



CDSS

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STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES

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EDMUND G. BROWN JR.
GOVERNOR

May 3, 2017

ALL COUNTY LETTER (ACL) NO. 17-32

TO: ALL COUNTY WELFARE DIRECTORS
ALL CHILD WELFARE SERVICES PROGRAM MANAGERS
ALL CHIEF PROBATION OFFICERS
ALL TITLE IV-E AGREEMENT TRIBES

SUBJECT: **POLICY CLARIFICATION REGARDING ASSESSMENT
CENTERS AND UNLICENSED TRANSITIONAL SHELTER CARE
FACILITIES**

REFERENCE: HEALTH AND SAFETY CODE SECTIONS (HSC) [1502\(a\)\(11\)](#);
[1503](#); [1503.5](#); ACL NO. [16-52](#); ALL COUNTY INFORMATION
NOTICE (ACIN) NO. [1-26-06](#), ACIN NO. [1-07-14](#); COUNTY FISCAL
LETTER (CFL) NO. [16/17-34](#)

This letter is to notify county Child Welfare Services (CWS) agencies of a change in policy regarding assessment centers and/or other types of unlicensed facilities.

Revised Policy

Effective immediately, county facilities are required to become licensed if a county or county contractor provides care and supervision at that facility to children and/or nonminor dependents who have been taken into protective custody or who are between placements regardless of any individual child's length of stay. Counties must contact the California Department of Social Services (CDSS) within 14 days from the date of this letter to determine the need for licensing and, if necessary, to begin the licensing process. This policy is only designed to identify those locations that are legally required to be licensed as a community care facility that either provides:

- Full-time residential care (e.g. 24 hours a day, 7 days a week)

OR

- Have the capacity to provide full-time residential care.

REASON FOR THIS TRANSMITTAL

- State Law Change
- Federal Law or Regulation Change
- Court Order
- Clarification Requested by One or More Counties
- Initiated by CDSS

If a county's existing assessment center or receiving home is operating a program that provides or has the capacity to provide residential care and supervision such that it resembles licensed care, the facility must immediately start the process to become licensed and transition the children and nonminor dependents being housed in their unlicensed facilities into licensed care, or be subject to citation as an unlicensed facility.

Within 14 days of the date of this letter, CWS agencies must notify CDSS of any facility that may meet the criteria discussed in this letter. If, at any point, the county or CDSS finds circumstances that raise questions about whether a facility should be licensed, CDSS will consider a county or county contractor facility's operations as a whole using current law and regulations that determine whether any facility in the state is providing unlicensed care. The CDSS will recognize all attempts that are made to contact CDSS to resolve any issues in this interim period and citations will not be issued for any facility not licensed within 14 days from the date of this letter. This 14-day period is to allow impacted facilities which are currently operating to at least begin the process of becoming licensed and to begin their good faith effort to formalize a plan with CDSS.

If a county uses, or contracts with a provider who uses a dedicated facility to provide care and supervision to children and/or nonminor dependents in their custody while placements are determined, the Community Care Licensing Division must consider the physical characteristics of the facility in light of HSC section [1502](#) et seq. to determine whether licensure is required. In addition to providing full time residential care or having the capacity to provide such care, other hallmarks of a facility requiring licensure may include, but are not limited to the following factors:

- Supervision or assistance essential for sustaining the activities of daily living
- The presence of bedrooms or other sleeping quarters
- Kitchen facilities, provision of meal services or meal preparation
- Bathing accommodations
- Staff dedicated or on-call to provide nonmedical care to children and/or nonminor dependents
- Other evidence that children and/or nonminor dependents are not only awaiting placement, but are residing at the facility.

In this policy, the following definitions are used:

- A community care facility, as defined in section [1502](#) of the HSC, is a "facility, place or building that is maintained and operated to provide nonmedical residential care, day treatment, adult day care, or foster family agency services," to children and/or nonminor dependents in specified facility types, including transitional shelter care facilities.

- An unlicensed facility, as defined in part, in section [1503.5](#) of the HSC is a “facility that is providing care or supervision, is accepting or retaining residents who demonstrate the need for care or supervision” and is not exempt from licensure.

Background

Previously, counties could either directly operate receiving homes or assessment centers or contract with providers to meet the needs of children and/or nonminor dependents who have either been taken into protective custody or are between placements until a more permanent placement is established. These county operated or contracted facilities were operating on a full time or potentially full time basis which resulted in the provision of 24-hour care and supervision.

This change in policy arises out of CDSS’ oversight of and efforts to correct what are commonly referred to as overstays (i.e., instances where individual dependents remained in one of these facilities for more than 24 hours). In efforts to reduce overstays, it became clear that the facilities utilized by counties during placement searches were providing care and supervision in a manner that triggered licensure requirements. The CDSS has therefore reexamined its policy and determined that the “24-hour rule” is not the appropriate determining factor for licensure. Rather, licensure should be triggered when a facility provides or has the capacity to provide residential care.

