

AMENDED IN ASSEMBLY APRIL 28, 2011

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~~ 1534, 1568.07, ~~1569.185, 1569.191,~~ 1569.20, 1569.24, 1569.33, ~~1596.803,~~ 1596.858, 1597.09, 1597.13, 1597.14, and 1597.55a of, and to repeal Section ~~1526.5~~ of, the Health and Safety Code, relating to care facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 419, as amended, Mitchell. Care facilities.

Under existing law, the State Department of Social Services licenses and regulates community care facilities, 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 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 care facility 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 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, from making an initial site visit in those cases.~~

Under existing law, to obtain a license for a *residential care facility for the elderly* or a day care center, a *prelicensure survey* or 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 *residential care facility for the elderly* or day care center licensee sells or transfers the property or business to a new license applicant *and the department determines that there will be no material change in the management or operations of the facility.*

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	Facility Type	Capacity	Initial Application	Annual
12	Foster Family and	-	-	-
13	Adoption Agencies		-	-
14			\$3,025	\$1,513
15	Adult Day Programs	<del>1-15</del>	\$182	\$91
16		<del>16-30</del>	\$303	\$152
17		<del>31-60</del>	\$605	\$303
18		<del>61-75</del>	\$758	\$378
19		<del>76-90</del>	\$908	\$454
20		<del>91-120</del>	\$1,210	\$605
21		121+	\$1,513	\$757
22	-	<del>1-3</del>	\$454	\$454
23	Other Community	<del>4-6</del>	\$908	\$454
24	Care Facilities	<del>7-15</del>	\$1,363	\$681
25		<del>16-30</del>	\$1,815	\$908
26		<del>31-49</del>	\$2,270	\$1,135
27	-	<del>50-74</del>	\$2,725	\$1,363
28	-	<del>75-100</del>	\$3,180	\$1,590
29	-	<del>101-150</del>	\$3,634	\$1,817
30				

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

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 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 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 ~~(e) (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 ~~(e) 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.~~

12 *SECTION 1.* Section 1534 of the Health and Safety Code is  
13 amended to read:

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

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

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

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

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

35 *(ii) Any combination of other violations as determined by the*  
36 *department. However, for the first two years following the date of*  
37 *the act that amended this clause, the combination used by the*  
38 *department shall be two type A violations without regard to*  
39 *whether they are listed as part of the annual inspection protocols.*  
40 *A type A violation is a violation that poses an immediate risk. The*

1 *combination of violations as determined by the department*  
2 *pursuant to this clause shall be reported to the Legislature in the*  
3 *department's annual report.*

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

8 (E) In order to facilitate direct contact with group home clients,  
9 the department may interview children who are clients of group  
10 homes at any public agency or private agency at which the client  
11 may be found, including, but not limited to, a juvenile hall, a  
12 recreation or vocational program, or a nonpublic school. The  
13 department shall respect the rights of the child while conducting  
14 the interview, including informing the child that he or she has the  
15 right not to be interviewed and the right to have another adult  
16 present during the interview.

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

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

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

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

37 (3) If the department requires a foster family agency to deny or  
38 revoke the certificate of approval, the department shall serve an  
39 order of denial or revocation upon the certified or prospective  
40 foster parent and foster family agency that shall notify the certified

1 or prospective foster parent of the basis of the department’s action  
2 and of the certified or prospective foster parent’s right to a hearing.

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

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

13 (6) A certified or prospective foster parent who files a written  
14 appeal of the department’s order with the department pursuant to  
15 this section shall, as part of the written request, provide his or her  
16 current mailing address. The certified or prospective foster parent  
17 shall subsequently notify the department in writing of any change  
18 in mailing address, until the hearing process has been completed  
19 or terminated.

20 (7) Hearings held pursuant to this section shall be conducted in  
21 accordance with Chapter 5 (commencing with Section 11500) of  
22 Division 3 of Title 2 of the Government Code. In all proceedings  
23 conducted in accordance with this section the standard of proof  
24 shall be by a preponderance of the evidence.

25 (8) The department may institute or continue a disciplinary  
26 proceeding against a certified or prospective foster parent upon  
27 any ground provided by this section, enter an order denying or  
28 revoking the certificate of approval, or otherwise take disciplinary  
29 action against the certified or prospective foster parent,  
30 notwithstanding resignation, withdrawal of application, surrender  
31 of the certificate of approval, or denial or revocation of the  
32 certificate of approval by the foster family agency.

