

Article 3. APPLICATION PROCEDURES**101167 TRANSFER AND SALE****101167**

- (a) A license is not transferable.
- (1) If the sale of a licensed child care center will result in the issuance of a new license, the requirements of Health and Safety Code Section 1597.14 apply.

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Health and Safety Code Section 1597.14 reads in pertinent part:

- (a) Notwithstanding Section 1596.858, in the event of a sale of a licensed child day care center where the sale will result in a new license being issued, the sale and transfer of property and business shall be subject to both of the following:
- (1) The licensee shall provide written notice to the department and to the child's parent or his or her legal guardian of the licensee's intent to sell the child day center at least 30 days prior to the transfer of the property or business, or at the time that a bona fide offer is made, whichever period is longer.
- (2) The licensee shall, prior to entering into an admission agreement, inform the child's parent or his or her legal guardian, admitted to the facility after notification to the department, of the licensee's intent to sell the property or business.
- (b) Except as provided in subdivision (e), the property and business shall not be transferred until the buyer qualifies for a license or provisional license pursuant to this chapter.
- (1) The seller shall notify, in writing, a prospective buyer of the necessity to obtain a license, as required by this chapter, if the buyer's intent is to continue operating the facility as a child day care center. The seller shall send a copy of this written notice to the licensing agency.
- (2) The prospective buyer shall submit an application for a license, as specified in Section 1596.95, within five days of the acceptance of the offer by the seller.
- (c) No transfer of the facility shall be permitted until 30 days have elapsed from the date when notice has been provided to the department pursuant to paragraph (1) of subdivision (a).

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- (c) The applicant/licensee shall cooperate with the Department in providing verification and/or documentation as requested by the Department.
- (d) The LIC 281A (12/96) and supporting documents shall together contain the following:
 - (1) Name (or proposed name) and address of the child care center.
 - (2) Name, and residence and mailing addresses of applicant.
 - (A) If the applicant is a partnership, copies of the partnership agreement and all documents governing the partnership, as well as the name and principal business address of each partner.
 - (B) If the applicant is a corporation or association, the name, title and principal business address of each officer, executive director and member of the governing board.
 - (C) If the applicant is a corporation that issues stock, the name and address of each person owning more than 10 percent of stock in the corporation.
 - (D) If the applicant is a corporation, a copy of the articles of incorporation, the constitution, the bylaws, and the board resolution authorizing the submission of the application.
 - (E) If the applicant is a corporation, each member of the board of directors, executive director, and any officer shall list the name of all facilities which they have been licensed to operate, employed by or a member of the board of the directors, executive director or an officer.
 - (3) If the applicant is leasing or renting the premises of the child car center, a copy of the lease or rental agreement and the name, address, and telephone number of the property owner.
 - (4) The category of child care center to be operated.
 - (5) Maximum number of children to be served.
 - (6) Age range and the categories of children to be served including, but not limited to, children with disabilities and/or nonambulatory children.
 - (7) Hours or periods of operation of the child care center.
 - (8) Name of administrator.
 - (9) Information required by Health and Safety Code Section 1596.95(d).

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Health and Safety Code section 1596.877 provides:

- (a) Prior to granting a license to, or otherwise approving, any family day care home, the department shall check the child abuse and neglect complaint records of the child protective services agency of the county in which the applicant has resided for the two years preceding the application.
- (b) Prior to granting a license to or otherwise approving any individual to care for children in either a family day care home or a day care center, the department shall check the Child Abuse Registry pursuant to paragraph (3) of subdivision (b) of Section 11170 of the Penal Code. The Department of Justice shall maintain and continually update an index of reports of child abuse by providers and shall inform the department of subsequent reports received from the child abuse index pursuant to Section 11170 of the Penal Code and the criminal history.
- (c) The department shall investigate any reports received from the Child Abuse Registry and investigate any information received from the county child protective services agency. However, child protective services agency information arising from a report designated as "unfounded," as defined pursuant to subdivision (a) of Section 11165.12 of the Penal Code, shall not be included in the investigation. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protective services agency that investigated the child abuse report. The department shall not deny a license based upon a report from the Child Abuse Registry or based on child abuse and neglect complaint records of the county child protective services agency unless child abuse is substantiated.
- (d) On and after January 1, 1993, the department shall implement this section for records maintained by counties that have automated their child abuse and neglect complaint records on or before January 1, 1993. On and after July 1, 1993, the department shall implement this section for records maintained by all counties.

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- (15) A health-screening report on the applicant as specified in Section 101216(g).
- (16) The processing fee for an application as specified in Section 101187.
- (17) Water supply clearance as specified in Section 101172.

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Vehicle Code section 27360 provides:

- (a) Except as provided in Section 27363, a parent, legal guardian, or driver shall not transport on a highway in a motor vehicle, as defined in paragraph (1) of subdivision (c) of Section 27315, a child or ward who is under eight years of age, without properly securing that child in a rear seat in an appropriate child passenger restraint system meeting applicable federal motor vehicle safety standards.
- (b) Except as provided in Section 27363, a parent, legal guardian, or driver who transports a child under two years of age on a highway in a motor vehicle, as defined in paragraph (1) of subdivision (c) of Section 27315, shall properly secure the child in a rear-facing child passenger restraint system that meets applicable federal motor vehicle safety standards, unless the child weighs 40 or more pounds or is 40 or more inches tall. The child shall be secured in a manner that complies with the height and weight limits specified by the manufacturer of the child passenger restraint system.
- (c) Subdivision (a) does not apply to a driver if the parent or legal guardian of the child is also present in the motor vehicle and is not the driver.

Vehicle Code section 27360.5 provides:

- (a) A parent, legal guardian, or driver shall not transport on a highway in a motor vehicle, as defined in paragraph (1) of subdivision (c) of Section 27315, a child or ward who is eight years of age or older, but less than 16 years of age, without properly securing that child or ward in an appropriate child passenger restraint system or safety belt meeting applicable federal motor vehicle safety standards.
- (b) Subdivision (a) does not apply to a driver if the parent or legal guardian of the child is also present in the motor vehicle and is not the driver.

Vehicle Code section 27363 provides:

- (a) The court may exempt from the requirements of this article any class of child by age, weight, or size if it is determined that the use of a child passenger restraint system would be impractical by reason of physical unfitness, medical condition, or size. The court may require satisfactory proof of the child's physical unfitness, medical condition, or size and that an appropriate special needs child passenger restraint system is not available.