Transitional shelter care facilities should not be confused with transitional care or temporary shelter care facilities. **Transitional shelter care facilities** are group settings that provide or are capable of providing full-time residential care. (See HSC section [1502\[a\]\[11\]](#)) The CDSS will issue licenses for such facilities that plan to provide no more than 72 hours of care. This will ensure they are used solely as transitional shelter care for children for whom identifying a permanent placement is challenging. **Transitional care** is the care and supervision required to be provided by the child welfare agency during the period between removal of the child and/or non-minor dependent from their home or from an approved or licensed care provider and the placement of that child and/or non-minor dependent with an approved or licensed care provider. For unlicensed facilities, the transitional care period shall be less than 24 hours. **Temporary shelter care facilities** strictly refers to 24-hour care facilities that provide no more than ten calendar days of residential care and supervision for children under 18 years of age who have been removed from their homes as a result of abuse or neglect. (See HSC section [1530.8\[c\]](#))

The CDSS recognizes an appropriate placement is sometimes difficult to locate, resulting in placement delays for children and/or nonminor dependents that have likely been through recent traumatic experiences. The CDSS’ objective is to ensure the needs of the child and/or nonminor dependent are met to the best extent possible

during this period. The child and/or nonminor dependent may be kept in an appropriate unlicensed transitional care location, such as a county office, while the assessment and search for permanent placement is completed, as long as it is a safe environment, care does not extend beyond 24 hours, and the location is not designed to provide placement services. To ease the trauma of removal or displacement, the following types of services should be available:

- Supervision by appropriate staff member(s) that are trained in providing and addressing the needs and ensuring safety and wellbeing of children in crisis
- Availability of adequate food
- Availability of age-appropriate activities
- Availability of necessary immediate medical care

Under prior policy provided in ACIN Nos. [I-26-06](#) and [I-07-14](#), a facility was subject to licensure only if it provided care and supervision to any child and/or nonminor dependent for a period of 24-hours or longer.

The CDSS provided guidance to CWS agencies in ACIN No. [I-07-14](#), regarding best practices to ensure the child and/or nonminor dependent is cared for in a capacity that is consistent with the [Transitional Care Regulations](#) currently under development. Where CDSS has identified that a child and/or nonminor dependent stayed in an unlicensed facility for 24-hours or longer, CDSS has issued citations against the operators of those facilities for operating unlicensed Community Care Facilities. Furthermore, CDSS has required the county or provider to take corrective actions to reduce and eliminate these circumstances as these are considered operating an unlicensed facility that is not exempt from licensure by HSC, section [1503](#). These actions by CDSS led to the revision of the policy.

Rescission of Previous Guidance

In ACIN Nos. [I-26-06](#) and [I-07-14](#), CDSS stated current licensing standards required that any care lasting 24 hours or more must occur in a licensed facility and allowed for the operation of facilities that provided care for fewer than 24 hours to remain unlicensed. Whether transitional care activities were conducted at a child welfare office or in a receiving home or assessment center, these provisions applied. The issuance of this guidance has been considered further and it has been decided that this policy does not comport with the law.

This letter serves to officially rescind guidance and best practices issued by CDSS in ACIN Nos. [I-26-06](#) and [I-07-14](#) to the extent they allowed such facilities to be unlicensed. All other instructions in those letters remain in effect. During transition to licensed care, counties should continue to follow the guidance provided in those ACINs, as well as the Manual of Policies and Procedures, Division 31 Regulations. In addition,

counties should be aware of the [Transitional Care Regulations](#) that should go into effect within six months.

As discussed above, CDSS will now require licensure for any county or county contractor facility providing care that could potentially be deemed as licensed care, regardless of the amount of time a specific child or nonminor dependent is in care. The revised policy relies upon definitions delineated in HSC sections [1502](#) and [1503.5](#) to determine if a facility is providing such care and supervision as to require licensing. The level of full-time or potentially full-time care and supervision and the nature of the program being administered will be among the factors to be considered when determining whether a facility shall be required to be licensed.

Placement Recruitment, Retention and Support

The CDSS recognizes this policy revision will require some counties to change the manner in which they take children into protective custody and care for children who are between placements. The CDSS stresses it will support counties in identification, recruitment and retention of foster placements through the Foster Parent Recruitment, Retention and Support (FPRRS) funding. Please see ACL No. [16-52](#) for more information regarding FPRRS activities and funding, and CFL No. [16/17-34](#) for FPRRS allocation information. The CDSS will also collaborate with counties to develop solutions and new placement facilities for children who are in need of transitional shelter care. The CDSS anticipates the implementation of Continuum of Care Reform will reduce, if not eliminate, the need for these facilities.

For further inquiries regarding the information in this letter, please contact CDSS as follows:

- For licensing related questions, please contact the Children's Residential Program Office at (916) 651-5380.
- For questions regarding Transitional Care Regulations or the detention of a child, please contact the Child Welfare Policy and Program Development Bureau at (916) 651-6160.
- For FPRRS applications, reporting, or other questions, please contact the Foster Caregiver Policy and Support Unit at kinship.care@dss.ca.gov.

Sincerely,

Original Document Signed By:

GREGORY E. ROSE
Deputy Director
Children and Family Services Division