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## HEALTH AND SAFETY CODE - HSC

### DIVISION 2. LICENSING PROVISIONS [1200 - 1796.70] ( Division 2 enacted by Stats. 1939, Ch. 60. )

#### CHAPTER 3. California Community Care Facilities Act [1500 - 1567.94] ( Chapter 3 repealed and added by Stats. 1973, Ch. 1203. )

#### ARTICLE 3. Regulations [1530 - 1539] ( Article 3 added by Stats. 1973, Ch. 1203. )

**1530.** The state department shall adopt, amend, or repeal, in accordance with Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, such reasonable rules, regulations, and standards as may be necessary or proper to carry out the purposes and intent of this chapter and to enable the state department to exercise the powers and perform the duties conferred upon it by this chapter, not inconsistent with any of the provisions of any statute of this state.

Such regulations shall designate separate categories of licensure under which community care facilities shall be licensed pursuant to this chapter, which shall include a separate license category for residential care facilities for the elderly. Such regulations shall also designate the specialized services which community care facilities may be approved to provide pursuant to this chapter.

(Amended by Stats. 1978, Ch. 288.)

**1530.1.** (a) The department shall adopt regulations, in consultation with providers, consumers, and other interested parties, to combine adult day care and adult day support centers licensing categories into one category, which shall be designated adult day programs.

(b) The consolidated regulations shall take into account the diversity of consumers and their caregivers, and the role of licensing in promoting consumer choice, health and safety, independence, and inclusion in the community.

(c) The department shall also take into account the diversity of existing programs designed to meet unique consumer needs, including, but not limited to, programs serving elders with cognitive or physical impairments, non-facility-based programs serving persons with developmental disabilities, respite-only programs, and other programs serving a unique population.

(Added by Stats. 2002, Ch. 773, Sec. 5. Effective January 1, 2003.)

**1530.3.** The director shall report to the Legislature during the 2007–08 budget hearings on the progress of the department's children's residential regulation review workgroup. The report shall include all of the following:

(a) A summary of the activities of the workgroup up to the date of the report.

(b) The timeline for completion of the workgroup's activities.

(c) Any recommendations being considered for statutory, regulatory, and policy changes, and any workplan for the implementation of those recommendations.

(Added by Stats. 2006, Ch. 388, Sec. 2. Effective January 1, 2007.)

**1530.5.** (a) The department, in establishing regulations, including provisions for periodic inspections, under this chapter for foster family homes, certified family homes, and resource family homes of foster family agencies, shall consider these homes as private residences, and shall establish regulations for these foster family homes, certified family homes, and resource family homes of foster family agencies as an entirely separate regulation package from regulations for all other community care facilities. Certified family homes of foster family agencies and foster family homes shall not be subject to civil penalties pursuant to this chapter, except for penalties imposed pursuant to Sections 1522 and 1547. Resource family homes of foster family agencies shall not be subject to civil penalties pursuant to this chapter, as specified in Section 16519.54 of the Welfare and Institutions Code. The department, in adopting and amending regulations for these foster family homes and certified family homes of foster family agencies, shall consult with foster parent and foster family agency organizations in order to ensure compliance with the requirement of this section.

(b) This section shall not apply to small family homes or foster family agencies as defined in Section 1502.

**1530.6.** (a) Notwithstanding any other law, persons licensed or approved pursuant to this chapter to provide residential foster care to a child either placed with them pursuant to order of the juvenile court or voluntarily placed with them by the person or persons having legal custody of the child, may give the same legal consent for that child as a parent except for the following:

(1) Marriage.

(2) Entry into the Armed Forces.

(3) Medical and dental treatment, except that consent may be given for ordinary medical and dental treatment for the child, including, but not limited to, immunizations, physical examinations, and X-rays.

(4) Educational decisions that are required to be made by a child's educational rights holder.

(5) If the child is voluntarily placed by the parent or parents, those items as are agreed to in writing by the parties to the placement.

(b) To this effect, the department shall prescribe rules and regulations to carry out the intent of this section.

(c) This section does not apply to any situation in which a juvenile court order expressly reserves the right to consent to those activities to the court.

(Amended by Stats. 2017, Ch. 732, Sec. 24. (AB 404) Effective January 1, 2018.)

**1530.7.** (a) A licensed children's residential facility shall maintain a smoke-free environment in the facility.

(b) A person who is licensed, certified, or approved pursuant to this chapter to provide residential care in a foster family home, certified family home, or resource family home shall not smoke a tobacco product or permit any other person to smoke a tobacco product inside the home, and, when the child is present, on the outdoor grounds of the home.

(c) A person who is licensed, certified, or approved pursuant to this chapter to provide residential foster care shall not smoke a tobacco product in any motor vehicle that is regularly used to transport a child.

(d) For purposes of this section, "smoke" has the same meaning as in subdivision (c) of Section 22950.5 of the Business and Professions Code.

(e) For purposes of this section, "tobacco product" means a product or device as defined in subdivision (d) of Section 22950.5 of the Business and Professions Code.

(Amended by Stats. 2017, Ch. 732, Sec. 25. (AB 404) Effective January 1, 2018.)

**1530.8.** (a) (1) The department shall adopt regulations for community care facilities licensed as group homes, and for temporary shelter care facilities, as defined in subdivision (c), that care for dependent children, children placed by a regional center, or voluntary placements, who are younger than six years of age. The department shall adopt regulations that apply to short-term residential therapeutic programs that care for children younger than six years of age. The regulations shall include the standards set forth in subdivision (c) of Section 11467.1 of the Welfare and Institutions Code.

(2) The department shall adopt regulations under this section that apply to minor parent programs serving children younger than six years of age who reside in a group home with a minor parent who is the primary caregiver of the child. The department shall adopt regulations under this section that apply to short-term residential therapeutic programs that provide minor parent programs serving children younger than six years of age.

(3) To the extent that the department determines they are necessary, the department shall adopt regulations under this section that apply to group homes or short-term residential therapeutic programs that care for dependent children who are 6 to 12 years of age, inclusive. In order to determine whether such regulations are necessary, and what any resulting standards should include, the department shall consult with interested parties that include, but are not limited to, representatives of current and former foster youth, advocates for children in foster care, county welfare and mental health directors, chief probation officers, representatives of care providers, experts in child development, and representatives of the Legislature. The standards may provide normative guidelines differentiated by the needs specific to children in varying age ranges that fall between 6 and 12 years of age, inclusive. Prior to adopting regulations, the department shall submit for public comment, by July 1, 2017, any proposed regulations.

(b) The regulations shall include physical environment standards, including staffing and health and safety requirements, that meet or exceed state childcare standards under Title 5 and Title 22 of the California Code of Regulations.

(c) For purposes of this section, a "temporary shelter care facility" means any residential facility that meets all of the following requirements:

(1) It is owned and operated by the county or on behalf of a county by a private, nonprofit agency.

(2) It is a 24-hour facility that provides no more than 10 calendar days of residential care and supervision for children who have been removed from their homes as a result of abuse or neglect, as defined in Section 300 of the Welfare and Institutions Code, or both.

(d) (1) The department may license a temporary shelter care facility pursuant to this chapter on or after January 1, 2016. A temporary shelter care license may be issued only to a county operating a licensed group home, or to an agency on behalf of a county, as of January 1, 2016.

(2) The department shall consult with counties that operate these shelters as licensed group homes to develop a transition plan for the development of temporary shelter care facilities to address the unique circumstances and needs of the populations they serve, while remaining consistent with the principles of the act that added this subdivision.

(3) These transition plans shall describe circumstances under which children will be admitted for a period in excess of 24 hours and reflect necessary staffing levels or staffing transitions.

(e) (1) A group home license issued to a county will be forfeited by operation of law upon receipt of a license to operate a temporary shelter care facility, as described in Section 11462.022 of the Welfare and Institutions Code.

(2) This subdivision does not preclude a county from applying for and being licensed as a short-term residential therapeutic program pursuant to Section 1562.01 or a youth homelessness prevention center pursuant to Section 1502.35, or a foster family agency as authorized by subdivision (b) of Section 11462.02 of the Welfare and Institutions Code.

*(Amended by Stats. 2019, Ch. 341, Sec. 5. (AB 1235) Effective January 1, 2020.)*

**1530.9.** (a) The department shall, with the advice and assistance of the State Department of Health Care Services, counties, parent and children's advocacy groups, and group home providers, adopt regulations for the licensing of licensed community treatment facilities at the earliest possible date.