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- (B) If the California Department of Social Services finds that the applicant, or any person specified in subdivision (b), is awaiting trial for a crime other than a minor traffic violation, the California Department of Social Services shall cease processing the application until the conclusion of the trial.
 - (C) If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the California Department of Social Services with a statement of that fact.
 - (D) If the California Department of Social Services finds after licensure that the licensee, or any other person specified in paragraph (2) of subdivision (b), has been convicted of a crime other than a minor traffic violation, the license may be revoked, unless the director grants an exemption pursuant to subdivision (f).
 - (E) An applicant and any person specified in subdivision (b) shall submit a second set of fingerprints to the Department of Justice for the purpose of searching the records of the Federal Bureau of Investigation, in addition to the search required by subdivision (a).
- (2) Section 1596.871(b) of the Health and Safety Code provides in part:

In addition to the applicant, this section shall be applicable to criminal convictions of the following persons:

- (A) Adults responsible for administration or direct supervision of staff.
- (B) Any person, other than a child, residing in the facility.
- (C) Any person who provides care and supervision to the children.
- (D) Any staff person, volunteer or employee who has contact with the children.

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- (E) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity, or a person designated by the chief executive officer as responsible for the operation of the facility, as designated by the applicant agency.
 - (F) If the applicant is a local educational agency, the president of the governing board, the school district superintendent, or a person designated to administer the operation of the facility, as designated by the local educational agency.
 - (G) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.
 - (H) This section does not apply to employees of child care and development programs under contract with the State Department of Education who have completed a criminal records clearance as part of an application to the State Commission on Teacher Credentialing, and who possess a current credential or permit issued by the commission, including employees of child care and development programs that serve both children subsidized under, and children not subsidized under, a California Department of "Education contract." The State Commission on Teacher Credentialing shall notify the department upon revocation of a current credential or permit issued to an employee of a child care and development program under contract with the State Department of Education.
 - (I) This section does not apply to employees of a child care and development program operated by a school district, county office of education, or community college district under contract with the California Department of Education who have completed a criminal records clearance as a condition of employment. The school district, county office of education, or community college district upon receiving information that the status of an employee's criminal record clearance has changed shall submit that information to the department.
- (3) Nothing in this section shall prevent a licensee from requiring a criminal record clearance of any individuals exempt from the requirements under this subdivision.

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- (b) The following individuals are exempt from the requirement to submit fingerprints:
- (1) A volunteer who is a relative, legal guardian, or foster parent of a child in the facility.
 - (2) A volunteer that provides time-limited specialized services if all of the following apply:
 - (A) The volunteer is directly supervised by the licensee or a facility employee with a criminal record clearance or exemption.
 - (B) The volunteer spends no more than 16 hours per week at the facility.
 - (C) The volunteer is not left alone with children in care.
 - (3) A volunteer who is a senior citizen if all of the following apply:
 - (A) The senior citizen participates in a Foster Grandparent Program under the authority of the National Senior Service Corps and administered by the Corporation for National Service.
 - (B) The facility has an agreement with the foster grandparent program concerning the placement of the foster grandparent.
 - (C) The foster grandparent is supervised by the licensee or a facility employee with a criminal record clearance or exemption.
 - (D) The foster grandparent is not left alone with children in care.
 - (4) A student who is enrolled or participating at an accredited educational institution if all of the following apply:
 - (A) The student is directly supervised by the licensee or a facility employee with a criminal record clearance or exemption.
 - (B) The facility has an agreement with the educational institution concerning the placement of the student.
 - (C) The student spends no more than 16 hours per week at the facility.
 - (D) The student is not left alone with the children in care.
 - (5) A third-party repair person, or similar retained contractor, if all of the following apply:
 - (A) The individual is hired for a defined, time-limited job.

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- (B) The individual is not left alone with children.
- (C) When children are present in the room in which the repairperson or contractor is working, a staff person who has a criminal record clearance or exemption is also present.
- (6) A medical professional, as defined in Section 101152(m)(1), who holds a valid license or certification from the individual's governing California medical care regulatory entity if all of the following apply:
 - (A) The criminal record of the individual has been cleared as a condition of licensure or certification by the individual's California medical care regulatory entity.
 - (B) The individual is providing time-limited specialized clinical care or services.
 - (C) The individual is providing care or services within the individual's scope of practice.
 - (D) The individual is not a community care facility licensee and is not employed, retained, or contracted by the licensee.
- (7) Employees of a licensed home health agency who have a contract with a child's parent or guardian and are in the facility at the request of that parent or guardian.
 - (A) The exemption shall not apply to an individual who is employed, retained or contracted by the licensee.
- (8) An attendant or facilitator for a child with a developmental disability who is visiting the child or providing direct care and supervision to the child.
 - (A) The exemption shall not apply to an individual who is employed, retained or contracted by the licensee.

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- (c) Prior to the Department issuing a license, the applicant and the administrator shall obtain a California criminal record clearance or exemption.

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- (1) Section 1596.871(a)(5) of the Health and Safety Code states in part:

An applicant and any person specified in subdivision (b) shall submit a second set of fingerprints to the Department of Justice, for the purpose of searching the records of the Federal Bureau of Investigation, in addition to the search required by subdivision (a). If an applicant meets all other conditions for licensure, except receipt of the Federal Bureau of Investigation's criminal history information for the applicant and persons listed in subdivision (b), the department may issue a license if the applicant and each person described in subdivision (b) has signed and submitted a statement that he or she has never been convicted of a crime in the United States, other than a traffic infraction, as defined in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. If, after licensure, the department determines that the licensee or person specified in subdivision (b) has a criminal record, the license may be revoked pursuant to Health and Safety Code Section 1596.885. The department may also suspend the license pending an administrative hearing pursuant to Health and Safety Code Section 1596.886.

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- (d) All individuals subject to criminal record review shall, be fingerprinted and sign a Criminal Record Statement (LIC 508 [Rev. 1/03]) under penalty of perjury.

- (1) A person signing the LIC 508 must:

- (A) Declare whether he/she has been convicted of a crime, other than a minor traffic violation as specified in Section 101170(k) regardless of whether the individual was granted a pardon for the conviction, received an expungement pursuant to Penal Code 1203.4 or the individual's record was sealed as a result of a court order.
- (B) If convicted of a crime other than a minor traffic violation as specified in Section 101170(k), provide information regarding the conviction.
- (2) The licensee shall submit these fingerprints to the California Department of Justice, along with a second set of fingerprints for the purpose of searching the records of the Federal Bureau of Investigation, or comply with Section 101170(e)(1), prior to the individual's employment or initial presence in the child care facility.

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- (A) Fingerprints shall be submitted to the California Department of Justice by the licensee or sent by electronic transmission to the California Department of Justice by a fingerprinting entity approved by the California Department of Social Services.