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

37 ~~SEC. 5. Section 1568.05 of the Health and Safety Code is~~  
38 ~~amended to read:~~

39 ~~1568.05. (a) An application fee adjusted by facility and~~  
40 ~~capacity, shall be charged by the department for a license to operate~~

1 a residential care facility for persons with chronic life-threatening  
 2 illness. After initial licensure, a fee shall be charged by the  
 3 department annually, on each anniversary of the effective date of  
 4 the license. The fees are for the purpose of financing the activities  
 5 specified in this chapter. Fees shall be assessed as follows:

6  
 7 **Fee Schedule**  
 8 **Initial**

9 —Capacity	Application	Annual
10 —1-6	\$605	\$303 plus \$10 per bed
11 —7-15	\$758	\$378 plus \$10 per bed
12 —16-25	\$908	\$454 plus \$10 per bed
13 —26+	\$1,060	\$530 plus \$10 per bed

14  
 15 (b) (1) In addition to fees set forth in subdivision (a), the  
 16 department shall charge the following fees:

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

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

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

26 (D) An orientation fee of fifty dollars (\$50) for attendance by  
 27 an individual at a department-sponsored orientation session.

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

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

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

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

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

11 ~~(e) All fees collected pursuant to subdivisions (a) and (b) shall~~  
12 ~~be deposited in the Technical Assistance Fund.~~

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

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

32 ~~(f) Fees established pursuant to this section shall not be effective~~  
33 ~~unless licensing fees are established for all adult residential~~  
34 ~~facilities licensed by the department.~~

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

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

1 ~~SEC. 6.~~

2 *SEC. 2.* Section 1568.07 of the Health and Safety Code is  
3 amended to read:

4 1568.07. (a) (1) (A) Every licensed residential care facility  
5 shall be periodically inspected and evaluated for quality of care  
6 by a representative or representatives designated by the director.  
7 Evaluations shall be conducted at least annually and as often as  
8 necessary to ensure the quality of care being provided.

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

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

17 (i) 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 ~~(ii) 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 *(ii) Any combination of other violations as determined by the*  
26 *department. However, for the first two years following the date of*  
27 *the act that amended this clause, the combination used by the*  
28 *department shall be two type A violations without regard to*  
29 *whether they are listed as part of the annual inspection protocols.*  
30 *A type A violation is a violation that poses an immediate risk. The*  
31 *combination of violations as determined by the department*  
32 *pursuant to this clause shall be reported to the Legislature in the*  
33 *department's annual report.*

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 a violation is observed that is not listed as part of the annual  
37 protocols, that violation shall be addressed.

38 (2) During each licensing inspection the department shall  
39 determine if the facility meets regulatory standards, including, but  
40 not limited to, providing residents with the appropriate level of

1 care based on the facility's license, providing adequate staffing  
2 and services, updated resident records and assessments, and  
3 compliance with basic health and safety standards.

4 (3) If the department determines that a resident requires a higher  
5 level of care than the facility is authorized to provide, the  
6 department may initiate a professional level of care assessment by  
7 an assessor approved by the department. An assessment shall be  
8 conducted in consultation with the resident, the resident's physician  
9 and surgeon, and the resident's case manager, and shall reflect the  
10 desires of the resident, the resident's physician and surgeon, and  
11 the resident's case manager. The assessment also shall recognize  
12 that certain illnesses are episodic in nature and that the resident's  
13 need for a higher level of care may be temporary.

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

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

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

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

29 (c) No licensee shall discriminate or retaliate in any manner  
30 against a person receiving the services of the facility of the licensee,  
31 or against an employee of the facility, on the basis, or for the  
32 reason, that a person or employee or any other person has initiated  
33 or participated in an inspection pursuant to Section 1568.071.

34 (d) A person who, without lawful authorization from a duly  
35 authorized officer, employee, or agent of the department, informs  
36 an owner, operator, employee, agent, or resident of a residential  
37 care facility, of an impending or proposed inspection or evaluation  
38 of that facility by personnel of the department, is guilty of a  
39 misdemeanor and upon conviction thereof shall be punished by a  
40 fine not to exceed one thousand dollars (\$1,000), by imprisonment

1 in the county jail for a period not to exceed 180 days, or by both  
2 a fine and imprisonment.

