

## **86028 Capacity Determination**

### **(a)**

A license shall be issued for a specific capacity.

### **(b)**

The number of persons for whom the facility is licensed to provide care and supervision shall be determined on the basis of the application review by the licensing agency, which shall take into consideration the following: (1) The fire clearance specified in Section 86020. (2) The licensee's/administrator's ability to comply with applicable law and regulation. (3) Any other household members, including but not limited to persons under guardianship or conservatorship, who reside at the facility and their individual needs. (4) Facilities which accept minor parents and their child(ren) shall have such children included in the facility's licensed capacity. (5) Physical features of the facility, including available living space, which are necessary in order to comply with regulations. (6) Number of available staff to meet the care and supervision needs of the participants. (7) Any restrictions pertaining to the specific category of facility. (8) The licensee's available or projected THPP participant living units and the Plan of Operation. (A) A THPP licensee may request a change in capacity based upon the change in the number of available or projected THPP participant living units.

### **(1)**

The fire clearance specified in Section 86020.

**(2)**

The licensee's/administrator's ability to comply with applicable law and regulation.

**(3)**

Any other household members, including but not limited to persons under guardianship or conservatorship, who reside at the facility and their individual needs.

**(4)**

Facilities which accept minor parents and their child(ren) shall have such children included in the facility's licensed capacity.

**(5)**

Physical features of the facility, including available living space, which are necessary in order to comply with regulations.

**(6)**

Number of available staff to meet the care and supervision needs of the participants.

**(7)**

Any restrictions pertaining to the specific category of facility.

**(8)**

The licensee's available or projected THPP participant living units and the Plan of Operation. (A) A THPP licensee may request a change in capacity based upon the change in the number of available or projected THPP participant living units.

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**(c)**

The licensing agency shall be authorized to issue a license for fewer participants than is requested when the licensing agency determines that:(1) The licensee's responsibilities to other persons in the home, including persons under guardianship

and conservatorship, would preclude provision of the care required by these regulations.

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**(d)**

When the license is issued for fewer participants than requested, the licensee shall be notified in writing of the reasons for the limitation and of the licensee's rights to appeal the decision as specified in Section 86040.

**(e)**

The licensing agency shall have the authority to decrease existing licensed capacity with the licensee's agreement, when there is a change in any of the factors specified in (b) above. (1) If the licensee does not agree to the decrease in capacity, the licensing agency shall have the authority to initiate revocation action as specified in Section 86042.

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**(f)**

The licensing agency shall be authorized to restrict care to specific individuals. (1) If care and supervision is limited to specific individuals, the licensing agency shall specify the names of the individuals in a letter to the licensee. (2) Except where the limitation is requested by the licensee, the licensee shall be notified in writing of the reasons for such limitation and of the licensee's right to appeal the decision as specified in Section 86040.

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If care and supervision is limited to specific individuals, the licensing agency shall specify the names of the individuals in a letter to the licensee.

**(2)**

Except where the limitation is requested by the licensee, the licensee shall be notified in writing of the reasons for such limitation and of the licensee's right to appeal the decision as specified in Section 86040.