(b) The regulations adopted pursuant to this section shall specify requirements for facility operation and maintenance.

(c) Program certification and standards enforcement shall be the responsibility of the State Department of Health Care Services, pursuant to Section 4094 of the Welfare and Institutions Code. The State Department of Social Services shall not issue a community treatment facility license unless the applicant has obtained certification of compliance from the State Department of Health Care Services.

*(Amended by Stats. 2012, Ch. 34, Sec. 22. (SB 1009) Effective June 27, 2012.)*

**1530.90.** (a) A community treatment facility, as defined in paragraph (8) of subdivision (a) of Section 1502 and licensed pursuant to this chapter, shall meet the requirements of this section.

(b) (1) A community treatment facility shall have national accreditation from an entity identified by the department pursuant to subdivision (c) of Section 4094.2 of the Welfare and Institutions Code.

(2) A community treatment facility applicant shall submit documentation of accreditation, or application for accreditation, with its application for licensure.

(3) A community treatment facility shall have up to 24 months from the date of licensure to obtain accreditation.

(4) A community treatment facility that has not obtained accreditation shall provide documentation to the department reporting its progress in obtaining accreditation at 12 months and at 18 months after the date of licensure.

(5) This subdivision does not preclude the department from requesting additional information from the community treatment facility regarding its accreditation status.

(6) The department may revoke a community treatment facility's license pursuant to Article 5 (commencing with Section 1550) for failure to obtain accreditation within the timeframes specified in this subdivision.

(c) (1) A community treatment facility shall prepare and maintain a current, written plan of operation as required by the department.

(2) The plan of operation shall include a program statement that includes, but is not limited to, all of the following:

(A) A description of how the community treatment facility will meet standards for a comprehensive trauma-informed treatment model designed to address the individualized needs of children, consistent with Section 1522.45, that include, but are not limited to, a description of the services to be provided or arranged to meet the short-term and long-term needs and goals of the

child as assessed by the qualified individual, consistent with the assessment described in subdivision (e) of Section 4094.5 and subdivision (g) of Section 4096 of the Welfare and Institutions Code, as applicable.

(B) A plan for how the community treatment facility will make licensed nursing staff available, as set forth in Section 4094 of the Welfare and Institutions Code and Chapter 12 (commencing with Section 1900) of Division 1 of Title 9 of the California Code of Regulations.

(C) A description of the community treatment facility's ability to support the individual needs of children and their families, including, but not limited to, treatment that implements child-specific short- and long-term needs and goals identified by the qualified individual's assessment of the child as described in subdivision (e) of Section 4094.5 and subdivision (g) of Section 4096 of the Welfare and Institutions Code, as applicable.

(D) A description of procedures for the development, implementation, and periodic updating of the needs and services plan for children served by the community treatment facility and procedures for collaborating with the child and family team described in paragraph (4) of subdivision (a) of Section 16501 of the Welfare and Institutions Code, as applicable, that include, but are not limited to, a description of the services to be provided or arranged to meet the short- and long-term needs and goals of the child as assessed by the qualified individual, consistent with the assessment described in subdivision (e) of Section 4094.5 and subdivision (g) of Section 4096 of the Welfare and Institutions Code, as applicable, processes to ensure treatment is consistent with the short- and long-term needs and goals for the child, including, as specified in the child's permanency plan, the anticipated duration of the treatment, and processes to ensure that consistent progress is made toward the timeframe and plan for transitioning the child to a less restrictive family environment.

(E) (i) A description of how the community treatment facility, in accordance with the child's case plan and the child and family team recommendations, will provide for, arrange for the provision of, or assist in, all of the following:

(I) Identification of home-based family care settings for a child who does not have a home-based caregiver identified.

(II) Development of discharge planning and an individualized family-based aftercare support plan that identifies necessary supports, services, and treatment to be provided for at least six months postdischarge as a child moves from the community treatment facility placement to a home-based family care setting or to a permanent living situation through reunification, adoption, or guardianship, or to a transitional housing program. This plan shall be developed, pursuant to Section 4096.6 of the Welfare and Institutions Code, in collaboration with the county placing agency, the child and family team, and other necessary agencies or individuals for at least six months postdischarge. Federal financial participation under the Medi-Cal program shall only be available for aftercare services if all state and federal specialty mental health service requirements are met and the treatment is medically necessary, regardless of the six months postdischarge requirement.

(III) Documentation of the process by which the short- and long-term, child-specific mental health goals identified by a qualified individual, as defined in Section 16501 of the Welfare and Institutions Code, consistent with the assessment described in subdivision (e) of Section 4094.5 and subdivision (g) of Section 4096 of the Welfare and Institutions Code, will be implemented by the community treatment facility, as applicable.

(ii) Clause (i) shall not be interpreted to supersede the placement and care responsibility vested in the county child welfare agency or probation department.

(F) (i) A description of how the community treatment facility will, to the extent clinically appropriate, consistent with any applicable court orders, and in accordance with the child's best interest, do all of the following:

(I) Facilitate participation of family members in the child's treatment program.

(II) Facilitate outreach to the family members of the child, including siblings, document how the outreach is made, including contact information, and maintain contact information for any known biological family and nonrelative extended family members of the child.

(III) Document how family members will be integrated into the treatment process for the child, including postdischarge, and how sibling connections are maintained.

(ii) Clause (i) shall not be interpreted to supersede the placement and care responsibility vested in the county child welfare agency or probation department.

(G) Any other information that may be prescribed by the department for the proper administration of this section.

(d) The community treatment facility shall maintain in the child's record the written determination and the qualified individual's assessment of the child, as applicable, required to be completed and provided to the community treatment facility pursuant to

subdivision (e) of Section 4094.5 of the Welfare and Institutions Code.

(e) (1) Emergency regulations to implement this section may be adopted by the Director of Social Services in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). These emergency regulations shall be developed in consultation with system stakeholders. The initial adoption of the emergency regulations and one readoption of the initial regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Initial emergency regulations and the first readoption of those emergency regulations shall be exempt from review by the Office of Administrative Law. The emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and shall remain in effect for no more than 180 days.

(2) The adoption, amendment, repeal, or readoption of a regulation authorized by this section is deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted from the requirement that it describe specific facts showing the need for immediate action. A certificate of compliance for these implementing regulations shall be filed within 24 months following the adoption of the first emergency regulations filed pursuant to this section. The emergency regulations may be readopted and remain in effect until approval of the certificate of compliance.

(3) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement, interpret, or make specific this section by means of interim licensing standards until regulations are adopted. These interim licensing standards shall have the same force and effect as regulations until the adoption of regulations.

*(Added by Stats. 2022, Ch. 50, Sec. 3. (SB 187) Effective June 30, 2022.)*

**1530.91.** (a) Except as provided in subdivision (b), a care provider that provides foster care for children pursuant to this chapter shall provide each schoolage child and the child's authorized representative, as defined in regulations adopted by the department, who is placed in foster care, with an age and developmentally appropriate orientation that includes an explanation of the rights of the child, as specified in Section 16001.9 of the Welfare and Institutions Code, and addresses the child's questions and concerns.

(b) Any facility licensed to provide foster care for six or more children pursuant to this chapter shall post a listing of a foster child's rights specified in Section 16001.9 of the Welfare and Institutions Code, as developed by the Office of the State Foster Care Ombudsperson pursuant to Section 16164 of the Welfare and Institutions Code. The Office of the State Foster Care Ombudsperson shall provide the posters it has designed pursuant to Section 16164 of the Welfare and Institutions Code to each facility subject to this subdivision. The posters shall include the telephone number of the Office of the State Foster Care Ombudsperson.

(c) The department shall ensure that a facility licensed, and a home certified or approved by a foster family agency to provide foster care, pursuant to this chapter, including residential facilities and foster homes in which children have been placed by the Office of Refugee Resettlement of the United States Department of Health and Human Services, shall accord children and nonminor dependents in foster care their personal rights, including, but not limited to, the rights specified in Section 16001.9 of the Welfare and Institutions Code, as applicable. The department shall adopt regulations to implement and enforce this subdivision. Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement and enforce this subdivision by written directives until regulations are adopted.

*(Amended by Stats. 2021, Ch. 297, Sec. 1. (AB 1140) Effective January 1, 2022.)*

**1531.** The regulations for a license shall prescribe standards of safety and sanitation for the physical plant and standards for basic personal care, supervision, and services based upon the category of licensure.