- (e) All individuals subject to a criminal record review pursuant to Health and Safety Code Section 1596.871 shall prior to working, residing or volunteering in a licensed facility:
 - (1) Submit a valid mailing address at which the individual shall receive communications from the Department.
 - (A) An individual who holds a criminal record clearance or exemption shall maintain a current and valid mailing address with the Department and shall notify the Department within ten (10) days of any change in mailing address.
 - (2) Obtain a California clearance or a criminal record exemption as required by the Department or
 - (3) Request a transfer of a criminal record clearance as specified in Section 101170(f) or
 - (4) Request and be approved for a transfer of a criminal record exemption, as specified in Section 101170.1(r), unless, upon request for a transfer, the Department permits the individual to be employed, reside or be present at the facility.

- (f) A licensee or applicant for a license may request a transfer of a criminal record clearance from one state licensed facility to another, or from TrustLine to a state licensed facility by providing the following documents to the Department:
 - (1) A signed Criminal Background Clearance Transfer Request, LIC 9182 (Rev. 4/02).
 - (2) A copy of the individual's driver's license, or
 - (3) A valid identification card issued by the Department of Motor Vehicles, or
 - (4) A valid photo identification issued by another state or the United States government if the individual is not a California resident.
 - (5) Any other documentation required by the Department (e.g., LIC 508, Criminal Record Statement [Rev. 1/03] and job description).

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(n) After the Department notifies the licensee, pursuant to Section 101170(o)(1), or the individual pursuant to Section 101170(o)(2), he or she may present a written appeal that:

- (1) he or she is not the individual who was arrested,
- (2) he or she has not been arrested for a crime that by law an individual is not eligible to receive an exemption, or
- (3) he or she was arrested for a crime that by law an individual is not eligible to receive an exemption but the charges have been dropped or reduced to a crime that by law an individual would be eligible to receive an exemption.

The appeal shall contain the licensee's or individual's current address and telephone number. After the Department receives the appeal and any supporting documentation, it shall review the appeal and notify the licensee or individual of its decision within five (5) working days.

(o) Should the Department determine at any time during the 30 days referred to in Sections 101170(o)(1) and (o)(2) that the criminal charges have been dropped or reduced to a charge for a crime that by law an individual would be eligible to receive an exemption, the Department shall immediately rescind the notice.

(p) Nothing in this action shall be interpreted to supercede the Department's authority under Sections 1596.886 and 1596.8897 of the Health and Safety Code.

(q) Prior to issuing a clearance to any individual with arrest history described in Health and Safety Code section 1596.871(e), the Department shall be notified of the following:

- (1) The fact of the investigation into conduct associated with arrest information regarding the subject.
- (2) The specific arrest(s) upon which the investigation is based.
- (3) The date of the arrest(s).
- (4) The arresting agency.
- (5) The disposition of the arrest, if available, as indicated on criminal history information received from DOJ.
- (6) That the subject shall not work or reside in a licensed facility until the subject has received a criminal record clearance or exemption.

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- (7) If the Department obtains evidence through the investigation that the subject may pose a risk to the health and safety of any person who is or may become a client, the Department may deny a criminal record clearance and/or exclude the subject.
- (8) The subject may provide written information the subject believes is relevant to the investigation and/or shows the subject is qualified to work in a licensed facility.
- (9) The subject will be notified of the Department's decision regarding whether or not to grant a clearance and of the right to appeal any such decision at that time.
- (r) The Department shall, in cases where the subject does not have a conviction, within 5 business days of a decision to deny a criminal record clearance based on an investigation described in subdivision (q) notify the subject of the following:
 - (1) The Department has completed its investigation into arrest information.
 - (2) The Department will not grant that individual a criminal record clearance.
 - (3) The decision, if not appealed, will bar the subject from presence in a licensed facility.
 - (4) The arrests which triggered the investigation, including the date of arrest, charges, and arresting agency.
 - (5) The Department has determined that the subject may pose a risk to the health and safety of a person who is or may become a client.
 - (6) The specific conduct upon which the decision is based.
 - (7) The subject has a right to contest the decision and will receive an Accusation from the Legal Division as well as information about how to request an administrative hearing.
- (s) For initial applications where the subject does not have a conviction, the Accusation described in paragraph (7) of subdivision (r) shall be filed within 40 days of a decision to deny a criminal record clearance.

NOTE: Authority cited: Sections 1596.81 and 1596.98(c), Health and Safety Code. Reference: Section 11505, Government Code; and Sections 1596.81(b), 1596.871, and 1596.99, Health and Safety Code.

101170.1 CRIMINAL RECORD EXEMPTION

- (a) The Department will notify a licensee to act immediately to terminate the employment of, remove from the facility or bar from entering the facility any person described in Sections 101170.1(a)(1) through (5) below while the Department considers granting or denying an exemption. Upon notification, the licensee shall comply with the notice.
 - (1) Any person who has been convicted of, or is awaiting trial for, a sex offense against a minor;
 - (2) Any person who has been convicted of a felony;
 - (3) Any person who has been convicted of an offense specified in Sections 243.4, 273a, 273d, 273g, or 368 of the Penal Code or any other crime specified in Health and Safety Code Section 1596.871(c)(2);
 - (4) Any person who has been convicted of any crime specified below:
 - (A) Battery
 - (B) Shooting at Inhabited Dwelling
 - (C) Corporal Injury on Spouse/Cohabitant
 - (D) Discharging Firearm with Gross Negligence
 - (E) Exhibiting Weapon/Firearm
 - (F) Threat to Commit a Crime Resulting in Gross Bodily Injury or Death
 - (G) Criminal Threat to Harm or Injure Another Person
 - (H) Cruelty to Animals
 - (I) Willful Harm or Injury to Child; or
 - (5) Any other person ordered to be removed by the Department.
- (b) In addition to the requirements of Section 101170.1(a), the licensee must return the confirmation of removal form that is sent by the Department, within five (5) days of the date of the form, that confirms under penalty of perjury that the individual has been removed from the facility.
 - (1) Confirmation must be made on either a Removal Confirmation – Exemption Needed, LIC 300A (Rev. 9/03), Removal Confirmation - Denial, LIC 300B (Rev. 9/03), Removal Confirmation - Rescinded, LIC 300C (Rev. 9/03), or Removal Confirmation - Nonexemptible, LIC 300D (Rev. 9/03).