3 ~~SEC. 7. Section 1569.185 of the Health and Safety Code is~~  
4 ~~amended to read:~~

5 ~~1569.185. (a) An application fee adjusted by facility and~~  
6 ~~capacity shall be charged by the department for the issuance of a~~  
7 ~~license to operate a residential care facility for the elderly. After~~  
8 ~~initial licensure, a fee shall be charged by the department annually~~  
9 ~~on each anniversary of the effective date of the license.~~

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

	Fee Schedule	
	Initial	
<del>Capacity</del>	<del>Application</del>	<del>Annual</del>
<del>1-3</del>	<del>\$454</del>	<del>\$454</del>
<del>4-6</del>	<del>\$908</del>	<del>\$454</del>
<del>7-15</del>	<del>\$1,363</del>	<del>\$681</del>
<del>16-30</del>	<del>\$1,815</del>	<del>\$908</del>
<del>31-49</del>	<del>\$2,270</del>	<del>\$1,135</del>
<del>50-74</del>	<del>\$2,725</del>	<del>\$1,363</del>
<del>75-100</del>	<del>\$3,180</del>	<del>\$1,590</del>
<del>101-150</del>	<del>\$3,634</del>	<del>\$1,817</del>
<del>151-200</del>	<del>\$4,237</del>	<del>\$2,119</del>
<del>201-250</del>	<del>\$4,840</del>	<del>\$2,420</del>
<del>251-300</del>	<del>\$5,445</del>	<del>\$2,723</del>
<del>301-350</del>	<del>\$6,050</del>	<del>\$3,025</del>
<del>351-400</del>	<del>\$6,655</del>	<del>\$3,328</del>
<del>401-500</del>	<del>\$7,865</del>	<del>\$3,933</del>
<del>501-600</del>	<del>\$9,075</del>	<del>\$4,538</del>
<del>601-700</del>	<del>\$10,285</del>	<del>\$5,143</del>
<del>701+</del>	<del>\$12,100</del>	<del>\$6,050</del>

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

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

- 1 ~~(B) A fee that represents 50 percent of the established~~  
2 ~~application fee when a corporate licensee changes who has the~~  
3 ~~authority to select a majority of the board of directors.~~
- 4 ~~(C) A fee of twenty-five dollars (\$25) when an existing licensee~~  
5 ~~seeks to either increase or decrease the licensed capacity of the~~  
6 ~~facility.~~
- 7 ~~(D) An orientation fee of fifty dollars (\$50) for attendance by~~  
8 ~~any individual at a department-sponsored orientation session.~~
- 9 ~~(E) A probation monitoring fee equal to the annual fee, in~~  
10 ~~addition to the annual fee for that category and capacity for each~~  
11 ~~year a license has been placed on probation as a result of a~~  
12 ~~stipulation or decision and order pursuant to the administrative~~  
13 ~~adjudication procedures of the Administrative Procedure Act~~  
14 ~~(Chapter 4.5 (commencing with Section 11400) and Chapter 5~~  
15 ~~(commencing with Section 11500) of Part 1 of Division 3 of Title~~  
16 ~~2 of the Government Code).~~
- 17 ~~(F) A late fee that represents an additional 50 percent of the~~  
18 ~~established annual fee when a licensee fails to pay the annual~~  
19 ~~licensing fee on or before the due date as indicated by postmark~~  
20 ~~on the payment.~~
- 21 ~~(G) A fee to cover costs incurred by the department for~~  
22 ~~processing payments including, but not limited to, bounced check~~  
23 ~~charges, charges for credit and debit transactions, and postage due~~  
24 ~~charges.~~
- 25 ~~(H) A reinspection fee of one hundred dollars (\$100) whenever~~  
26 ~~an inspection of a facility is necessary to ensure that a violation~~  
27 ~~has been corrected.~~
- 28 ~~(2) No local jurisdiction shall impose a business license, fee, or~~  
29 ~~tax for the privilege of operating a facility licensed under this~~  
30 ~~chapter that serves six or fewer persons.~~
- 31 ~~(e) (1) The revenues collected from licensing fees pursuant to~~  
32 ~~this section shall be utilized by the department for the purpose of~~  
33 ~~ensuring the health and safety of all individuals provided care or~~  
34 ~~supervision by licensees and to support the activities of the~~  
35 ~~licensing programs, including, but not limited to, monitoring~~  
36 ~~facilities for compliance with licensing laws and regulations~~  
37 ~~pursuant to this chapter, and other administrative activities in~~  
38 ~~support of the licensing program, when appropriated for these~~  
39 ~~purposes. The revenues collected shall be used in addition to any~~

1 other funds appropriated in the annual Budget Act in support of  
2 the licensing program.

