

AMENDED IN ASSEMBLY APRIL 14, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 419**

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**Introduced by Assembly Member Mitchell**

February 14, 2011

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An act to amend Sections 1523.1, 1526.75, 1534, 1568.05, 1568.07, 1569.185, 1569.20, ~~1569.24~~, 1569.33, 1596.803, 1596.858, 1597.09, 1597.13, 1597.14, and 1597.55a of, and to repeal ~~Sections 1526.5 and 1569.24~~ *Section 1526.5* of, the Health and Safety Code, relating to ~~community~~ care facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 419, as amended, Mitchell. ~~Community care~~ *Care* facilities.

Under existing law, the State Department of Social Services licenses and regulates community care facilities ~~that provide nonmedical residential care, day treatment, adult day care, or foster family agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, incompetent persons, and abused or neglected children, residential care facilities for persons with chronic life-threatening illness, residential care facilities for the elderly, and child day care facilities.~~ Under existing law the department charges various fees for the initial and renewal licensure of various types of facilities, based on capacity of the facility. Existing law also requires the department to charge a plan of correction fee of \$200 when a licensee does not implement a plan of correction on or prior to the date specified in the plan.

This bill would increase the initial application and renewal fees for these licenses, as prescribed. The bill would also replace the plan of correction fee with a reinspection fee of \$100, to be assessed when an

inspection of a facility is necessary to ensure that a violation has been corrected.

Existing law requires the department to conduct an annual unannounced visit to a ~~community~~ care facility if any of various specified conditions are met. Existing law also requires the department to inspect *community care facilities*, residential care facilities *for persons with chronic life-threatening illness*, and residential care facilities for the elderly within 90 days after a facility accepts its first client for placement.

This bill would require the department to conduct an unannounced inspection of a ~~community~~ care facility, ~~at minimum, using prescribed inspection protocols at least once each year and as often as necessary to ensure the quality of care provided, except for family day care centers which the department would be required to inspect using prescribed inspection protocols, at minimum, once every 2 years and as often as necessary to ensure the quality of care provided.~~ *This bill would also require the department to convene a specified workgroup to review the implementation of the annual inspection protocols, as prescribed, and would require the department to include certain information about the annual inspection protocols in the department's annual report to the relevant Senate and Assembly budget subcommittees.*

*This bill would also eliminate the requirement for community care facilities and residential care facilities for persons with chronic life-threatening illness that the department inspect the facility within 90 days after it accepts its first client for placement. This bill would, for residential care facilities for the elderly, require the department to make its first annual unannounced inspection within 90 days after the facility accepts its first resident for placement.*

Existing law requires the department to conduct initial site visits before granting a license to a ~~community~~ child day care facility or a residential care facility for the elderly.

This bill would exempt the department from that requirement in specified cases but would not preclude the department, when acting within its discretionary authority, ~~to make from making~~ an initial site visit in those cases.

*Under existing law, to obtain a license for a day care center, a site visit and a finding that the facility is in compliance with licensing standards is required. Existing law requires that the department conduct an initial site visit within 30 days after the receipt of all appropriate licensing application materials.*

*This bill would authorize the department to exercise its discretion and elect not to conduct the site visit after the receipt of all appropriate licensing application materials when an operating day care center licensee sells or transfers the property or business to a new license applicant.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1523.1 of the Health and Safety Code is  
2 amended to read:

3 1523.1. (a) An application fee adjusted by facility and capacity  
4 shall be charged by the department for the issuance of a license.  
5 After initial licensure, a fee shall be charged by the department  
6 annually on each anniversary of the effective date of the license.  
7 The fees are for the purpose of financing the activities specified  
8 in this chapter. Fees shall be assessed as follows:

9				
10 Fee Schedule				
11				
12 Facility Type	Capacity	Initial	Application	Annual
13 Foster Family and				
14 Adoption Agencies				
		\$3,025		\$1,513
16 Adult Day Programs	1-15	\$182		\$91
	16-30	\$303		\$152
	31-60	\$605		\$303
	61-75	\$758		\$378
	76-90	\$908		\$454
	91-120	\$1,210		\$605
	121+	\$1,513		\$757
	1-3	\$454		\$454
24 Other Community	4-6	\$908		\$454
25 Care Facilities	7-15	\$1,363		\$681
	16-30	\$1,815		\$908
	31-49	\$2,270		\$1,135
	50-74	\$2,725		\$1,363
	75-100	\$3,180		\$1,590
30	101-150	\$3,634		\$1,817

1	151-200	\$4,237	\$2,119
2	201-250	\$4,840	\$2,420
3	251-300	\$5,445	\$2,723
4	301-350	\$6,050	\$3,025
5	351-400	\$6,655	\$3,328
6	401-500	\$7,865	\$3,933
7	501-600	\$9,075	\$4,538
8	601-700	\$10,285	\$5,143
9	701+	\$12,100	\$6,050

10

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

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

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

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

22 (D) An orientation fee of fifty dollars (\$50) for attendance by  
23 any individual at a department-sponsored orientation session.