The regulations for a special permit shall prescribe standards for the quality of specialized services, including, but not limited to, staffing with duly qualified personnel which take into account the age, physical and mental capabilities, and the needs of the persons to be served.

The state department's regulations shall allow for the development of new and innovative community programs.

*(Added by Stats. 1973, Ch. 1203.)*

**1531.1.** (a) A residential facility licensed as an adult residential facility, group home, short-term residential therapeutic program, small family home, foster family home, or a family home certified by a foster family agency may install and utilize delayed egress devices of the time delay type.

(b) As used in this section, "delayed egress device" means a device that precludes the use of exits for a predetermined period of time. These devices shall not delay any resident's departure from the facility for longer than 30 seconds.

(c) Within the 30 seconds of delay, facility staff may attempt to redirect a resident who attempts to leave the facility.

(d) Any person accepted by a residential facility or family home certified by a foster family agency utilizing delayed egress devices shall meet all of the following conditions:

(1) The person shall have a developmental disability as defined in Section 4512 of the Welfare and Institutions Code.

(2) The person shall be receiving services and case management from a regional center under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code).

(3) An interdisciplinary team, through the individual program plan (IPP) process pursuant to Section 4646.5 of the Welfare and Institutions Code, shall have determined that the person lacks hazard awareness or impulse control and requires the level of supervision afforded by a facility equipped with delayed egress devices, and that but for this placement, the person would be at risk of admission to, or would have no option but to remain in, a more restrictive state hospital or state developmental center placement.

(e) The facility shall be subject to all fire and building codes, regulations, and standards applicable to residential care facilities for the elderly utilizing delayed egress devices, and shall receive approval by the county or city fire department, the local fire prevention district, or the State Fire Marshal for the installed delayed egress devices.

(f) The facility shall provide staff training regarding the use and operation of the egress control devices utilized by the facility, protection of residents' personal rights, lack of hazard awareness and impulse control behavior, and emergency evacuation procedures.

(g) The facility shall develop a plan of operation approved by the State Department of Social Services that includes a description of how the facility is to be equipped with egress control devices that are consistent with regulations adopted by the State Fire Marshal pursuant to Section 13143.

(h) The plan shall include, but shall not be limited to, all of the following:

(1) A description of how the facility will provide training for staff regarding the use and operation of the egress control devices utilized by the facility.

(2) A description of how the facility will ensure the protection of the residents' personal rights consistent with Sections 4502, 4503, and 4504 of the Welfare and Institutions Code.

(3) A description of how the facility will manage the person's lack of hazard awareness and impulse control behavior.

(4) A description of the facility's emergency evacuation procedures.

(i) Delayed egress devices shall not substitute for adequate staff. Except for facilities operating in accordance with Section 1531.15, the capacity of the facility shall not exceed six residents.

(j) Emergency fire and earthquake drills shall be conducted at least once every three months on each shift, and shall include all facility staff providing resident care and supervision on each shift.

*(Amended by Stats. 2017, Ch. 561, Sec. 108. (AB 1516) Effective January 1, 2018.)*

**1531.15.** (a) A licensee of an adult residential facility, short-term residential therapeutic program, or group home for no more than six residents, except for the larger facilities provided for in paragraph (1) of subdivision (k), that is utilizing delayed egress devices pursuant to Section 1531.1, may install and utilize secured perimeters in accordance with the provisions of this section.

(b) As used in this section, "secured perimeters" means fences that meet the requirements prescribed by this section.

(c) Only individuals meeting all of the following conditions may be admitted to or reside in a facility described in subdivision (a) utilizing secured perimeters:

(1) The person shall have a developmental disability as defined in Section 4512 of the Welfare and Institutions Code.

(2) The person shall be receiving services and case management from a regional center under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code).

(3) (A) The person shall be 14 years of age or older, except as specified in subparagraph (B).

(B) Notwithstanding subparagraph (A), a child who is at least 10 years of age and less than 14 years of age may be placed in a licensed group home described in subdivision (a) using secured perimeters only if both of the following occur:

(i) A comprehensive assessment is conducted and an individual program plan meeting is convened to determine the services and supports needed for the child to receive services in a less restrictive, unlocked residential setting in California,

and the regional center requests assistance from the State Department of Developmental Services' statewide specialized resource service to identify options to serve the child in a less restrictive, unlocked residential setting in California.

(ii) The regional center requests placement of the child in a licensed group home described in subdivision (a) using secured perimeters on the basis that the placement is necessary to prevent out-of-state placement or placement in a more restrictive, locked residential setting such as a developmental center, institution for mental disease or psychiatric facility, and the State Department of Developmental Services approves the request.

(4) The person is not a foster child under the jurisdiction of the juvenile court pursuant to Section 300, 450, 601, or 602 of the Welfare and Institutions Code.

(5) (A) An interdisciplinary team, through the individual program plan (IPP) process pursuant to Section 4646.5 of the Welfare and Institutions Code, shall have determined the person lacks hazard awareness or impulse control and, for the person's safety and security, requires the level of supervision afforded by a facility equipped with secured perimeters, and, but for this placement, the person would be at risk of admission to, or would have no option but to remain in, a more restrictive placement. The individual program planning team shall convene every 90 days after admission to determine and document the continued appropriateness of the current placement and progress in implementing the transition plan.

(B) The clients' rights advocate for the regional center shall be notified of the proposed admission and the individual program plan meeting and may participate in the individual program plan meeting unless the consumer objects on their own behalf.

(d) The licensee shall be subject to all applicable fire and building codes, regulations, and standards, and shall receive approval by the county or city fire department, the local fire prevention district, or the State Fire Marshal for the installed secured perimeters.

(e) The licensee shall provide staff training regarding the use and operation of the secured perimeters, protection of residents' personal rights, lack of hazard awareness and impulse control behavior, and emergency evacuation procedures.

(f) The licensee shall revise its facility plan of operation. These revisions shall first be approved by the State Department of Developmental Services. The plan of operation shall not be approved by the State Department of Social Services unless the licensee provides certification that the plan was approved by the State Department of Developmental Services. The plan shall include, but not be limited to, all of the following:

(1) A description of how the facility is to be equipped with secured perimeters that are consistent with regulations adopted by the State Fire Marshal pursuant to Section 13143.6.

(2) A description of how the facility will provide training for staff.

(3) A description of how the facility will ensure the protection of the residents' personal rights consistent with Sections 4502, 4503, and 4504 of the Welfare and Institutions Code, and any applicable personal rights provided in Title 22 of the California Code of Regulations.

(4) A description of how the facility will manage residents' lack of hazard awareness and impulse control behavior, which shall emphasize positive behavioral supports and techniques that are alternatives to physical, chemical, or mechanical restraints, or seclusion.

(5) A description of the facility's emergency evacuation procedures.

(6) A description of how the facility will comply with applicable health and safety standards.

(g) Secured perimeters shall not substitute for adequate staff.

(h) Emergency fire and earthquake drills shall be conducted on each shift in accordance with existing licensing requirements, and shall include all facility staff providing resident care and supervision on each shift.

(i) Interior and exterior space shall be available on the facility premises to permit clients to move freely and safely.

(j) For the purpose of using secured perimeters, the licensee shall not be required to obtain a waiver or exception to a regulation that would otherwise prohibit the locking of a perimeter fence or gate.

(k) The state shall not authorize or fund more than a combined total of 174 beds statewide in facilities with secured perimeters under this section and under Section 1267.75. The department shall notify the appropriate fiscal and policy committees of the Legislature through the January and May budget estimates prior to authorizing an increase above a combined total of 100 beds statewide in facilities with secured perimeters under this section and under Section 1267.75.

(1) A minimum of 50 beds shall be available within programs designed for individuals who are designated incompetent to stand trial pursuant to Section 1370.1 of the Penal Code. These beds shall be within facilities that are exclusively used to provide care for individuals who are placed and participating in forensic competency training pursuant to Section 1370.1 of the Penal Code,



except as provided in paragraph (2). No more than half of these facilities may have more than 6 beds and no facility may have more than 15 beds.

(2) When, in the joint determination of the regional center and the facility administrator, an individual would be most appropriately served in a specific program, regardless of whether the facility meets the criteria established in paragraph (1), individuals who are not similarly designated may be placed in the same facility. That placement may occur only when the individual's planning team determines that the placement and the facility plan of operation meet the individual's needs and that placement is not incompatible with the needs and safety of other facility residents.