101170.1 CRIMINAL RECORD EXEMPTION (Continued)

- (c) After a review of the criminal record transcript, the Department may grant an exemption if:
- (1) The applicant/licensee requests an exemption for himself or herself, or
 - (2) The applicant/licensee requests an exemption in writing for an individual associated with the facility, or
 - (3) The applicant/licensee chooses not to seek an exemption on the affected individual's behalf, the affected individual requests an individual exemption in writing, and
 - (4) The affected individual presents substantial and convincing evidence satisfactory to the Department that he/she has been rehabilitated and presently is of such good character as to justify being issued or maintaining a license, employment or residence in a licensed facility.
- (d) To request a criminal record exemption, a licensee or license applicant must submit information that indicates that the individual meets the requirements of Section 101170.1(c)(4). The Department will notify the licensee or license applicant and the affected individual, in concurrent, separate notices, that the affected individual has a criminal conviction and needs to obtain a criminal record exemption.
- (1) The notice to the affected individual shall include a list of the conviction(s) that the Department is aware of at the time the notice is sent that must be addressed in an exemption request.
 - (2) The notice will list the information that must be submitted to request a criminal record exemption.
 - (3) The information must be submitted within forty-five (45) calendar days of the date of the Department's notice.
 - (A) Individuals who submit a criminal record exemption request shall cooperate with the Department by providing any information requested by the Department, including, but not limited to, certified court documents to process the exemption request, pursuant to Section 101170.1(e).
 - (B) If the individual for whom the criminal record exemption is requested is an employee or resident other than a spouse or dependent family member and the licensee/license applicant does not submit the information listed in the Department's written notice within 45 calendar days of the date of the notice, the Department may cease processing the exemption request and close the case.
 - (C) If the individual for whom the criminal record exemption is requested is an applicant, licensee, spouse or dependent family member and the licensee/license applicant does not submit the information listed in the Department's written notice within 45 calendar days of the date of the notice, the Department may deny the exemption request.

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- (D) Individuals may request a criminal record exemption on their own behalf if the licensee or license applicant:
 - 1. Chooses not to request the exemption and
 - 2. Chooses not to employ or terminates the individual's employment after receiving notice of the individual's criminal history, or
 - 3. Removes the individual who resides in the facility after receiving notice of the individual's criminal history.

- (e) The Department shall consider factors including, but not limited to, the following as evidence of good character and rehabilitation:
 - (1) The nature of the crime including, but not limited to, whether it involved violence or a threat of violence to others.
 - (2) Period of time since the crime was committed and number of offenses.
 - (3) Circumstances surrounding the commission of the crime that would demonstrate the unlikelihood of repetition.
 - (4) Activities since conviction, including employment or participation in therapy or education, that would indicate changed behavior.
 - (5) A full and unconditional pardon granted by the Governor.
 - (6) Character references.
 - (A) All character references shall be on a Reference Request form (LIC 301E – Exemptions [Rev. 7/03]).
 - (7) A certificate of rehabilitation from a superior court.
 - (8) Evidence of honesty and truthfulness as revealed in exemption application documents.
 - (A) Documents include, but are not limited to:
 - 1. A Criminal Record Statement (LIC 508, Criminal Record Statement [Rev. 1/03]) and
 - 2. The individual's written statement/explanation of the conviction and the circumstances about the arrest.

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- (9) Evidence of honesty and truthfulness as revealed in exemption application interviews and conversations with the Department.
- (f) The Department shall also consider the following factors in evaluating a request for an exemption:
 - (1) Facility and type of association.
 - (2) The individual's age at the time the crime was committed.
- (g) The Department may deny the individual's exemption request if:
 - (1) The individual fails to provide documents requested by the Department, or
 - (2) The individual fails to cooperate with the Department in the exemption process.
- (h) The reasons for any exemption granted or denied shall be in writing and shall be kept by the Department.
 - (1) Exemption denial notices shall specify the reason the exemption was denied.
- (i) The Department has the authority to grant a criminal record exemption that places conditions on the individual's continued licensure, and employment or presence in a licensed facility.
- (j) It shall be conclusive evidence that the individual is not of such good character as to justify issuance of an exemption if the individual:
 - (1) Makes a knowingly false or misleading statement regarding:
 - (A) Material relevant to their application for a criminal record clearance or exemption,
 - (B) His or her criminal record clearance or exemption status to obtain employment or permission to be present in a licensed facility, after the Department has ordered that they be excluded from any or all licensed facilities, or
 - (C) His or her criminal record clearance or exemption status in order to obtain a position with duties that are prohibited to him/her by a conditional exemption; or
 - (2) Is on probation or parole.
 - (A) If the individual is currently on probation, and provides sufficient proof that the probationary period(s) is informal, unsupervised and no probation officer is assigned, the Department may, in its discretion, grant a criminal record exemption notwithstanding Section 101170.1(j)(2).

101170.1 CRIMINAL RECORD EXEMPTION (Continued) 101170.1

- (k) The Department shall consider granting a criminal record exemption for an individual when the individual's criminal record history meets all of the applicable criteria specified in Sections 101170.1(k)(1) through (6) and the individual provides the Department with substantial and convincing evidence of good character as specified in Section 101170.1(c)(4). For purposes of this section, a violent crime is a crime that, upon evaluation of the code section violated and/or the reports regarding the underlying offense, presents a risk of harm or violence.
- (1) The individual has been convicted of one nonviolent misdemeanor, and one year has lapsed since completing the most recent period of incarceration or probation.
 - (2) The individual has been convicted of two or more nonviolent misdemeanors and four consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.
 - (3) The individual has been convicted of one or more violent misdemeanors and 15 consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.
 - (4) The individual has been convicted of one nonviolent felony and four consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.
 - (5) The individual has been convicted of two or more nonviolent felonies and ten consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.
 - (6) The individual has not been convicted of a violent felony.
 - (7) If the individual is currently on probation, and provides sufficient proof that the probationary period(s) is informal, unsupervised and no probation officer is assigned, the period of lapsed time required in Section 101170.1(k)(1) through (5) above shall begin from the last date of conviction(s).
- (l) It shall be a rebuttable presumption that an individual is not of such good character as to justify the issuance of an exemption if the individual fails to meet the requirements specified in Sections 101170.1(k)(1) through (6).
- (m) The Department shall not grant an exemption if the individual has a conviction for any offense specified in Section 1596.871(f) of the Health and Safety Code.