24 (E) A probation monitoring fee equal to the annual fee, in  
25 addition to the annual fee for that category and capacity for each  
26 year a license has been placed on probation as a result of a  
27 stipulation or decision and order pursuant to the administrative  
28 adjudication procedures of the Administrative Procedure Act  
29 (Chapter 4.5 (commencing with Section 11400) and Chapter 5  
30 (commencing with Section 11500) of Part 1 of Division 3 of Title  
31 2 of the Government Code).

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

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

1 (H) A reinspection fee of one hundred dollars (\$100) whenever  
2 an inspection of a facility is necessary to ensure a violation has  
3 been corrected.

4 (2) Foster family homes shall be exempt from the fees imposed  
5 pursuant to this subdivision.

6 (3) Foster family agencies shall be annually assessed  
7 ninety-seven dollars (\$97) for each home certified by the agency.

8 (4) No local jurisdiction shall impose any business license, fee,  
9 or tax for the privilege of operating a facility licensed under this  
10 chapter which serves six or fewer persons.

11 (c) (1) The revenues collected from licensing fees pursuant to  
12 this section shall be utilized by the department for the purpose of  
13 ensuring the health and safety of all individuals provided care and  
14 supervision by licensees and to support activities of the licensing  
15 program, including, but not limited to, monitoring facilities for  
16 compliance with licensing laws and regulations pursuant to this  
17 chapter, and other administrative activities in support of the  
18 licensing program, when appropriated for these purposes. The  
19 revenues collected shall be used in addition to any other funds  
20 appropriated in the Budget Act in support of the licensing program.

21 (2) The department shall not utilize any portion of these revenues  
22 sooner than 30 days after notification in writing of the purpose  
23 and use of this revenue, as approved by the Director of Finance,  
24 to the Chairperson of the Joint Legislative Budget Committee, and  
25 the chairpersons of the committee in each house that considers  
26 appropriations for each fiscal year. The department shall submit  
27 a budget change proposal to justify any positions or any other  
28 related support costs on an ongoing basis.

29 (d) A facility may use a bona fide business check to pay the  
30 license fee required under this section.

31 (e) The failure of an applicant or licensee to pay all applicable  
32 and accrued fees and civil penalties shall constitute grounds for  
33 denial or forfeiture of a license.

34 SEC. 2. Section 1526.5 of the Health and Safety Code is  
35 repealed.

36 SEC. 3. Section 1526.75 of the Health and Safety Code is  
37 amended to read:

38 1526.75. (a) It is the intent of the Legislature to maintain  
39 quality resources for children needing placement away from their  
40 families. If, during a periodic inspection, a facility is found to be

1 out of compliance with one or more of the licensing standards of  
2 the department, the department shall, unless an ongoing  
3 investigation precludes it, advise the provider of the noncompliance  
4 as soon as possible. The provider shall be given the opportunity  
5 to correct the deficiency.

6 (b) The department shall implement a procedure whereby  
7 citations for noncompliance may be appealed and reviewed.

8 (c) Nothing in this section shall preclude the department from  
9 taking an action it may deem necessary to ensure the safety of  
10 children and adults placed in a facility.

11 SEC. 4. Section 1534 of the Health and Safety Code is amended  
12 to read:

13 1534. (a) (1) (A) Every licensed community care facility  
14 shall be inspected at least once per year and as often as necessary  
15 to ensure the quality of care provided. Evaluation visits shall be  
16 unannounced, except as noted in Section 1533.

17 (B) *The department shall inspect facilities using inspection*  
18 *protocols that are research based, field tested, reviewed by*  
19 *stakeholders, and evaluated annually to ensure that facilities are*  
20 *in compliance with licensing requirements. All inspections shall*  
21 *include a review of all zero tolerance violations for that facility*  
22 *type.*

23 (C) *The inspection required at least once per year pursuant to*  
24 *subparagraph (A) shall trigger a comprehensive inspection if either*  
25 *of the following occurs:*

26 (i) *One zero tolerance violation, including, but not limited to,*  
27 *a fire clearance violation, absence of supervision, accessible bodies*  
28 *of water, accessible firearms, ammunition, or both, refused entry*  
29 *to a facility or any part of a facility, or the presence of an excluded*  
30 *person on the premises.*

31 (ii) *Any two type A violation without regard to whether it is*  
32 *listed as part of the annual inspection protocols. A type A violation*  
33 *is a violation that poses an immediate risk.*

34 (D) *All inspections shall be subject to all laws and regulations*  
35 *regardless of the type of inspection. If during an annual inspection,*  
36 *the department observes a violation that is not listed as part of the*  
37 *annual protocols, the department shall address that violation.*

38 ~~(B)~~

39 (E) *In order to facilitate direct contact with group home clients,*  
40 *the department may interview children who are clients of group*

1 homes at any public agency or private agency at which the client  
2 may be found, including, but not limited to, a juvenile hall, a  
3 recreation or vocational program, or a nonpublic school. The  
4 department shall respect the rights of the child while conducting  
5 the interview, including informing the child that he or she has the  
6 right not to be interviewed and the right to have another adult  
7 present during the interview.