(l) This section shall become operative only upon the publication in Title 17 of the California Code of Regulations of emergency regulations filed by the State Department of Developmental Services. These regulations shall be developed with stakeholders, including the State Department of Social Services, consumer advocates, and regional centers. The regulations shall establish program standards for homes that include secured perimeters, including requirements and timelines for the completion and updating of a comprehensive assessment of each consumer's needs, including the identification through the individual program plan process of the services and supports needed to transition the consumer to a less restrictive living arrangement, and a timeline for identifying or developing those services and supports. The regulations shall establish a statewide limit on the total number of beds in homes with secured perimeters. The adoption of these regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

*(Amended by Stats. 2020, Ch. 11, Sec. 9. (AB 79) Effective June 29, 2020. Section conditionally operative as prescribed by its own provisions.)*

**1531.18.** A prospective applicant for licensure shall be notified at the time of the initial request for information regarding application for licensure that, prior to obtaining licensure, the facility shall secure and maintain a fire clearance approval from the local fire enforcing agency or the State Fire Marshal, whichever has primary fire protection jurisdiction. The prospective applicant shall be notified of the provisions of Section 13235, relating to the fire safety clearance application. The prospective applicant for licensure shall be notified that the fire clearance shall be in accordance with state and local fire safety regulations.

*(Added by renumbering Section 1531.2 (as added by Stats. 1989, Ch. 993, Sec. 2) by Stats. 2015, Ch. 303, Sec. 271. (AB 731) Effective January 1, 2016.)*

**1531.2.** (a) Upon the filing by the department of emergency regulations with the Secretary of State, an adult day program, as defined in Division 6 of Title 22 of the California Code of Regulations, or Section 1502, that provides care and supervision for adults with Alzheimer's disease and other dementias may install for the safety and security of these persons secured perimeter fences or egress control devices of the time-delay type on exit doors if they meet all of the requirements for additional safeguards required by those regulations. The initial adoption of new emergency regulations on and after January 1, 1999, shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

(b) As used in this section, "egress control device" means a device that precludes the use of exits for a predetermined period of time. An egress control device shall not delay any client's departure from the facility for longer than 30 seconds. Facility staff may attempt to redirect a client who attempts to leave the facility.

(c) A facility that installs an egress control device pursuant to this section shall meet all of the following requirements:

(1) The facility shall be subject to all fire and building codes, regulations, and standards applicable to adult day programs using egress control devices or secured perimeter fences and before using an egress control device shall receive a fire clearance from the fire authority having jurisdiction for the egress control devices.

(2) The facility shall require any client entering the facility to provide documentation of a diagnosis by a physician of Alzheimer's disease or other dementias, if such a diagnosis has been made. For purposes of this section, Alzheimer's disease shall include dementia and related disorders that increase the tendency to wander, decrease hazard awareness, and decrease the ability to communicate.

(3) The facility shall provide staff training regarding the use and operation of the egress control devices used by the facility, the protection of clients' personal rights, wandering behavior and acceptable methods of redirection, and emergency evacuation procedures for persons with dementia.

(4) All admissions to the facility shall continue to be voluntary on the part of the client or with the lawful consent of the client's conservator or a person who has the authority to act on behalf of the client. Persons who have the authority to act on behalf of a client may include the client's spouse, relative or relatives, or designated care giver or care givers.

(5) Any client entering a facility pursuant to this section who does not have a conservator or does not have a person with the authority to act on his or her behalf shall sign a statement of voluntary entry. The facility shall retain the original statement in the client's file at the facility.



(6) The use of egress control devices or secured perimeter fences shall not substitute for adequate staff. Staffing ratios shall at all times meet the requirements of applicable regulations.

(7) Emergency fire and earthquake drills shall be conducted at least once every three months, or more frequently as required by a county or city fire department or local fire prevention district. The drills shall include all facility staff and volunteers providing client care and supervision.

(8) The facility shall develop a plan of operation approved by the department that includes a description of how the facility is to be equipped with egress control devices that are consistent with regulations adopted by the State Fire Marshal pursuant to Section 13143. The plan shall include, but not be limited to, all of the following:

(A) A description of how the facility will provide training to staff regarding the use and operation of the egress control device utilized by the facility.

(B) A description of how the facility will ensure the protection of the residents' personal rights consistent with Sections 4502, 4503, and 4504 of the Welfare and Institutions Code.

(C) A description of the facility's emergency evacuation procedures for persons with Alzheimer's disease and other dementias.

(d) This section does not require an adult day program to use secured perimeters or egress control devices in providing care for persons with Alzheimer's disease or other dementias.

(e) The department shall adopt regulations to implement this section in accordance with those provisions of the Administrative Procedure Act contained in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(f) The State Fire Marshal may also adopt regulations to implement this section.

*(Amended (as added by Stats. 1998, Ch. 729) by Stats. 2002, Ch. 773, Sec. 6. Effective January 1, 2003.)*

**1531.3.** The State Fire Marshal shall establish separate fire and panic safety standards and criteria for the evaluation of each category of license described in subdivision (a) of Section 1502. The State Fire Marshal shall take into consideration the characteristics of the persons served by each facility in establishing these standards and criteria.

*(Added by Stats. 1992, Ch. 1288, Sec. 1. Effective January 1, 1993.)*

**1531.4.** On and after January 1, 1999, no security window bars may be installed or maintained on any community care facility unless the security window bars meet current state and local requirements, as applicable, for security window bars and safety release devices.

*(Added by Stats. 1998, Ch. 343, Sec. 1. Effective January 1, 1999.)*

**1531.5.** (a) The State Department of Social Services shall not deny a license for a foster family home solely on the basis that the applicant is a parent who has administered corporal punishment not constituting child abuse, or will continue to administer such corporal punishment, to his or her own children.

(b) Nothing in this section shall be construed to prevent the state department from denying a license for a foster care home where the applicant has been found by the state department to have engaged in child abuse.

(c) As used in this section, "child abuse" means a situation in which a child suffers from any one or more of the following:

(1) Serious physical injury inflicted upon the child by other than accidental means.

(2) Harm by reason of intentional neglect or malnutrition or sexual abuse.

(3) Going without necessary and basic physical care.

(4) Willful mental injury, negligent treatment, or maltreatment of a child under the age of 18 by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Director of Social Services.

(5) Any condition which results in the violation of the rights or physical, mental, or moral welfare of a child or jeopardizes the child's present or future health, opportunity for normal development, or capacity for independence.

(d) Nothing in this section shall be construed to permit a foster parent to administer any corporal punishment to a foster child.

*(Added by Stats. 1983, Ch. 521, Sec. 1.)*

**1532.** The Committee on Community Care Facilities of the State Social Services Advisory Board shall advise the director regarding regulations, policy, and administrative practices pertaining to community care facilities. The committee shall review proposed regulations for community care facilities, and submit its written comments to the director prior to the adoption of these regulations. The committee shall be solely advisory in character and shall not be delegated any administrative authority or responsibility. Committee members shall be selected from concerned interests, including representatives of professional associations, providers and employees of care and services, and consumers of community care facility services.

*(Amended by Stats. 1984, Ch. 1143, Sec. 3.)*

**1533.** (a) Except as otherwise provided in this section, any duly authorized officer, employee, or agent of the State Department of Social Services may, upon presentation of proper identification, enter and inspect any place providing personal care, supervision, and services at any time, with or without advance notice, to secure compliance with, or to prevent a violation of, any provision of this chapter.

(b) (1) Foster family homes that are considered private residences for the purposes of Section 1530.5 shall not be subject to inspection by the department or its officers without advance notice, except in response to a complaint, a plan of correction, or as set forth in Section 1534. The complaint inspection shall not constitute an inspection as required by Section 1534. Announced inspections of foster family homes required by Section 1534 shall be made during normal business hours, unless the serious nature of a complaint requires otherwise.

(2) As used in this subdivision, "normal business hours" means from 8 a.m. to 5 p.m., inclusive, of each day from Monday to Friday, inclusive, other than state holidays.

*(Amended by Stats. 2014, Ch. 29, Sec. 7. (SB 855) Effective June 20, 2014.)*

**1534.** (a) (1) (A) Except for foster family homes, every licensed community care facility shall be subject to unannounced inspections by the department.

(B) Foster family homes shall be subject to announced inspections by the department, except that a foster family home shall be subject to unannounced inspections in response to a complaint, a plan of correction, or under any of the circumstances set forth in subparagraph (B) of paragraph (2).

