person in minutes. Carbon monoxide is produced whenever any fuel, such as gas, oil, kerosene, wood, or charcoal, is burned.

(c) The State Air Resources Board estimates that every year carbon monoxide accounts for between 30 and 40 avoidable deaths, possibly thousands of avoidable illnesses, and between 175 and 700 avoidable emergency room and hospital visits.

(d) There are well-documented chronic health effects of acute carbon monoxide poisoning or prolonged exposure to carbon monoxide, including, but not limited to, lethargy, headaches, concentration problems, amnesia, psychosis, Parkinson's disease, memory impairment, and personality alterations.

(e) Experts estimate that equipping every home with a carbon monoxide device would cut accident-related costs by 93 percent. Eighteen states and a number of large cities have laws mandating the use of carbon monoxide devices.

(f) Carbon monoxide devices provide a vital, highly effective, and low-cost protection against carbon monoxide poisoning and these devices should be made available to every home in California.

(g) The Homeowners' Guide to Environmental Hazards prepared pursuant to Section 10084 of the Business and Professions Code is an important educational tool and should include information regarding carbon monoxide. It is the intent of the Legislature that when the booklet is next updated as existing resources permit, or as private resources are made available, it be updated to include a section on carbon monoxide."

HANDBOOK CONTINUES

HANDBOOK CONTINUES

Health and Safety Code section 13262 provides:

"For purposes of this chapter, the following definitions shall apply:

(a) 'Carbon monoxide device' means a device that meets all of the following requirements:

(1) A device designed to detect carbon monoxide and produce a distinct, audible alarm.

(2) A device that is battery powered, a plug-in device with battery backup, or a device installed as recommended by Standard 720 of the National Fire Protection Association that is either wired into the alternating current power line of the dwelling unit with a secondary battery backup or connected to a system via a panel.

(3) If the device is combined with a smoke detector, the combined device shall comply with all of the following:

(A) The standards that apply to carbon monoxide alarms as described in this chapter.

(B) The standards that apply to smoke detectors, as described in Section 13113.7.

(C) The combined device emits an alarm or voice warning in a manner that clearly differentiates between a carbon monoxide alarm warning and a smoke detector warning.

(4) The device has been tested and certified, pursuant to the requirements of the American National Standards Institute (ANSI) and Underwriters Laboratories Inc. (UL) as set forth in either ANSI/UL 2034 or ANSI/UL 2075, or successor standards, by a nationally recognized testing laboratory listed in the directory of approved testing laboratories established by the Building Materials Listing Program of the Fire Engineering Division of the Office of the State Fire Marshal of the Department of Forestry and Fire Protection.

(b) 'Dwelling unit intended for human occupancy' means a single-family dwelling, factory-built home as defined in Section 19971, duplex, lodging house, dormitory, hotel, motel, condominium, stock cooperative, time-share project, or dwelling unit in a multiple-unit dwelling unit building or buildings. 'Dwelling unit intended for human occupancy' does not mean a property owned or leased by the state, the Regents of the University of California, or a local governmental agency.

(c) 'Fossil fuel' means coal, kerosene, oil, wood, fuel gases, and other petroleum or hydrocarbon products, which emit carbon monoxide as a byproduct of combustion."

HANDBOOK CONTINUES

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Health and Safety Code Section 13263 provides:

"(a) (1) The State Fire Marshal shall develop a certification and decertification process to approve and list carbon monoxide devices and to disapprove and delist previously approved devices, if necessary. The certification and decertification process shall include consideration of effectiveness and reliability of the devices, including, but not limited to, their propensity to record false alarms. The certification and decertification process shall include a review of the manufacturer's instructions and shall ensure their consistency with building standards applicable to new construction for the relevant type of occupancy with respect to number and placement.

(2) The State Fire Marshal shall charge an appropriate fee to the manufacturer of a carbon monoxide device to cover his or her costs associated with the approval and listing of carbon monoxide devices.

(b) A person shall not market, distribute, offer for sale, or sell any carbon monoxide device in this state unless the device and the instructions have been approved and listed by the State Fire Marshal."

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NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1503.2, 1516, 1531, 13260, 13261, 13262 and 13263 Health and Safety Code.

86587.1 OUTDOOR ACTIVITY SPACE**86587.1**

- (a) Children shall have access to safe outdoor activity space that is free from hazards to life and health.
- (1) The licensee shall ensure that any construction or equipment that causes a hazardous situation including, but not limited to, incinerators, air-conditioning equipment, water heaters, or fuse boxes, is inaccessible to children.
 - (2) Hazards include, but are not limited to, holes, broken glass, and other debris, and dry grasses that pose a fire hazard.
 - (3) Sandboxes shall be inspected daily and kept free of hazardous foreign materials.
- (b) The areas around and under high climbing equipment, swings, slides and other similar equipment shall be cushioned with material which absorbs falls.
- (1) Sand, woodchips, pea gravel or rubber mats commercially produced for this purpose, shall be permitted.
 - (2) The use of cushioning material other than that specified in (1) above shall be approved by the Department in advance of installation.
- (c) The licensee ensure that the outdoor activity space with a variety of developmentally appropriate toys and equipment.
- (1) The equipment shall be age appropriate and used in accordance with the manufacturers' instructions.
- (d) The licensee shall ensure that the outdoor activity area is enclosed with a fence to provide protection for children and to keep them in the outdoor activity area.
- (1) The fence shall be at least four feet in height.

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- (2) The intent of this requirement is to keep children from leaving unnoticed without creating a hazard to the children. For example, a split rail fence is inefficient at keeping children in and a barbed wire fence presents a hazard. Therefore, both types of fencing are inappropriate.

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