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

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

17 (b) (1) Nothing in this section shall limit the authority of the  
18 department to inspect or evaluate a licensed foster family agency,  
19 a certified family home, or any aspect of a program where a  
20 licensed community care facility is certifying compliance with  
21 licensing requirements.

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

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

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

1 (5) The department’s order of the denial or revocation of the  
2 certificate of approval shall remain in effect until the hearing is  
3 completed and the director has made a final determination on the  
4 merits.

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

12 (7) Hearings held pursuant to this section shall be conducted in  
13 accordance with Chapter 5 (commencing with Section 11500) of  
14 Division 3 of Title 2 of the Government Code. In all proceedings  
15 conducted in accordance with this section the standard of proof  
16 shall be by a preponderance of the evidence.

17 (8) The department may institute or continue a disciplinary  
18 proceeding against a certified or prospective foster parent upon  
19 any ground provided by this section, enter an order denying or  
20 revoking the certificate of approval, or otherwise take disciplinary  
21 action against the certified or prospective foster parent,  
22 notwithstanding resignation, withdrawal of application, surrender  
23 of the certificate of approval, or denial or revocation of the  
24 certificate of approval by the foster family agency.

25 (9) A foster family agency’s failure to comply with the  
26 department’s order to deny or revoke the certificate of employment  
27 by placing or retaining children in care shall be grounds for  
28 disciplining the licensee pursuant to Section 1550.

29 SEC. 5. Section 1568.05 of the Health and Safety Code is  
30 amended to read:

31 1568.05. (a) An application fee adjusted by facility and  
32 capacity, shall be charged by the department for a license to operate  
33 a residential care facility for persons with chronic life-threatening  
34 illness. After initial licensure, a fee shall be charged by the  
35 department annually, on each anniversary of the effective date of  
36 the license. The fees are for the purpose of financing the activities  
37 specified in this chapter. Fees shall be assessed as follows:

38  
39

Fee Schedule

	Initial	Annual
Capacity	Application	
1-6	\$605	\$303 plus \$10 per bed
7-15	\$758	\$378 plus \$10 per bed
16-25	\$908	\$454 plus \$10 per bed
26+	\$1,060	\$530 plus \$10 per bed

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

(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 fifty dollars (\$50) for attendance by an individual at a department-sponsored orientation session.

(E) A probation monitoring fee equal to the annual fee, in addition to the 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 annual fee when a licensee fails to pay the annual licensing fee on or before the due date, as indicated by postmark on the payment.

(G) A fee to cover 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 reinspection fee of one hundred dollars (\$100) whenever an inspection of a facility is necessary to ensure that a violation has been corrected.

1 (2) No local governmental entity shall impose a business license,  
2 fee, or tax for the privilege of operating a facility licensed under  
3 this chapter that serves six or fewer persons.

4 (c) All fees collected pursuant to subdivisions (a) and (b) shall  
5 be deposited in the Technical Assistance Fund.

6 (d) The revenues collected from licensing fees pursuant to this  
7 section shall be utilized by the department for the purpose of  
8 ensuring the health and safety of all individuals provided care and  
9 supervision by licensees and to support activities of the licensing  
10 program, including, but not limited to, monitoring facilities for  
11 compliance with licensing laws and regulations pursuant to this  
12 chapter, and other administrative activities in support of the  
13 licensing program, when appropriated for these purposes. The  
14 revenues collected shall be used in addition to any other funds  
15 appropriated in the Budget Act in support of the licensing program.

16 (e) The department shall not utilize any portion of the revenues  
17 collected pursuant to this section sooner than 30 days after  
18 notification in writing of the purpose and use of this revenue, as  
19 approved by the Director of Finance, to the Chairperson of the  
20 Joint Legislative Budget Committee, and the chairpersons of the  
21 committee in each house that considers appropriations for each  
22 fiscal year. The department shall submit a budget change proposal  
23 to justify any positions or any other related support costs on an  
24 ongoing basis.

25 (f) Fees established pursuant to this section shall not be effective  
26 unless licensing fees are established for all adult residential  
27 facilities licensed by the department.

28 (g) A residential care facility may use a bona fide business check  
29 to pay the license fee required under this section.