(2) (A) The department may inspect these facilities as often as necessary to ensure the quality of care provided.

(B) The department shall conduct an annual unannounced inspection of a facility under any of the following circumstances:

(i) If a license is on probation.

(ii) If the terms of agreement in a facility compliance plan require an annual inspection.

(iii) If an accusation against a licensee is pending.

(iv) If a facility requires an annual inspection as a condition of receiving federal financial participation.

(v) In order to verify that a person who has been ordered out of a facility by the department is no longer at the facility.

(C) On and after January 1, 2017, and until January 1, 2018, the following shall apply:

(i) Except for foster family homes, the department shall conduct annual unannounced inspections of no less than 30 percent of every licensed community care facility not subject to an inspection under subparagraph (B).

(ii) The department shall conduct annual announced inspections of no less than 30 percent of foster family homes not subject to an inspection under subparagraph (B).

(iii) These inspections shall be conducted based on a random sampling methodology developed by the department.

(iv) The department shall inspect a licensed community care facility at least once every three years.

(D) On and after January 1, 2018, and until January 1, 2019, the following shall apply:

(i) The department shall conduct annual unannounced inspections of no less than 20 percent of adult residential facilities, adult day programs, social rehabilitation facilities, enhanced behavioral support homes for adults, and community crisis homes, as defined in Section 1502, that are not subject to an inspection under subparagraph (B).

(ii) These inspections shall be conducted based on a random sampling methodology developed by the department.

(iii) The department shall inspect an adult residential facility, adult day program, social rehabilitation facility, enhanced behavioral support home for adults, and community crisis home, as defined in Section 1502, at least once every two years.

(E) On and after January 1, 2019, the department shall conduct annual unannounced inspections of all adult residential facilities, adult day programs, social rehabilitation facilities, enhanced behavioral support homes for adults, and community crisis homes, as defined in Section 1502, and adult residential facilities for persons with special health care needs, as defined in Section 4684.50 of the Welfare and Institutions Code.

(F) On and after January 1, 2018, all of the following shall apply:

(i) Except for foster family homes, the department shall conduct annual unannounced inspections of no less than 20 percent of residential care facilities for children, as defined in Section 1502, including enhanced behavioral support homes for children, transitional housing placement providers, group homes for children with special health care needs, and foster family agencies not subject to an inspection under subparagraph (B).

(ii) The department shall conduct annual announced inspections of no less than 20 percent of foster family homes, as defined in Section 1502, not subject to an inspection under subparagraph (B).

(iii) The inspections in clauses (i) and (ii) shall be conducted based on a random sampling methodology developed by the department.

(iv) The department shall conduct unannounced inspections of residential care facilities for children, as defined in Section 1502, including enhanced behavioral support homes for children, transitional housing placement providers, group homes for children with special health care needs, and foster family agencies, and announced inspections of foster family homes, at least once every two years.

(3) In order to facilitate direct contact with group home or short-term residential therapeutic program clients, the department may interview children who are clients of group homes or short-term residential therapeutic programs at any public agency or private agency at which the client may be found, including, but not limited to, a juvenile hall, recreation or vocational program, or a public or nonpublic school. The department shall respect the rights of the child while conducting the interview, including informing the child that they have the right not to be interviewed and the right to have another adult present during the interview.

(4) The department shall notify the community care facility in writing of all deficiencies in its compliance with the provisions of this chapter and the rules and regulations adopted pursuant to this chapter, and shall set a reasonable length of time for compliance by the facility.

(5) Reports on the results of each inspection, evaluation, or consultation shall be kept on file in the department, and all inspection reports, consultation reports, lists of deficiencies, and plans of correction shall be open to public inspection.

(b) (1) This section does not limit the authority of the department to inspect or evaluate a licensed foster family agency, a certified family home, or any aspect of a program in which a licensed community care facility is certifying compliance with licensing requirements.

(2) (A) A foster family agency shall conduct an announced inspection of a certified family home during the annual recertification described in Section 1506 in order to ensure that the certified family home meets all applicable licensing standards. A foster family agency may inspect a certified family home as often as necessary to ensure the quality of care provided.

(B) In addition to the inspections required pursuant to subparagraph (A), a foster family agency shall conduct an unannounced inspection of a certified family home under any of the following circumstances:

(i) If a certified family home is on probation.

(ii) If the terms of the agreement in a facility compliance plan require an annual inspection.

(iii) If an accusation against a certified family home is pending.

(iv) If a certified family home requires an annual inspection as a condition of receiving federal financial participation.

(v) In order to verify that a person who has been ordered out of a certified family home by the department is no longer at the home.

(3) Upon a finding of noncompliance by the department, the department may require a foster family agency to deny or revoke the certificate of approval of a certified family home, or take other action the department may deem necessary for the protection of a child placed with the certified family home. The certified parent or prospective foster parent shall be afforded the due process provided pursuant to this chapter.

(4) If the department requires a foster family agency to deny or revoke the certificate of approval, the department shall serve an order of denial or revocation upon the certified or prospective foster parent and foster family agency that shall notify the certified or prospective foster parent of the basis of the department's action and of the certified or prospective foster parent's right to a hearing.

(5) Within 15 days after the department serves an order of denial or revocation, the certified or prospective foster parent may file a written appeal of the department's decision with the department. The department's action shall be final if the certified or prospective foster parent does not file a written appeal within 15 days after the department serves the denial or revocation order.

(6) The department's order of the denial or revocation of the certificate of approval shall remain in effect until the hearing is completed and the director has made a final determination on the merits.

(7) A certified or prospective foster parent who files a written appeal of the department's order with the department pursuant to this section shall, as part of the written request, provide their current mailing address. The certified or prospective foster parent shall subsequently notify the department in writing of any change in mailing address, until the hearing process has been completed or terminated.

(8) Hearings held pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. In all proceedings conducted in accordance with this section, the standard of proof shall be by a preponderance of the evidence.

(9) The department may institute or continue a disciplinary proceeding against a certified or prospective foster parent upon any ground provided by this section or Section 1550, enter an order denying or revoking the certificate of approval, or otherwise take disciplinary action against the certified or prospective foster parent, notwithstanding any resignation, withdrawal of application, forfeiture, surrender of the certificate of approval, or denial or revocation of the certificate of approval by the foster family agency.

(10) A foster family agency's failure to comply with the department's order to deny or revoke the certificate of approval by placing or retaining children in care shall be grounds for disciplining the licensee pursuant to Section 1550.

(c) This section shall become operative on January 1, 2017.

*(Amended by Stats. 2021, Ch. 76, Sec. 7. (AB 136) Effective July 16, 2021.)*

**1534.1.** (a) The department shall ensure that the licensee's plan of correction is verifiable and measurable. The plan of correction shall specify what evidence is acceptable to establish that a deficiency has been corrected. This evidence shall be included in the department's facility file.

(b) The department shall specify in its licensing report all violations that, if not corrected, will have a direct and immediate risk to the health, safety, or personal rights of clients in care.

(c) The department shall complete all complaint investigations and place a note of final conclusion in the department's facility file, consistent with the confidentiality provisions in subdivision (c) of Section 1538, regardless of whether the licensee voluntarily surrendered the license.

*(Added by Stats. 2008, Ch. 291, Sec. 5. Effective September 25, 2008.)*

**1534.5.** The state department shall provide the office, as defined in subdivision (c) of Section 9701 of the Welfare and Institutions Code, with copies of inspection reports for community care facilities upon request.

*(Added by Stats. 1984, Ch. 1632, Sec. 4.)*

**1535.** (a) On or before January 1, 1986, the state department shall publish a comprehensive consumer guideline brochure to assist persons in the evaluation and selection of a licensed community care facility. The department shall develop the brochure for publication with the advice and assistance of the Advisory Committee on Community Care Facilities, the State Department of Aging, and the State Department of Health Care Services.

(b) The consumer guideline brochure shall include, but not be limited to, guidelines highlighting resident health and safety issues to be considered in the selection of a community care facility, locations of the licensing offices of the State Department of Social Services where facility records may be reviewed, types of local organizations which may have additional information on specific facilities, and a list of recommended inquiries to be made in the selection of a community care facility.

(c) Upon publication, the consumer guideline brochures shall be distributed to statewide community care facility resident advocacy groups, statewide consumer advocacy groups, state and local ombudsmen, and all licensed community care facilities. The brochure shall be made available on request to all other interested persons.