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Health and Safety Code Section 1596.871(f) provides that no exemption shall be granted if an individual has been convicted of any of the following offenses:

- (1) Penal Code Sections 136.1 and 186.22 – Gang related/Intimidation of witnesses or victims.
- (2) Penal Code Sections 187, 190 through 190.4 and 192(a) – Any murder/Attempted murder/Voluntary manslaughter.
- (3) Penal Code Section 203 – Any mayhem.
- (4) Penal Code Section 206 - Felony torture.
- (5) Penal Code Sections 207, 208, 209, 209.5, 210 – Kidnapping.
- (6) Penal Code Sections 211, 212.5, 213, 214 – Any robbery.
- (7) Penal Code Section 215 – Carjacking.
- (8) Penal Code Section 220 – Assault with intent to commit mayhem, rape, sodomy or oral copulation.
- (9) Penal Code Section 243.4 – Sexual battery.
- (10) Penal Code Section 261(a), (a)(1), (2), (3), (4) or (6) – Rape.
- (11) Penal Code Section 262(a)(1) or (4) – Rape of a spouse.
- (12) Penal Code Section 264.1 – Rape in concert.
- (13) Penal Code Section 266 – Enticing a minor into prostitution.
- (14) Penal Code Section 266c – Induce to sexual intercourse, etc. by fear or consent through fraud.
- (15) Penal Code Section 266h(b) – Pimping a minor.
- (16) Penal Code Section 266i(b) – Pandering a minor.

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- (17) Penal Code Section 266j – Providing a minor under 16 for lewd or lascivious act.
- (18) Penal Code Section 267 – Abduction for prostitution.
- (19) Penal Code Section 269 – Aggravated assault of a child.
- (20) Penal Code Section 272 – Contributing to the delinquency of a minor (must involve lewd or lascivious conduct).
- (21) Penal Code Sections 273a(a) [or 273a(1) if the conviction was prior to January 1, 1994] – Willfully causing or permitting any child to suffer under circumstances or conditions likely to produce great bodily harm or death.
- (22) Penal Code Section 273d – Willfully inflicting any cruel or inhuman corporal punishment or injury on a child.
- (23) Penal Code Section 285 – Incest.
- (24) Penal Code Section 286 – Sodomy.
- (25) Penal Code Section 288 – Lewd or lascivious act upon a child under 14.
- (26) Penal Code Section 288a – Oral copulation.
- (27) Penal Code Section 288.2 – Felony conviction for distributing lewd material to children.
- (28) Penal Code Section 288.5(a) – Continuous sexual abuse of a child.
- (29) Penal Code Section 289 – Genital or anal penetration or abuse by any foreign or unknown object.
- (30) Penal Code Section 290(a) – All crimes for which one must register as a sex offender including attempts and not guilty by insanity.
- (31) Penal Code Section 311.2(b), (c) or (d) – Transporting or distributing child-related pornography.
- (32) Penal Code Section 311.3 – Sexual exploitation of a child.

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- (33) Penal Code Section 311.4 – Using a minor to assist in making or distributing child pornography.
- (34) Penal Code Section 311.10 – Advertising or distributing child pornography.
- (35) Penal Code Section 311.11 – Possessing child pornography.
- (36) Penal Code Sections 314 paragraphs 1 or 2 – Lewd or obscene exposure of private parts.
- (37) Penal Code Section 347(a) – Poisoning or adulterating food, drink, medicine, pharmaceutical products, spring, well, reservoir or public water supply.
- (38) Penal Code Section 368 – Elder or dependent adult abuse.
- (39) Penal Code Section 417(b) – Drawing, exhibiting or using a loaded firearm.
- (40) Penal Code Section 451(a) or (b) – Arson.
- (41) Penal Code Section 460(a) – First degree burglary if it is charged and proved that a non-accomplice was present in the residence during the burglary.
- (42) Penal Code Sections 186.22 and 518 – Gang related/Extortion.
- (43) Penal Code Section 647.6 or prior to 1988 former Section 647a – Annoy or molest a child under 18.
- (44) Penal Code Section 653f(c) – Solicit another to commit rape, sodomy, etc.
- (45) Penal Code Sections 664/187 – Any attempted murder.
- (46) Penal Code Section 667.5(c)(7) – Any felony punishable by death or imprisonment in the state prison for life.
- (47) Penal Code Section 667.5(c)(8) – Enhancement for any felony which inflicts great bodily injury.
- (48) Penal Code Section 667.5(c)(13) – Enhancement for violation of Penal Code Section 12308, 12309 or 12310 – Exploding or igniting or attempting to explode or ignite any destructive device or explosive with intent to commit murder.
- (49) Penal Code Section 667.5(c)(14) - Any kidnapping – Penal Code Sections 207, 208, 209, 209.5 and 210.

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- (50) Penal Code Section 667.5(c)(22) - Any violation of Penal Code Section 12022.53 – Enhancement for listed felonies where use of a firearm.
- (51) Penal Code Section 667.5(c)(23) – Use of weapon of mass destruction.
- (52) Business and Professions Code Section 729 – Felony sexual exploitation by a physician, psychotherapist, counselor, etc.

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- (n) The Department shall consider granting a simplified criminal record exemption if the individual has the criminal history profile outlined in Sections 101170.1(n)(1) through (4) below:
 - (1) The individual does not have a demonstrated pattern of criminal activity;
 - (2) The individual has one or more convictions arising from a single incident of criminal conduct;
 - (3) Each conviction is a misdemeanor and is for a crime that is nonviolent and does not pose a risk of harm to an individual; and
 - (4) It has been at least five consecutive years since the date of conviction.
- (o) At the Department’s discretion, an individual who is otherwise eligible for a simplified exemption may be required to go through the standard exemption process if the Department determines such action will help to protect the health and safety of clients.
- (p) If the Department denies or cannot grant a criminal record exemption the Department shall:
 - (1) For initial applicants, deny the application.
 - (2) For current licensees, the Department may institute an administrative action, including, but not limited to, revocation of the license.
 - (3) For current employees, exclude the affected individual pursuant to Health and Safety Code Section 1596.8897, deny the application or revoke the license, if the individual continues to provide services and/or reside at the facility.

101170.1 CRIMINAL RECORD EXEMPTION (Continued)

- (4) For individuals residing in the facility, including spouses of the applicant or the licensee, exclude the affected individual pursuant to Health and Safety Code Section 1596.8897, deny the application or revoke the license, if the individual continues to provide services and/or reside at the facility.