30 (h) The failure of an applicant for licensure or a licensee to pay  
31 all applicable and accrued fees and civil penalties shall constitute  
32 grounds for denial or forfeiture of a license.

33 SEC. 6. Section 1568.07 of the Health and Safety Code is  
34 amended to read:

35 1568.07. (a) (1) (A) Every licensed residential care facility  
36 shall be periodically inspected and evaluated for quality of care  
37 by a representative or representatives designated by the director.  
38 Evaluations shall be conducted at least annually and as often as  
39 necessary to ensure the quality of care being provided.

1 (B) Facilities shall be inspected using inspection protocols that  
2 are research based, field tested, reviewed by stakeholders, and  
3 evaluated annually to ensure that facilities are in compliance with  
4 licensing requirements. All inspections shall include a review of  
5 all zero tolerance violations for that facility type.

6 (C) The inspection required at least annually pursuant to  
7 subparagraph (A) shall trigger a comprehensive inspection if either  
8 of the following occurs:

9 (i) One zero tolerance violation, including, but not limited to,  
10 a fire clearance violation, absence of supervision, accessible bodies  
11 of water, accessible firearms, ammunition, or both, refused entry  
12 to a facility or any part of a facility, or the presence of an excluded  
13 person on the premises.

14 (ii) Any two type A violations without regard to whether it is  
15 listed as part of the annual inspection protocols. A type A violation  
16 is a violation that poses an immediate risk.

17 (D) All inspections shall be subject to all laws and regulations  
18 regardless of the type of inspection. If during an annual inspection,  
19 a violation is observed that is not listed as part of the annual  
20 protocols, that violation shall be addressed.

21 (2) During each licensing inspection the department shall  
22 determine if the facility meets regulatory standards, including, but  
23 not limited to, providing residents with the appropriate level of  
24 care based on the facility's license, providing adequate staffing  
25 and services, updated resident records and assessments, and  
26 compliance with basic health and safety standards.

27 (3) If the department determines that a resident requires a higher  
28 level of care than the facility is authorized to provide, the  
29 department may initiate a professional level of care assessment by  
30 an assessor approved by the department. An assessment shall be  
31 conducted in consultation with the resident, the resident's physician  
32 and surgeon, and the resident's case manager, and shall reflect the  
33 desires of the resident, the resident's physician and surgeon, and  
34 the resident's case manager. The assessment also shall recognize  
35 that certain illnesses are episodic in nature and that the resident's  
36 need for a higher level of care may be temporary.

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

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

5 (6) The department may take appropriate remedial action as  
6 provided for in this chapter.

7 (b) A duly authorized officer, employee, or agent of the  
8 department may, upon presentation of proper identification, enter  
9 and inspect any place providing personal care, supervision, and  
10 services, at any time, with or without advance notice, to secure  
11 compliance with, or to prevent a violation of, this chapter.

12 (c) No licensee shall discriminate or retaliate in any manner  
13 against a person receiving the services of the facility of the licensee,  
14 or against an employee of the facility, on the basis, or for the  
15 reason, that a person or employee or any other person has initiated  
16 or participated in an inspection pursuant to Section 1568.071.

17 (d) A person who, without lawful authorization from a duly  
18 authorized officer, employee, or agent of the department, informs  
19 an owner, operator, employee, agent, or resident of a residential  
20 care facility, of an impending or proposed inspection or evaluation  
21 of that facility by personnel of the department, is guilty of a  
22 misdemeanor and upon conviction thereof shall be punished by a  
23 fine not to exceed one thousand dollars (\$1,000), by imprisonment  
24 in the county jail for a period not to exceed 180 days, or by both  
25 a fine and imprisonment.

26 SEC. 7. Section 1569.185 of the Health and Safety Code is  
27 amended to read:

28 1569.185. (a) An application fee adjusted by facility and  
29 capacity shall be charged by the department for the issuance of a  
30 license to operate a residential care facility for the elderly. After  
31 initial licensure, a fee shall be charged by the department annually  
32 on each anniversary of the effective date of the license.

33 The fees are for the purpose of financing activities specified in  
34 this chapter. Fees shall be assessed as follows:

35		
36 Fee Schedule		
37 Initial		
38 Capacity	39 Application	40 Annual
39 1-3	\$454	\$454
40 4-6	\$908	\$454

1	7-15	\$1,363	\$681
2	16-30	\$1,815	\$908
3	31-49	\$2,270	\$1,135
4	50-74	\$2,725	\$1,363
5	75-100	\$3,180	\$1,590
6	101-150	\$3,634	\$1,817
7	151-200	\$4,237	\$2,119
8	201-250	\$4,840	\$2,420
9	251-300	\$5,445	\$2,723
10	301-350	\$6,050	\$3,025
11	351-400	\$6,655	\$3,328
12	401-500	\$7,865	\$3,933
13	501-600	\$9,075	\$4,538
14	601-700	\$10,285	\$5,143
15	701+	\$12,100	\$6,050

16

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

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

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

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

28 (D) An orientation fee of fifty dollars (\$50) for attendance by  
29 any individual at a department-sponsored orientation session.