*(Amended by Stats. 2013, Ch. 22, Sec. 16. (AB 75) Effective June 27, 2013. Operative July 1, 2013, by Sec. 110 of Ch. 22.)*

**1536.** (a) (1) At least annually, the department shall publish and make available to interested persons a list or lists covering all licensed community care facilities and the services for which each facility has been licensed or issued a special permit.

(2) For a group home, transitional housing placement provider, community treatment facility, youth homelessness prevention center, temporary shelter care facility, transitional shelter care facility, or short-term residential therapeutic program, the list shall include both of the following:

(A) The number of licensing complaints, types of complaints, and outcomes of complaints, including citations, fines, exclusion orders, license suspensions, revocations, and surrenders.

(B) The number, types, and outcomes of law enforcement contacts made by the facility staff or children, as reported pursuant to subdivision (a) of Section 1538.7.

(3) This subdivision does not apply to foster family homes or the certified family homes or resource families of foster family agencies.

(b) Subject to subdivision (c), to protect the personal privacy of foster family homes and the certified family homes and resource families of foster family agencies, and to preserve the security and confidentiality of the placements in the homes, the names, addresses, and other identifying information of facilities licensed as foster family homes and certified family homes and resource families of foster family agencies shall be considered personal information for purposes of the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). This information shall not be disclosed by any state or local agency pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), except as necessary for administering the licensing program, facilitating the placement of children in these facilities, and providing names and addresses, upon request, only to bona fide professional foster parent organizations and to professional organizations educating foster parents, including the Foster and Kinship Care Education Program of the California Community Colleges.

(c) (1) Notwithstanding subdivision (b), the department, a county, or a foster family agency may request information from, or divulge information to, the department, a county, or a foster family agency, regarding a prospective certified parent, foster parent, or relative caregiver for the purpose of, and as necessary to, conduct a reference check to determine whether it is safe and appropriate to license, certify, or approve an applicant to be a certified parent, foster parent, or relative caregiver.

(2) This subdivision shall apply only to applications received on or before December 31, 2016, in accordance with Section 1517 or 1517.1 of this code or Section 16519.5 of the Welfare and Institutions Code.

(d) The department may issue a citation and, after the issuance of that citation, may assess a civil penalty of fifty dollars (\$50) per day for each instance of a foster family agency's failure to provide the department with a log of certified and decertified homes or a log of resource families that were approved or had approval rescinded during the month by the 10th day of the following month.

(e) The Legislature encourages the department, if funds are available for this purpose, to develop a database that would include all of the following information:

(1) Monthly reports by a foster family agency regarding certified family homes and resource families.

(2) A log of certified and decertified family homes, approved resource families, and resource families for which approval was rescinded, provided by a foster family agency to the department.

(3) Notification by a foster family agency to the department informing the department of a foster family agency's determination to decertify a certified family home or rescind the approval of a resource family due to any of the following actions by the certified family parent or resource family:

(A) Violating licensing rules and regulations.

(B) Aiding, abetting, or permitting the violation of licensing rules and regulations.

(C) Conducting oneself in a way that is inimical to the health, morals, welfare, or safety of a child placed in that certified family home, or for a resource family, engaging in conduct that poses a risk or threat to the health and safety, protection, or well-being

of a child or nonminor dependent.

(D) Being convicted of a crime while a certified family parent or resource family.

(E) Knowingly allowing any child to have illegal drugs or alcohol.

(F) Committing an act of child abuse or neglect or an act of violence against another person.

(f) At least annually, the department shall post on its internet website a statewide summary of the information gathered pursuant to Sections 1538.8 and 1538.9. The summary shall include only deidentified and aggregate information that does not violate the confidentiality of a child's identity and records.

*(Amended by Stats. 2021, Ch. 615, Sec. 235. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 463 of Stats. 2021, Ch. 615.)*

**1536.1.** (a) "Placement agency" means a county probation department, county welfare department, county social service department, county mental health department, county public guardian, general acute care hospital discharge planner or coordinator, conservator pursuant to Part 3 (commencing with Section 1800) of Division 4 of the Probate Code, conservator pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code, and regional center for persons with developmental disabilities, that is engaged in finding homes or other places for placement of persons of any age for temporary or permanent care.

(b) A placement agency shall place individuals only in licensed community care facilities, facilities that are exempt from licensing under Section 1505 or if the facility satisfies subdivision (c) of Section 362 of the Welfare and Institutions Code, or with a foster family agency.

(c) No employee of a placement agency shall place, refer, or recommend placement of a person in a facility operating without a license, unless the facility is exempt from licensing under Section 1505 or unless the facility satisfies subdivision (c) of Section 362 of the Welfare and Institutions Code. Violation of this subdivision is a misdemeanor.

(d) Any employee of a placement agency who knows, or reasonably suspects, that a facility that is not exempt from licensing is operating without a license shall report the name and address of the facility to the department. Failure to report as required by this subdivision is a misdemeanor.

(e) The department shall investigate any report filed under subdivision (d). If the department has probable cause to believe that the facility that is the subject of the report is operating without a license, the department shall investigate the facility within 10 days after receipt of the report.

(f) A placement agency shall notify the appropriate licensing agency of known or suspected incidents that would jeopardize the health or safety of residents in a community care facility. Reportable incidents include, but are not limited to, all of the following:

(1) Incidents of physical or sexual abuse.

(2) A violation of personal rights.

(3) A situation in which a facility is unclean, unsafe, unsanitary, or in poor condition.

(4) A situation in which a facility has insufficient personnel or incompetent personnel on duty.

(5) A situation in which residents experience mental or verbal abuse.

(6) A situation in which residents are inadequately supervised.

(7) Incidents of abuse, neglect, or exploitation of a nonminor dependent, as defined in subdivision (v) of Section 11400 of the Welfare and Institutions Code, by a licensed caregiver while the nonminor is in a foster care placement.

*(Amended by Stats. 2011, Ch. 459, Sec. 3. (AB 212) Effective October 4, 2011.)*

**1536.2.** (a) When a placement agency has placed a child with a foster family agency for subsequent placement in a certified family home or with a resource family, the foster family agency shall ensure placement of the child in a home that best meets the needs of the child.

(b) A home that best meets the needs of the child shall satisfy all of the following criteria:

(1) The child's caregiver is able to meet the health, safety, and well-being needs of the child.

(2) The child's caregiver is permitted to maintain the least restrictive and most family-like environment that serves the needs of the child.

(3) The child is permitted to engage in reasonable, age-appropriate, day-to-day activities that promote the most family-like environment for the foster child.

(4) The foster child's caregiver shall use a reasonable and prudent parent standard, as defined in paragraph (2) of subdivision (a) of Section 362.04 of the Welfare and Institutions Code, to determine activities that are age-appropriate and meet the needs of the child. Nothing in this section shall be construed to permit a child's caregiver to permit the child to engage in activities that carry an unreasonable risk of harm, or subject the child to abuse or neglect.

*(Amended by Stats. 2017, Ch. 732, Sec. 28. (AB 404) Effective January 1, 2018.)*

**1536.3.** A public agency social worker shall, in determining whether to refer an individual to an adult residential care facility, take into account the compatibility of the individual with the other residents in light of any medical diagnoses or behavioral problems.

*(Added by Stats. 1994, Ch. 1258, Sec. 2. Effective January 1, 1995.)*

**1537.** The director shall have the authority to contract for personal services as required in order to perform inspections of, or consultation with, community care facilities.

*(Added by Stats. 1973, Ch. 1203.)*

**1537.1.** (a) A licensee of a residential facility serving adults that has internet service shall provide at least one internet access device, such as a computer, smart phone, tablet, or other device, that can support real-time interactive applications, is equipped with videoconferencing technology, including microphone and camera functions, and is dedicated for client use.

(b) A licensee shall ensure the following requirements are met in providing any internet access device for client use:

(1) The device shall be available in a manner that allows a client to access it for discussion of personal or confidential information with a reasonable level of personal privacy.

(2) The device shall be made available to clients in a manner that permits shared access among all clients in the facility during reasonable hours.

*(Added by Stats. 2021, Ch. 469, Sec. 1. (AB 665) Effective January 1, 2022.)*

**1538.** (a) Any person may request an inspection of any community care facility, or certified family home or resource family of a foster family agency, in accordance with this chapter by transmitting to the state department notice of an alleged violation of applicable requirements prescribed by statutes or regulations of this state, including, but not limited to, a denial of access of any person authorized to enter the facility pursuant to Section 9701 of the Welfare and Institutions Code. A complaint may be made either orally or in writing.