- (q) If a request for an exemption has been denied, the individual shall be excluded for a period of two years unless the individual has been convicted of a crime for which no exemption may be granted pursuant to Section 101170.1(m). If a request for an exemption has been denied based on a conviction of a crime for which no exemption may be granted, the individual shall be excluded for the remainder of the individual's life.
 - (1) If the Department determines during the review of an exemption request, that the individual was denied an exemption for a conviction of a crime for which an exemption may be granted within the preceding two years, the Department shall cease any further review of the request until two years have elapsed from the date of the denial. In cases where the individual requested a hearing on an exemption denial, the Department shall cease review of the request for an exemption until two years from the effective date of the decision and order of the Department upholding the denial. In cases where the individual submitted a petition for reinstatement or reduction in penalty pursuant to Government Code Section 11522 that was denied, the Department shall cease review of the request for an exemption until two years from the effective date of the decision and order of the Department denying the petition.
 - (2) An exclusion order based solely upon a denied exemption shall remain in effect and the individual shall not be employed in or present in a licensed facility or certified home, unless either a petition or an exemption is granted.
 - (3) If an individual who has previously been denied an exemption re-applies after the relevant time period described in Section 101170.1(q)(1) above, the Department may, according to the provisions in Section 101170.1 et seq., grant or deny the subsequent request for an exemption.
 - (4) If an individual submits a petition pursuant to Government Code Section 11522 for reinstatement or reduction of penalty for an exclusion, an individual must submit his/her fingerprints through an electronic fingerprinting system approved by the Department and submit to the Department a statement of the reason why the individual should be permitted to work or be present in a facility, along with all information required of an individual requesting a criminal record exemption as provided in Section 101170.1. If it is determined, based upon information provided by the Department of Justice, that the individual has been convicted of a crime for which no exemption may be granted, the petition shall be denied. An individual's failure to submit fingerprints or other information as requested by the Department, shall be grounds for denial of the petition. The burden shall be on the petitioner to prove sufficient rehabilitation and good character to justify the granting of the petition.

101170.1 CRIMINAL RECORD EXEMPTION (Continued) **101170.1**

- (r) A licensee or applicant for a license may request a transfer of a criminal record exemption from one state licensed facility to another by providing the following documents to the Department:
- (1) A signed Criminal Record Exemption Transfer Request, LIC 9188 (Rev. 9/03).
 - (2) A copy of the individual's:
 - (A) Driver's license, or
 - (B) Valid identification card issued by the Department of Motor Vehicles, or
 - (C) Valid photo identification issued by another state or the United States Government if the individual is not a California resident.
 - (3) Any other documentation required by the Department (e.g., LIC 508, Criminal Record Statement [Rev. 1/03] and job description).
- (s) The Department may consider factors including, but not limited to, the following in determining whether or not to approve the transfer of an exemption from one facility to another:
- (1) The basis on which the Department granted the exemption;
 - (2) The nature and frequency of client contact in the new position;
 - (3) The category of facility where the individual wishes to transfer;
 - (4) The type of clients in the facility where the individual wishes to transfer;
 - (5) Whether the exemption was appropriately evaluated and granted in accordance with existing exemption laws or regulations; or
 - (6) Whether the exemption meets current exemption laws or regulations.
- (t) If the Department denies the individual's request to transfer a criminal record exemption, the Department shall provide the individual and the licensee with written notification that states the Department's decision and informs the affected individual of their right to an administrative hearing to contest the Department's decision.

101170.2 CHILD ABUSE CENTRAL INDEX **101170.2**

- (a) Prior to granting a license for a child care center, the Department shall conduct a Child Abuse Central Index (CACI) review pursuant to Health and Safety Code Section 1596.877 and Penal Code Section 11170(b)(3). The Department shall check the CACI for the applicant(s) and all individuals subject to a criminal record review, pursuant to Health and Safety Code Section 1596.871(a) and shall have the authority to approve or deny a facility license, employment, or presence in the facility based on the results of the review.
 - (1) The applicant shall submit the Child Abuse Central Index checks (LIC 198A [3/99]) for all individual's required to be checked directly to the California Department of Justice at the same time that the individual's fingerprints are submitted for a criminal background check as required by Section 101170(a).
 - (A) Individuals who have submitted the Child Abuse Central Index check (LIC 198A [3/99]) with fingerprints on or after January 1, 1999 need not submit a new check if the individual can transfer their criminal record clearance or exemption pursuant to Section 80019(e) or Section 80019.1(f).
 - (2) The Department shall investigate any reports received from the CACI. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protective agency that investigated the child abuse report. The Department shall not deny a license based upon a report from the CACI unless the Department substantiates the allegation of child abuse.
- (b) Subsequent to licensure, all individuals subject to a criminal record review, pursuant to Health and Safety Code Section 1596.871, shall complete a Child Abuse Central Index check (LIC 198A [3/99]) prior to employment or initial presence in the child care facility.
 - (1) The licensee shall submit the Child Abuse Central Index checks (LIC 198A [Rev. 3/99]) directly to the California Department of Justice at the same time that the individual's fingerprints are submitted for a criminal background check as required by Section 101170(d).
 - (A) Individuals who have submitted the Child Abuse Central Index check (LIC 198A [3/99]) with fingerprints on or after January 1, 1999 need not submit a new check if the individual can transfer their criminal record clearance or exemption pursuant to Section 80019(e) or Section 80019.1(f).

101170.2 CHILD ABUSE CENTRAL INDEX		101170.2
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- (2) The Department shall check the Child Abuse Central Index (CACI) pursuant to Penal Code Section 11170(b)(3). The Department shall investigate any reports received from the CACI. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protective agency that investigated the child abuse report. The Department shall not deny a license or take any other administrative action based upon a report from the CACI unless the Department substantiates the allegation of child abuse.

- (3) The Department shall investigate any subsequent reports received from the CACI. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protective agency that investigated the child abuse report. The Department shall not revoke a license or take any other administrative action based upon a report from the CACI unless the Department substantiates the allegation of child abuse.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.81(b) and 1596.871, Health and Safety Code.

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101172 WATER SUPPLY CLEARANCE **101172**

(a) All child care centers where water for human consumption is from a private source shall meet the following requirements:

- (1) As a condition of initial licensure, the applicant shall provide evidence of an onsite inspection of the source of the water and a bacteriological analysis that establishes the safety of the water. The inspection and the bacteriological analysis shall be conducted by the local health department, the California Department of Health Services or a licensed commercial laboratory.
- (2) Subsequent to initial licensure, the licensee shall provide evidence of a bacteriological analysis of the private water supply as frequently as is necessary to ensure the safety of the children, but no less frequently than specified in the following table:

LICENSED CAPACITY	ANALYSIS REQUIRED	PERIODIC SUBSEQUENT ANALYSIS
6 or fewer	Initial licensing	Not required unless evidence supports the need for such analysis to protect children.
7 through 15	Initial licensing	Annually
16 through 24	Initial licensing	Semiannually
25 or more	Initial licensing	Quarterly

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81, 1596.95 and 1597.05, Health and Safety Code.