30 (E) A probation monitoring fee equal to the annual fee, in  
31 addition to the annual fee for that category and capacity for each  
32 year a license has been placed on probation as a result of a  
33 stipulation or decision and order pursuant to the administrative  
34 adjudication procedures of the Administrative Procedure Act  
35 (Chapter 4.5 (commencing with Section 11400) and Chapter 5  
36 (commencing with Section 11500) of Part 1 of Division 3 of Title  
37 2 of the Government Code).

38 (F) A late fee that represents an additional 50 percent of the  
39 established annual fee when ~~any~~ a licensee fails to pay the annual

1 licensing fee on or before the due date as indicated by postmark  
2 on the payment.

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

7 (H) A reinspection fee of one hundred dollars (\$100) whenever  
8 an inspection of a facility is necessary to ensure that a violation  
9 has been corrected.

10 (2) No local jurisdiction shall impose a business license, fee, or  
11 tax for the privilege of operating a facility licensed under this  
12 chapter that serves six or fewer persons.

13 (c) (1) The revenues collected from licensing fees pursuant to  
14 this section shall be utilized by the department for the purpose of  
15 ensuring the health and safety of all individuals provided care or  
16 supervision by licensees and to support the activities of the  
17 licensing programs, including, but not limited to, monitoring  
18 facilities for compliance with licensing laws and regulations  
19 pursuant to this chapter, and other administrative activities in  
20 support of the licensing program, when appropriated for these  
21 purposes. The revenues collected shall be used in addition to any  
22 other funds appropriated in the annual Budget Act in support of  
23 the licensing program.

24 (2) The department shall not utilize any portion of these revenues  
25 sooner than 30 days after notification in writing of the purpose  
26 and use, as approved by the Department of Finance, to the  
27 Chairperson of the Joint Legislative Budget Committee, and the  
28 chairpersons of the committee in each house that considers  
29 appropriations for each fiscal year. The department shall submit  
30 a budget change proposal to justify any positions or any other  
31 related support costs on an ongoing basis.

32 (d) A residential care facility for the elderly may use a bona  
33 fide business check to pay the license fee required under this  
34 section.

35 (e) The failure of an applicant for licensure or a licensee to pay  
36 all applicable and accrued fees and civil penalties shall constitute  
37 grounds for denial or forfeiture of a license.

38 SEC. 8. Section 1569.20 of the Health and Safety Code is  
39 amended to read:

1 1569.20. Upon the filing of the application for issuance of an  
2 initial license, the department shall, within five working days of  
3 the filing, make a determination regarding the completeness of the  
4 application. If the application is complete, the department shall  
5 immediately request a fire clearance and notify the applicant to  
6 arrange a time for the department to conduct a prelicensure survey.  
7 Applicants for licensure of a currently or previously licensed  
8 facility are exempt from the initial site visit. This does not preclude  
9 the department, when acting within its discretionary authority,  
10 from making an initial site visit. If the application is incomplete,  
11 the department shall notify the applicant and request the necessary  
12 information. Within 60 days of making a determination that the  
13 file is complete, the department shall make a determination whether  
14 the application is in compliance with this chapter and the rules and  
15 regulations of the department and shall either immediately issue  
16 the license or notify the applicant of the deficiencies. The notice  
17 shall specify whether the deficiencies constitute denial of the  
18 application or whether further corrections for compliance will  
19 likely result in approval of the application.

20 ~~SEC. 9. Section 1569.24 of the Health and Safety Code is~~  
21 ~~repealed.~~

22 *SEC. 9. Section 1569.24 of the Health and Safety Code is*  
23 *amended to read:*

24 1569.24. (a) Within 90 days after a facility accepts its first  
25 resident for placement following its initial licensure, the department  
26 shall ~~inspect the facility to evaluate compliance with rules and~~  
27 ~~regulations and to assess the facility's continuing ability to meet~~  
28 ~~regulatory requirements~~ *conduct its first annual unannounced visit*  
29 *to the facility in accordance with Section 1569.33.* The licensee  
30 shall notify the department, within five business days after  
31 accepting its first resident for placement, that the facility has  
32 commenced operating.

33 ~~The~~

34 (b) *The* department may take appropriate remedial action as  
35 provided for in this chapter.