(b) The substance of the complaint shall be provided to the licensee, or certified family home or resource family and foster family agency, no earlier than at the time of the inspection. Unless the complainant specifically requests otherwise, neither the substance of the complaint provided to the licensee, or certified family home or resource family and foster family agency, nor any copy of the complaint or any record published, released, or otherwise made available to the licensee, or certified family home or resource family and foster family agency, shall disclose the name of any person mentioned in the complaint except the name of any duly authorized officer, employee, or agent of the state department conducting the investigation or inspection pursuant to this chapter.

(c) (1) Upon receipt of a complaint, other than a complaint alleging denial of a statutory right of access to a community care facility, or certified family home or resource family of a foster family agency, the state department shall make a preliminary review and, unless the state department determines that the complaint is willfully intended to harass a licensee, certified family home, or resource family, or is without any reasonable basis, it shall make an onsite inspection of the community care facility, certified family home, or resource family home within 10 days after receiving the complaint, except where a visit would adversely affect the licensing investigation or the investigation of other agencies. In either event, the complainant shall be promptly informed of the state department's proposed course of action.

(2) If the department determines that the complaint is intended to harass, is without a reasonable basis, or, after a site inspection, is unfounded, then the complaint and any documents related to it shall be marked confidential and shall not be disclosed to the public. If the complaint investigation included a site visit, the licensee, or certified family home or resource family and foster family agency, shall be notified in writing within 30 days of the dismissal that the complaint has been dismissed.

(d) Upon receipt of a complaint alleging denial of a statutory right of access to a community care facility, or certified family home or resource family home of a foster family agency, the department shall review the complaint. The complainant shall be notified



promptly of the department's proposed course of action.

(e) The department shall commence performance of complaint inspections of certified family homes upon the employment of sufficient personnel to carry out this function, and by no later than June 30, 1999. Upon implementation, the department shall notify all licensed foster family agencies.

(f) Upon receipt of a complaint concerning the care of a client in an Adult Residential Facility for Persons with Special Health Care Needs or a Group Home for Children with Special Health Care Needs licensed pursuant to Article 9 (commencing with Section 1567.50), the department shall notify the appropriate regional center and the State Department of Developmental Services for the purposes of investigating the complaint.

(g) Upon receipt of a complaint concerning the vendorization of an Adult Residential Facility for Persons with Special Health Care Needs or a Group Home for Children with Special Health Care Needs, the department shall notify the State Department of Developmental Services for purposes of investigating the complaint.

*(Amended by Stats. 2021, Ch. 76, Sec. 8. (AB 136) Effective July 16, 2021.)*

**1538.2.** The director shall establish an automated license information system on licensees and former licensees of licensed community care facilities. The system shall maintain a record of any information that may be pertinent, as determined by the director, for licensure under this chapter and Chapter 3.6 (commencing with Section 1597.30). This information may include, but is not limited to, the licensees' addresses, telephone numbers, violations of any laws related to the care of clients in a community care facility, licenses, revocation of any licenses and, to the extent permitted by federal law, social security numbers.

*(Amended by Stats. 2004, Ch. 833, Sec. 3. Effective January 1, 2005.)*

**1538.3.** A county may develop a cooperative agreement with the department to access disclosable, public record information from an automated system, other than the system described in Section 1538.2, concerning substantiated complaints for all group home or short-term residential therapeutic programs, as defined by regulations of the department, located within that county. Access to the database may be accomplished through a secure online transaction protocol.

*(Amended by Stats. 2016, Ch. 612, Sec. 44. (AB 1997) Effective January 1, 2017.)*

**1538.5.** (a) (1) Not less than 30 days prior to the anniversary of the effective date of a residential community care facility license, except licensed foster family homes, the department may transmit a copy to the board members of the licensed facility, parents, legal guardians, conservators, clients' rights advocates, or placement agencies, as designated in each resident's placement agreement, of all inspection reports given to the facility by the department during the past year as a result of a substantiated complaint regarding a violation of this chapter relating to resident abuse and neglect, food, sanitation, incidental medical care, and residential supervision. During that one-year period the copy of the notices transmitted and the proof of the transmittal shall be open for public inspection.

(2) The department may transmit copies of the inspection reports referred to in paragraph (1) concerning a group home or short-term residential therapeutic program, as defined by regulations of the department, to the county in which the group home or short-term residential therapeutic program is located, if requested by that county.

(3) A group home or short-term residential therapeutic program shall maintain, at the facility, a copy of all licensing reports for the past three years that would be accessible to the public through the department, for inspection by placement officials, current and prospective facility clients, and these clients' family members who visit the facility.

(b) The facility operator, at the expense of the facility, shall transmit a copy of all substantiated complaints, by certified mail, to those persons described pursuant to paragraph (1) of subdivision (a) in the following cases:

(1) In the case of a substantiated complaint relating to resident physical or sexual abuse, the facility shall have three days from the date the facility receives the licensing report from the department to comply.

(2) In the case in which a facility has received three or more substantiated complaints relating to the same violation during the past 12 months, the facility shall have five days from the date the facility receives the licensing report to comply.

(c) A residential facility shall retain a copy of the notices transmitted pursuant to subdivision (b) and proof of their transmittal by certified mail for a period of one year after their transmittal.

(d) If a residential facility to which this section applies fails to comply with this section, as determined by the department, the department shall initiate civil penalty action against the facility in accordance with this article and the related rules and regulations.

(e) Not less than 30 days prior to the anniversary of the effective date of the license of any group home or short-term residential therapeutic program, as defined by regulations of the department, at the request of the county in which the group home or short-term residential therapeutic program is located, a group home or short-term residential therapeutic program shall transmit to the county a

copy of all incident reports prepared by the group home or short-term residential therapeutic program and transmitted to a placement agency, as described in subdivision (f) of Section 1536.1, in a county other than the county in which the group home or short-term residential therapeutic program is located that involved a response by local law enforcement or emergency services personnel, including runaway incidents. The county shall designate an official for the receipt of the incident reports and shall notify the group home or short-term residential therapeutic program of the designation. Prior to transmitting copies of incident reports to the county, the group home or short-term residential therapeutic program shall redact the name of any child referenced in the incident reports, and other identifying information regarding any child referenced in the reports. The county may review the incident reports to ensure that the group home or short-term residential therapeutic program has taken appropriate action to ensure the health and safety of the residents of the facility.

(f) The department shall notify the residential community care facility of its obligation when it is required to comply with this section.

*(Amended by Stats. 2016, Ch. 612, Sec. 45. (AB 1997) Effective January 1, 2017.)*

**1538.55.** (a) The licensee of an Adult Residential Facility for Persons with Special Health Care Needs (ARFPSHN) or a Group Home for Children with Special Health Care Needs (GHCSHN), licensed pursuant to Article 9 (commencing with Section 1567.50), shall report to the department's Community Care Licensing Division, within the department's next working day and to the regional center with whom the ARFPSHN or the GHCSHN contracts, and the State Department of Developmental Services, within 24 hours upon the occurrence of any of the following events:

- (1) The death of any client from any cause.
- (2) The use of an automated external defibrillator.
- (3) Any injury to any client that requires medical treatment.
- (4) Any unusual incident that threatens the physical or emotional health or safety of any client.
- (5) Any suspected physical or psychological abuse of any client.
- (6) Epidemic outbreaks.
- (7) Poisonings.
- (8) Catastrophes.
- (9) Fires or explosions that occur in or on the premises.

(b) The licensee additionally shall submit a written report to the department's Community Care Licensing Division, the regional center with whom the ARFPSHN or the GHCSHN contracts, and the State Department of Developmental Services within seven days following any event set forth in subdivision (a), and shall include the following:

- (1) Client's name, age, sex, and date of admission.
- (2) The date and nature of event.
- (3) The attending physician's name, findings, and treatment, if any.
- (4) The disposition of the case.

(c) The department's Community Care Licensing Division shall notify the State Department of Developmental Services upon its findings of any deficiencies or of possible actions to exclude, pursuant to Section 1558, any individual from an ARFPSHN or a GHCSHN.