101173	PLAN OF OPERATION	101173
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- (a) Each licensee shall have and keep on file a current written, definitive plan of operation. A copy of the plan shall be submitted to the Department with the license application.
- (b) The plan and related materials shall contain the following:
 - (1) Statement of purposes, and program methods and goals.
 - (2) Statement of admission policies and procedures.
 - (3) A copy of the admission agreement.
 - (4) Administrative organization, if applicable.
 - (5) Staffing plan, qualifications and duties, if applicable.
 - (6) Plan for in-service education of staff if required by regulations governing the specific child care center category.
 - (7) A sketch of the building(s) to be occupied, including a floor plan that describes the capacities of the buildings and the uses intended, the room dimensions, and the rooms to be used for nonambulatory children; and a sketch of the grounds that shows buildings, driveways, fences, storage areas, pools, gardens, recreation areas and other space used by the children. All sketches shall show dimensions.
 - (8) Sample menus and a schedule for one calendar week indicating the time of day that meals and snacks are to be served.
 - (9) Transportation arrangements provided by the applicant/licensee for children who do not have independent arrangements.
 - (10) Rate-setting policy including, but not limited to, a policy on refunds.
 - (11) Consultant and community resources to be utilized by the child care center as part of its program.
- (c) Any proposed changes in the plan of operation that affect services to children shall be subject to departmental approval prior to implementation and shall be reported as specified in Section 101212.
- (d) The child care center shall operate in accordance with the terms specified in the plan of operation.

NOTE: Authority cited: Section 1596.81, Health and Safety Code; Reference: Sections 1596.72, 1596.73, 1596.81, 1596.95 and 1597.05, Health and Safety Code.

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The department may continue to review the application if it has determined that the reasons for the denial of the application were due to circumstances and conditions which have been corrected or are no longer in existence. The cessation of review shall not constitute a denial of the application.

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- (2) The circumstances and conditions under which the Department may continue to review a previously denied application shall include, but not be limited to, the following:
 - (A) A fire clearance previously denied but now approved;
 - (B) An administrator who previously did not meet the minimum qualifications but now does; or
 - (C) A person with a criminal record previously associated with the center, which was the basis for license denial, but who is now no longer associated with the center.
 - (3) This review shall not constitute approval of the application.
 - (4) If the Department ceases review of an application, the application shall be returned to the applicant. The applicant shall be responsible for requesting the Department to resume reviewing the application pursuant to Health and Safety Code Section 1596.851.
- (c) The application fee is nonrefundable.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.83, 1596.851 and 1596.95, Health and Safety Code.

101180 WITHDRAWAL OF APPLICATION 101180

- (a) An applicant may withdraw an application for a license.
- The withdrawal of the application shall be in writing.
- (1) The fee for processing the application shall be forfeited.
- (b) As specified in Health and Safety Code Section 1596.854, the Department has the authority to take action against an applicant even if the applicant has withdrawn an application for a license.

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Health and Safety Code Section 1596.854 provides in part:

The withdrawal of an application for a license ... after it has been filed with the department shall not, unless the department consents in writing to the withdrawal, deprive the department of its authority to institute or continue a proceeding against the applicant for the denial of the license ... upon any ground provided by law or to enter an order denying the license ... upon any such ground.

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NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.803 and 1596.854, Health and Safety Code.

101181 PROVISIONAL LICENSE 101181

- (a) The Department has the authority to issue a provisional license pursuant to Health and Safety Code Sections 1596.84 and 1596.96 provided the child care center is in substantial compliance with applicable laws and regulations, as defined in Section 101152s.(4), and has submitted a completed application as specified in Section 101152c.(8).

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- (1) Health and Safety Code Section 1596.84 reads in pertinent part:

The department may issue provisional licenses to operate day care facilities which the director determines are in substantial compliance with the provisions of the licensure requirements and the rules and regulations adopted pursuant thereto, provided, that no life safety risks are involved, as determined by the director. In determining whether any life safety risks are involved, the director shall require completion of all applicable fire clearances and criminal record clearances as otherwise required by the department's rules and regulations.

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101181 **PROVISIONAL LICENSE** (Continued) **101181**

- (b) The Department shall not issue a provisional license if a corporate applicant's board of directors, executive director and officer are ineligible for licensure, as specified in Health and Safety Code Section 1596.952(b).

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- (A) Health and Safety Code Section 1596.952(b) states:

"(b) The department shall not issue a provisional license or license to any corporate applicant that has a member of the board of directors, the executive director, or an officer who is not eligible for licensure pursuant to Section 1596.851 and 1596.8898."

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- (c) The Department has the authority to issue a provisional license for a maximum of 90 days to otherwise qualified applicants who are not in compliance with the requirements for health and safety training as specified in Health and Safety Code Section 1596.866.
- (d) During the provisional license period, if the Department discovers any deficiencies that threaten the physical health, mental health, safety or welfare of the children, the Department has the authority to institute administrative action or civil proceedings, or to refer the case for criminal prosecution.
- (e) A provisional license terminates on the date specified on the provisional license or upon denial of the application, whichever is earlier.
- (1) Health and Safety Code Section 1596.84 specifies how long and under what circumstances a provisional license may last.

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Health and Safety Code Section 1596.84 reads in pertinent part:

... The provisional license shall expire six months from the date of issuance, or at such earlier time as the director may determine. However, the director may extend the term of a provisional license for an additional six months time, if it is determined that more than six months will be required to achieve full compliance with licensing standards due to circumstances beyond the control of the applicant, provided all other requirements for a license have been met. In no case shall a provisional license be issued for more than 12 months.

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- (f) If the Department determines after its review specified in Section 101178 that the provisional licensee does not meet licensing requirements, the application shall be denied as specified in Section 101205; the provisional license shall immediately terminate; and operation shall immediately cease.

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101181 PROVISIONAL LICENSE (Continued) 101181

- (g) If the Department denies the application for a license, the applicant may appeal the denial as provided in Section 101205. Until the Director adopts a decision on the denial action, the child care center is unlicensed.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.81(b), 1596.84, 1596.866, 1596.952(b), and 1596.96, Health and Safety Code.

101182	ISSUANCE/TERM OF A LICENSE (Continued)	101182
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- (d) Except for provisional licenses as provided in Section 101181, a license remains in effect until it is:
 - (1) Forfeited or surrendered as specified in Sections 101186 through 101187 and in Health and Safety Code Section 1596.858.
 - (2) Suspended or revoked as specified in Section 101206.
- (e) As a condition of licensure, child care personnel shall complete health and safety training pursuant to Health and Safety Code Section 1596.866.