36 SEC. 10. Section 1569.33 of the Health and Safety Code is  
37 amended to read:

38 1569.33. (a) (1) Every licensed residential care facility for  
39 the elderly shall be subject to unannounced visits by the  
40 department. The department shall visit these facilities *at least once*

1 *per year and as often as necessary to ensure the quality of care*  
2 *provided.*

3 *(2) The department shall inspect facilities using inspection*  
4 *protocols that are research based, field tested, reviewed by*  
5 *stakeholders, and evaluated annually to ensure that facilities are*  
6 *in compliance with licensing requirements. All inspections shall*  
7 *include a review of all zero tolerance violations for that facility*  
8 *type.*

9 *(3) The inspection required at least once per year pursuant to*  
10 *paragraph (1) shall trigger a comprehensive inspection if either*  
11 *of the following occurs:*

12 *(A) One zero tolerance violation, including, but not limited to,*  
13 *a fire clearance violation, absence of supervision, accessible bodies*  
14 *of water, accessible firearms, ammunition, or both, refused entry*  
15 *to a facility or any part of a facility, or the presence of an excluded*  
16 *person on the premises.*

17 *(B) Any two type A violations without regard to whether it is*  
18 *listed as part of the annual inspection protocols. A type A violation*  
19 *is a violation that poses an immediate risk.*

20 *(4) All inspections shall be subject to all laws and regulations*  
21 *regardless of the type of inspection. If during an annual inspection,*  
22 *the department observes a violation that is not listed as part of the*  
23 *annual protocols, the department shall address that violation.*

24 *(b) The department shall notify the residential care facility for*  
25 *the elderly in writing of all deficiencies in its compliance with the*  
26 *provisions of this chapter and the rules and regulations adopted*  
27 *pursuant to this chapter, and shall set a reasonable length of time*  
28 *for compliance by the facility.*

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

33 *(d) As a part of the department’s evaluation process, the*  
34 *department shall review the plan of operation, training logs, and*  
35 *marketing materials of a residential care facility for the elderly*  
36 *that advertises or promotes special care, special programming, or*  
37 *a special environment for persons with dementia to monitor*  
38 *compliance with Sections 1569.626 and 1569.627.*

39 **SEC. 11.** *Section 1596.803 of the Health and Safety Code is*  
40 *amended to read:*

1 1596.803. (a) An application fee adjusted by facility and  
 2 capacity shall be charged by the department for the issuance of a  
 3 license to operate a child day care facility. After initial licensure,  
 4 a fee shall be charged by the department annually, on each  
 5 anniversary of the effective date of the license. The fees are for  
 6 the purpose of financing activities specified in this chapter. Fees  
 7 shall be assessed as follows:

8

9 Fee Schedule

10 Facility Type	Capacity	Original Application	Annual Fee
11 Family Day Care	1-8	\$73	\$73
	9-14	\$140	\$140
14 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

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

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

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

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

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

37 (E) A probation monitoring fee equal to the annual fee, in  
 38 addition to the annual fee for that category and capacity for each  
 39 year a license has been placed on probation as a result of a  
 40 stipulation or decision and order pursuant to the administrative

1 adjudication procedures of the Administrative Procedure Act  
2 (Chapter 4.5 (commencing with Section 11400) and Chapter 5  
3 (commencing with Section 11500) of Part 1 of Division 3 of Title  
4 2 of the Government Code).

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

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

13 (H) A reinspection fee of one hundred dollars (\$100) whenever  
14 an inspection of a facility is necessary to ensure a violation has  
15 been corrected.

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

19 (c) (1) The revenues collected from licensing fees pursuant to  
20 this section shall be utilized by the department for the purpose of  
21 ensuring the health and safety of all individuals provided care and  
22 supervision by licensees, and to support the activities of the  
23 licensing program, including, but not limited to, monitoring  
24 facilities for compliance with licensing laws and regulations  
25 pursuant to this act, and other administrative activities in support  
26 of the licensing program, when appropriated for these purposes.  
27 The revenues collected shall be used in addition to any other funds  
28 appropriated in the annual Budget Act in support of the licensing  
29 program.

30 (2) The department shall not utilize any portion of these revenues  
31 sooner than 30 days after notification in writing of the purpose  
32 and use, as approved by the Department of Finance, to the  
33 Chairperson of the Joint Legislative Budget Committee, and the  
34 chairpersons of the committee in each house that considers  
35 appropriations for each fiscal year. The department shall submit  
36 a budget change proposal to justify any positions or any other  
37 related support costs on an ongoing basis.

38 (d) A child day care facility may use a bona fide business or  
39 personal check to pay the license fee required under this section.

1 (e) The failure of an applicant for licensure or a licensee to pay  
2 all applicable and accrued fees and civil penalties shall constitute  
3 grounds for denial or forfeiture of a license.

4 SEC. 12. Section 1596.858 of the Health and Safety Code is  
5 amended to read:

6 1596.858. A license shall be forfeited by operation of law prior  
7 to its expiration date when any of the following occurs:

8 (a) The licensee sells or otherwise transfers the facility or facility  
9 property, except when change of ownership applies to transferring  
10 of stock when the facility is owned by a corporation, and when  
11 the transfer of stock does not constitute a majority change in  
12 ownership.