*(Amended by Stats. 2021, Ch. 76, Sec. 9. (AB 136) Effective July 16, 2021.)*

**1538.6.** (a) When the department periodically reviews the record of substantiated complaints against each group home or short-term residential therapeutic program, pursuant to its oversight role as prescribed by Section 1534, to determine whether the nature, number, and severity of incidents upon which complaints were based constitute a basis for concern as to whether the provider is capable of effectively and efficiently operating the program, and if the department determines that there is cause for concern, it may contact the county in which a group home or short-term residential therapeutic program is located and placement agencies in other counties using the group home or short-term residential therapeutic program, and request their recommendations as to what action,

if any, the department should take with regard to the provider's status as a licensed group home or short-term residential therapeutic program provider.

(b) It is the intent of the Legislature that the department make every effort to communicate with the county in which a group home or short-term residential therapeutic program is located when the department has concerns about group homes or short-term residential therapeutic programs within that county.

*(Amended by Stats. 2016, Ch. 612, Sec. 46. (AB 1997) Effective January 1, 2017.)*

**1538.7.** (a) A group home, transitional housing placement provider, community treatment facility, youth homelessness prevention center, temporary shelter care facility, transitional shelter care facility, or short-term residential therapeutic program shall report to the department's Community Care Licensing Division upon the occurrence of any incident concerning a child in the facility involving contact with law enforcement. At least every six months, the facility shall provide a followup report for each incident, including the type of incident; whether the incident involved an alleged violation of any crime described in Section 602 of the Welfare and Institutions Code by a child residing in the facility; whether staff, children, or both were involved; the gender, race, ethnicity, and age of children involved; and the outcomes, including arrests, removals of children from placement, or termination or suspension of staff.

(b) (1) If the department determines that, based on the licensed capacity, a facility has reported, pursuant to subdivision (a), a greater than average number of law enforcement contacts involving an alleged violation of any crime described in Section 602 of the Welfare and Institutions Code by a child residing in the facility, the department shall inspect the facility at least once a year.

(2) An inspection conducted pursuant to paragraph (1) does not constitute an unannounced inspection required pursuant to Section 1534.

(c) If an inspection is required pursuant to subdivision (b), the Community Care Licensing Division shall provide the report to the department's Children and Family Services Division and to any other public agency that has certified the facility's program or any component of the facility's program including, but not limited to, the State Department of Health Care Services, which certifies group homes or approves short-term residential therapeutic programs pursuant to Section 4096.5 of the Welfare and Institutions Code.

*(Amended by Stats. 2019, Ch. 341, Sec. 7. (AB 1235) Effective January 1, 2020.)*

**1538.8.** (a) (1) In order to review and evaluate the use of psychotropic medications in group homes and short-term residential therapeutic programs, the department shall compile, to the extent feasible and not otherwise prohibited by law and based on information received from the State Department of Health Care Services, at least annually, information concerning each group home and short-term residential therapeutic program, including, but not limited to, the child welfare psychotropic medication measures developed by the department and the following Healthcare Effectiveness Data and Information Set (HEDIS) measures related to psychotropic medications:

(A) Follow-Up Care for Children Prescribed Attention Deficit Hyperactivity Disorder Medication (HEDIS ADD), which measures the number of children 6 to 12 years of age, inclusive, who have a visit with a provider with prescribing authority within 30 days of the new prescription.

(B) Use of Multiple Concurrent Antipsychotics in Children and Adolescents (HEDIS APC), which does both of the following:

(i) Measures the number of children receiving an antipsychotic medication for at least 60 out of 90 days and the number of children who additionally receive a second antipsychotic medication that overlaps with the first.

(ii) Reports a total rate and age stratifications including 6 to 11 years of age, inclusive, and 12 to 17 years of age, inclusive.

(C) Use of First-Line Psychosocial Care for Children and Adolescents on Antipsychotics (HEDIS APP), which measures whether a child has received psychosocial services 90 days before through 30 days after receiving a new prescription for an antipsychotic medication.

(D) Metabolic Monitoring for Children and Adolescents on Antipsychotics (HEDIS APM), which does both of the following:

(i) Measures testing for glucose or HbA1c and lipid or cholesterol of a child who has received at least two different antipsychotic prescriptions on different days.

(ii) Reports a total rate and age stratifications including 6 to 11 years of age, inclusive, and 12 to 17 years of age, inclusive.

(2) The department shall post the list of data to be collected pursuant to this subdivision on the department's internet website.

(b) The data in subdivision (a) concerning psychotropic medication, mental health services, and placement shall be drawn from existing data maintained by the State Department of Health Care Services and the State Department of Social Services and shared pursuant to a data sharing agreement meeting the requirements of all applicable state and federal laws and regulations.

(c) This section does not apply to a youth homelessness prevention center, a private alternative boarding school, or a private alternative outdoor program, as those terms are defined, respectively, in Section 1502.

*(Amended by Stats. 2019, Ch. 341, Sec. 8. (AB 1235) Effective January 1, 2020.)*

**1538.9.** (a) (1) (A) The department shall consult with the State Department of Health Care Services and stakeholders to establish a methodology for identifying those group homes providing care under the AFDC-FC program pursuant to Sections 11460 and 11462 of the Welfare and Institutions Code that have levels of psychotropic drug utilization warranting additional review. The methodology shall be adopted on or before July 1, 2016.

(B) Every three years after adopting the methodology developed under subparagraph (A), or earlier if needed, the department shall consult with the State Department of Health Care Services and stakeholders and revise the methodology, if necessary.

(2) If the department, applying the methodology described in paragraph (1), determines that a facility appears to have levels of psychotropic drug utilization warranting additional review, it shall inspect the facility at least once a year.

(3) The inspection of the facility shall include, but not be limited to, a review of the following:

(A) Plan of operation, policies, procedures, and practices.

(B) Child-to-staff ratios.

(C) Staff qualifications and training.

(D) Implementation of children's needs and services plan.

(E) Availability of psychosocial and other alternative treatments to the use of psychotropic medications.

(F) Other factors that the department determines contribute to levels of psychotropic drug utilization that warrant additional review.

(G) Confidential interviews of children residing in the facility at the time of the inspection.

(4) The inspection of the facility may include, but is not limited to, the following:

(A) Confidential interviews of children who resided in the facility within the last six months.

(B) Confidential discussions with physicians identified as prescribing the medications.

(b) Following an inspection conducted pursuant to this section, the department, as it deems appropriate, may do either or both of the following:

(1) Share relevant information and observations with county placing agencies, social workers, probation officers, the court, dependency counsel, or the Medical Board of California, as applicable.

(2) Share relevant information and observations with the facility and require the facility to submit a plan, within 30 days of receiving the information and observations from the department, to address any identified risks within the control of the facility related to psychotropic medication. The department shall approve the plan and verify implementation of the plan to determine whether those risks have been remedied.

(c) (1) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), until emergency regulations are filed with the Secretary of State, the department may implement this section through all-county letters or similar instructions.

(2) On or before January 1, 2017, the department shall adopt regulations to implement this section. The initial adoption, amendment, or repeal of a regulation authorized by this subdivision is deemed to address an emergency, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted for that purpose from the requirements of subdivision (b) of Section 11346.1 of the Government Code. After the initial adoption, amendment, or repeal of an emergency regulation pursuant to this section, the department may twice request approval from the Office of Administrative Law to readopt

the regulation as an emergency regulation pursuant to Section 11346.1 of the Government Code. The department shall adopt final regulations on or before January 1, 2018.

(d) This section does not do either of the following:

(1) Replaces or alters other requirements for responding to complaints and making inspections or visits to group homes, including, but not limited to, those set forth in Sections 1534 and 1538.

(2) Prevents or precludes the department from taking any other action permitted under any other law, including any regulation adopted pursuant to this chapter.

(e) The methodology developed pursuant to this section shall apply to short-term residential therapeutic programs, as defined in Section 1502, in a manner determined by the department.

(f) This section does not apply to a youth homelessness prevention center, a private alternative boarding school, or a private alternative outdoor program, as those terms are defined, respectively, in Section 1502.

*(Amended by Stats. 2019, Ch. 341, Sec. 9. (AB 1235) Effective January 1, 2020.)*

**1539.** No licensee, or officer or employee of the licensee, shall discriminate or retaliate in any manner, including, but not limited to, eviction or threat of eviction, against any person receiving the services of the licensee's community care facility, or against any employee of the licensee's facility, on the basis, or for the reason that, the person or employee or any other person has initiated or participated in the filing of a complaint, grievance, or a request for inspection with the department pursuant to this chapter or has initiated or participated in the filing of a complaint, grievance, or request for investigation with the appropriate local or state ombudsman.

*(Amended by Stats. 2013, Ch. 295, Sec. 1. (AB 581) Effective January 1, 2014.)*