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Health and Safety Code Section 1596.866 provides in pertinent part:

- (a)(1) In addition to any other required training, at least one director or teacher at each day care center ... shall have at least 15 hours of practices practices health and safety training, and if applicable, at least one additional hour of training pursuant to clause (ii) of subparagraph (C) of paragraph (2).
- (2) The training shall include the following components:
 - (A) Pediatric first aid.
 - (B) Pediatric cardiopulmonary resuscitation (CPR),
 - (C)(i) A preventative health practices course or courses that include instruction in the recognition, management, and prevention of infectious diseases, including immunizations, and prevention of childhood injuries.
 - (ii) For licenses issued on or after January 1, 2016, at least one director or teacher at each day care center...shall have at least one hour of childhood nutrition training as part of the preventive health practices course or courses.
- (3) The training may include instruction in sanitary food handling, emergency preparedness and evacuation, and caring for children with special needs.
- (b) Day care center directors... shall ensure that at least one staff member who has a current course completion card in pediatric first aid and pediatric CPR issued by the American Red Cross, or the American Heart Association, or by a training program that has been approved by the Emergency Medical Services Authority pursuant to this section and Section 1797.191 shall be onsite at all times when children are present at the facility, and shall be present with the children when children are offsite of the facility for facility activities....

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NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81, 1596.858, 1596.866, 1596.95, 1596.96 and 1596.97, Health and Safety Code.

101184	APPLICATION FOR RENEWAL OF A LICENSE	101184
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Repealed by Manual Letter No. CCL-98-11, effective 11/1/98.

101185	SUBMISSION OF NEW APPLICATION	101185
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(a) A licensee shall file a new Application Booklet (LIC 281A [12/96]) and supporting documents as specified in Section 101169 whenever there is a proposed change of any of the following types:

- (1) Child care center category.
 - (A) Notwithstanding (a) and (a)(1) above, a licensee wishing to add a toddler component to its existing preschool or infant care program shall submit an amended application as specified in Section 101169(a)(1)(A). The toddler program component is considered an extension of the preschool or infant care license.

(2) Sale or transfer of the majority of stock.

(3) Separating from a parent company.

(4) Merger with another company.

(5) Change of licensee.

(b) When a licensee proposes a change in capacity, a change in the number of nonambulatory children or a change in location, the licensee may, in lieu of filing an entirely new LIC 281A (12/96) and supporting documents as specified in Section 101169, transfer documents from an existing application to a new application. In such a case, the new application documents must include:

(1) An Application for a Child Day Care Center License (LIC 200A [12/92]).

(2) A fire clearance, if necessary.

(3) An update of existing application documents affected by the change, as determined by the Department.

101186	CONDITIONS FOR FORFEITURE OF A CHILD CARE CENTER LICENSE (Continued)	101186
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- (b) The licensee surrenders the license to the department.
- (c) The licensee moves the facility from one location to another....
- (d) The licensee is convicted of an offense specified in Section 220, 243.4, or 264.1, or paragraph (1) of Section 273a, Section 273d, 288, or 289 of the Penal Code, or is convicted of another crime specified in subdivision (c) of Section 667.5 of the Penal Code.
- (e) The licensee dies....
- (f) The licensee abandons the facility.

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- (2) "Licensee abandons the facility [child care center]" shall mean either of the following:
 - (A) The licensee informs the Department that the licensee no longer accepts responsibility for the child care center; or
 - (B) The Department is unable to determine the licensee's whereabouts after the following:
 - 1. The Department requests information about the licensee's whereabouts from child care center staff, if any staff can be contacted; and
 - 2. The Department has made at least one phone call per day to the licensee's last telephone number of record for five consecutive workdays with no response; and
 - 3. The Department has sent a certified letter requesting the licensee to contact the Department to the licensee's last mailing address of record with no response within seven calendar days.

101187 LICENSING FEES **101187**

(a) An applicant or licensee shall be charged fees as specified in Health and Safety Code Section 1596.803.

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Health and Safety Code Section 1596.803 provides:

(a)(1) An application fee adjusted by facility and capacity shall be charged by the department for the issuance of a license to operate a child day care facility. After initial licensure, a fee shall be charged by the department annually, on each anniversary of the effective date of the license. The fees are for the purpose of financing activities specified in this chapter. Fees shall be assessed as follows, subject to paragraph (2):

Fee Schedule

Facility Type	Capacity	Original Application	Annual Fee
Family Day Care	1-8	\$73	\$73
	9-14	\$140	\$140
Day Care Centers	1-30	\$484	\$242
	31-60	\$968	\$484
	61-75	\$1,210	\$605
	76-90	\$1,452	\$726
	91-120	\$1,936	\$968
	121+	\$2,420	\$1,210

(2)(A) The Legislature finds that all revenues generated by fees for licenses computed under this section and used for the purposes for which they were imposed are not subject to Article XIII B of the California Constitution.

(B) The department, at least every five years, shall analyze initial application fees and annual fees issued by it to ensure the appropriate fee amounts are charged. The department shall recommend to the Legislature that fees established by the Legislature be adjusted as necessary to ensure that the amounts are appropriate.

(b) (1) In addition to fees set forth in subdivision (a), the department shall charge the following fees:

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(A) A fee that represents 50 percent of an established application fee when an existing licensee moves the facility to a new physical address.

(B) A fee that represents 50 percent of the established application fee when a corporate licensee changes who has the authority to select a majority of the board of directors.

(C) A fee of twenty-five dollars (\$25) when an existing licensee seeks to either increase or decrease the licensed capacity of the facility.

(D) An orientation fee of twenty-five dollars (\$25) for attendance by any individual at a department-sponsored family child day care home orientation session, and a fifty dollar (\$50) orientation fee for attendance by any individual at a department-sponsored child day care center orientation session.

(E) A probation monitoring fee equal to the current annual fee, in addition to the current annual fee for that category and capacity for each year a license has been placed on probation as a result of a stipulation or decision and order pursuant to the administrative adjudication procedures of the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

(F) A late fee that represents an additional 50 percent of the established current annual fee when any licensee fails to pay the current annual licensing fee on or before the due date as indicated by postmark on the payment.

(G) A fee to cover any costs incurred by the department for processing payments including, but not limited to, bounced check charges, charges for credit and debit transactions, and postage due charges.

(H) A plan of correction fee of two hundred dollars (\$200) when any licensee does not implement a plan of correction on or prior to the date specified in the plan.

(2) No local jurisdiction shall impose any business license, fee, or tax for the privilege of operating a small family day care home licensed under this act.

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