13 (b) The licensee surrenders the license to the department.

14 (c) The licensee moves the facility from one location to another.  
15 The department shall develop regulations to ensure that the  
16 facilities are not charged a full licensing fee and do not have to  
17 complete the entire application process when applying for license  
18 for the new location.

19 (d) The licensee is convicted of an offense specified in Section  
20 220, 243.4, or 264.1, or paragraph (1) of Section 273a, Section  
21 273d, 288, or 289 of the Penal Code, or is convicted of another  
22 crime specified in subdivision (c) of Section 667.5 of the Penal  
23 Code.

24 (e) The licensee dies. If an adult relative notifies the department  
25 of his or her desire to continue operation of the facility and submits  
26 an application, the department shall expedite the application.  
27 Applicants for licensure pursuant to this subdivision are exempt  
28 from the initial site visit required by Section 1597.13. This does  
29 not preclude the department, when acting within its discretionary  
30 authority, from making an initial site visit. The department shall  
31 promulgate regulations for expediting applications submitted  
32 pursuant to this subdivision.

33 (f) The licensee abandons the facility.

34 SEC. 13. Section 1597.09 of the Health and Safety Code is  
35 amended to read:

36 1597.09. (a) Each licensed child day care center shall be  
37 subject to unannounced visits by the department. The department  
38 shall visit these facilities at least once per year and as often as  
39 necessary to ensure the quality of care provided.

1 (b) The department shall inspect facilities using inspection  
2 protocols that are research based, field tested, reviewed by  
3 stakeholders, and evaluated annually to ensure that facilities are  
4 in compliance with licensing requirements. All inspections shall  
5 include a review of all zero tolerance violations for that facility  
6 type.

7 (c) The inspection required at least once per year pursuant to  
8 subdivision (a) shall trigger a comprehensive inspection if either  
9 of the following occurs:

10 (1) One zero tolerance violation, including, but not limited to,  
11 a fire clearance violation, absence of supervision, accessible bodies  
12 of water, accessible firearms, ammunition, or both, refused entry  
13 to a facility or any part of a facility, or the presence of an excluded  
14 person on the premises.

15 (2) Any two type A violations without regard to whether it is  
16 listed as part of the annual inspection protocols. A type A violation  
17 is a violation that poses an immediate risk.

18 (d) All inspections shall be subject to all laws and regulations  
19 regardless of the type of inspection. If during an annual inspection,  
20 the department observes a violation that is not listed as part of the  
21 annual protocols, the department shall address that violation.

22 SEC. 14. Section 1597.13 of the Health and Safety Code is  
23 amended to read:

24 1597.13. (a) The department and any local agency with which  
25 it contracts for the licensing of day care centers shall grant or deny  
26 an application for license within 30 days after receipt of all  
27 appropriate licensing application materials, as determined by the  
28 department, after a site visit has been completed and the facility  
29 has been found to be in compliance with licensing standards. The  
30 department shall conduct an initial site visit within 30 days after  
31 the receipt of all appropriate licensing application materials.

32 (b) The department may exercise its discretion and elect not to  
33 conduct the site visit required by subdivision (a) after the receipt  
34 of all appropriate licensing application materials when an operating  
35 day care center licensee sells or transfers the property or business  
36 to a new license applicant.

37 SEC. 15. Section 1597.14 of the Health and Safety Code is  
38 amended to read:

39 1597.14. (a) Notwithstanding Section 1596.858, in the event  
40 of a sale of a licensed child day care center where the sale will

1 result in a new license being issued, the sale and transfer of  
2 property and business shall be subject to both of the following:

3 (1) The licensee shall provide written notice to the department  
4 and to the child's parent or his or her legal guardian of the  
5 licensee's intent to sell the child day care center at least 30 days  
6 prior to the transfer of the property or business, or at the time that  
7 a bona fide offer is made, whichever period is longer.

8 (2) The licensee shall, prior to entering into an admission  
9 agreement, inform the child's parent or his or her legal guardian,  
10 admitted to the facility after notification to the department, of the  
11 licensee's intent to sell the property or business.

12 (b) Except as provided in subdivision (e), the property and  
13 business shall not be transferred until the buyer qualifies for a  
14 license or provisional license pursuant to this chapter.

15 (1) The seller shall notify, in writing, a prospective buyer of the  
16 necessity to obtain a license, as required by this chapter, if the  
17 buyer's intent is to continue operating the facility as a child day  
18 care center. The seller shall send a copy of this written notice to  
19 the licensing agency.

20 (2) The prospective buyer shall submit an application for a  
21 license, as specified in Section 1596.95, within five days of the  
22 acceptance of the offer by the seller.

23 (c) No transfer of the facility shall be permitted until 30 days  
24 have elapsed from the date when notice has been provided to the  
25 department pursuant to paragraph (1) of subdivision (a).

26 (d) The department shall give priority to applications for  
27 licensure that are submitted pursuant to this section in order to  
28 ensure timely transfer of the property and business. Applicants for  
29 licensure pursuant to this subdivision are exempt from the initial  
30 site visit required by Section 1597.13. This does not preclude the  
31 department, when acting within its discretionary authority, from  
32 making an initial site visit. The department shall make a decision  
33 within 60 days after a complete application is submitted on whether  
34 to issue a license pursuant to Section 1596.95.

35 (e) If the parties involved in the transfer of the property and  
36 business fully comply with this section, then the transfer may be  
37 completed and the buyer shall not be considered to be operating  
38 an unlicensed facility while the department makes a final  
39 determination on the application for licensure.

1 SEC. 16. Section 1597.55a of the Health and Safety Code is  
 2 amended to read:

3 1597.55a. (a) (1) Every family day care home shall be subject  
 4 to unannounced visits by the department as provided in this section.  
 5 The department shall visit these facilities at least once every two  
 6 years and as often as necessary to ensure the quality of care  
 7 provided.

8 (2) *The department shall inspect facilities using inspection*  
 9 *protocols that are research based, field tested, reviewed by*  
 10 *stakeholders, and evaluated annually to ensure that facilities are*  
 11 *in compliance with licensing requirements. All inspections shall*  
 12 *include a review of all zero tolerance violations for that facility*  
 13 *type.*

14 (3) *The inspection required at least once per year pursuant to*  
 15 *paragraph (1) shall trigger a comprehensive inspection if either*  
 16 *of the following occurs:*

17 (A) *One zero tolerance violation, including, but not limited to,*  
 18 *a fire clearance violation, absence of supervision, accessible bodies*  
 19 *of water, accessible firearms, ammunition, or both, refused entry*  
 20 *to a facility or any part of a facility, or the presence of an excluded*  
 21 *person on the premises.*

22 (B) *Any two type A violations without regard to whether it is*  
 23 *listed as part of the annual inspection protocols. A type A violation*  
 24 *is a violation that poses an immediate risk.*

25 (4) *All inspections shall be subject to all laws and regulations*  
 26 *regardless of the type of inspection. If during an annual inspection,*  
 27 *the department observes a violation that is not listed as part of the*  
 28 *annual protocols, the department shall address that violation.*

29 ~~(a)~~

30 (b) The department shall conduct an announced site visit prior  
 31 to the initial licensing of the applicant.

32 ~~(b)~~

33 (c) The department shall conduct an annual unannounced visit  
 34 to a facility under any of the following circumstances:

- 35 (1) When a license is on probation.
- 36 (2) When the terms of agreement in a facility compliance plan  
 37 require an annual evaluation.
- 38 (3) When an accusation against a licensee is pending.

1 (4) In order to verify that a person who has been ordered out of  
2 a family day care home by the department is no longer at the  
3 facility.

4 ~~(e)~~

5 (d) A public agency under contract with the department may  
6 make spot checks if it does not result in a cost to the state.  
7 However, spot checks shall not be required by the department.

8 ~~(d)~~

9 (e) The department or licensing agency shall make an  
10 unannounced site visit on the basis of a complaint and a followup  
11 visit as provided in Section 1596.853.

12 ~~(e)~~

13 (f) An unannounced site visit shall adhere to both of the  
14 following conditions:

15 (1) The visit shall take place only during the facility's normal  
16 business hours or at any time family day care services are being  
17 provided.

18 (2) The inspection of the facility shall be limited to those parts  
19 of the facility in which family day care services are provided or  
20 to which the children have access.

21 ~~(f)~~

22 (g) The department shall implement this section during periods  
23 that Section 1597.55b is not being implemented in accordance  
24 with Section 18285.5 of the Welfare and Institutions Code.

25 *SEC. 17. By January 31, 2012, and by January 31, 2013, the*  
26 *State Department of Social Services shall convene a workgroup*  
27 *that shall meet at least one time on or before each of these dates*  
28 *to review the implementation of the annual inspection protocols.*  
29 *The workgroup shall make recommendations concerning improving*  
30 *the inspection protocols. The workgroup shall be composed of*  
31 *representatives from the various departments within the California*  
32 *Health and Human Services Agency, legislative staff, stakeholders*  
33 *representing providers of all facility types, and stakeholders*  
34 *representing consumers of all facility types. The department shall*  
35 *include the discussion and conclusions of the workgroup as well*  
36 *as a thorough description, data, and evaluation of the annual*  
37 *inspection protocols in its annual report to both the Senate and*

- 1 *Assembly budget subcommittees that oversee the licensing of care*
- 2 *facilities by the department.*

O