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

11 ~~(d) A residential care facility for the elderly may use a bona~~  
12 ~~fide business check to pay the license fee required under this~~  
13 ~~section.~~

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

17 *SEC. 3. Section 1569.191 of the Health and Safety Code is*  
18 *amended to read:*

19 1569.191. (a) Notwithstanding Section 1569.19, in the event  
20 of a sale of a licensed facility where the sale will result in a new  
21 license being issued, the sale and transfer of property and business  
22 shall be subject to both of the following:

23 (1) The licensee shall provide written notice to the department  
24 and to each resident or his or her legal representative of the  
25 licensee's intent to sell the facility at least 30 days prior to the  
26 transfer of the property or business, or at the time that a bona fide  
27 offer is made, whichever period is longer.

28 (2) The licensee shall, prior to entering into an admission  
29 agreement, inform all residents, or their legal representatives,  
30 admitted to the facility after notification to the department, of the  
31 licensee's intent to sell the property or business.

32 (b) Except as provided in subdivision (e), the property and  
33 business shall not be transferred until the buyer qualifies for a  
34 license or provisional license within the appropriate provisions of  
35 this chapter.

36 (1) The seller shall notify, in writing, a prospective buyer of the  
37 necessity to obtain a license, as required by this chapter, if the  
38 buyer's intent is to continue operating the facility as a residential  
39 care facility for the elderly. The seller shall send a copy of this  
40 written notice to the licensing agency.

1 (2) The prospective buyer shall submit an application for a  
2 license, as specified in Section 1569.15, within five days of the  
3 acceptance of the offer by the seller.

4 (c) No sale of the facility shall be permitted until 30 days have  
5 elapsed from the date upon which notice has been provided  
6 pursuant to paragraphs (1) and (2) of subdivision (a).

7 (d) The department shall give priority to applications for  
8 licensure that are submitted pursuant to this section in order to  
9 ensure timely transfer of the property and business.  
10 *Notwithstanding Section 1569.20, upon receipt of the application*  
11 *materials pursuant to regulations, the department may elect not*  
12 *to conduct a precicensing site visit if the department determines*  
13 *that there will be no material change to the management or*  
14 *operations of the facility. The department shall make a decision*  
15 *within 60 days after a complete application is submitted on whether*  
16 *to issue a license pursuant to Section 1569.15.*

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

22 (f) Facilities that are subject to Chapter 10 (commencing with  
23 Section 1770) of Division 2, including Section 1789.4, shall not  
24 be subject to paragraph (1) of subdivision (a), and subdivisions  
25 (c) and (d).

26 ~~SEC. 8:~~

27 *SEC. 4.* Section 1569.20 of the Health and Safety Code is  
28 amended to read:

29 1569.20. Upon the filing of the application for issuance of an  
30 initial license, the department shall, within five working days of  
31 the filing, make a determination regarding the completeness of the  
32 application. If the application is complete, the department shall  
33 immediately request a fire clearance and notify the applicant to  
34 arrange a time for the department to conduct a ~~preclicensure survey.~~  
35 ~~Applicants for licensure of a currently or previously licensed~~  
36 ~~facility are exempt from the initial site visit. This does not preclude~~  
37 *precicensing visit. The department may elect not to conduct a*  
38 *precicensing visit of the facility prior to approval of the application*  
39 *if the applicant meets an exception pursuant to Section 1569.191.*  
40 *This does not preclude the department, when acting within its*

1 discretionary authority, from making an initial site visit. If the  
2 application is incomplete, the department shall notify the applicant  
3 and request the necessary information. Within 60 days of making  
4 a determination that the file is complete, the department shall make  
5 a determination whether the application is in compliance with this  
6 chapter and the rules and regulations of the department and shall  
7 either immediately issue the license or notify the applicant of the  
8 deficiencies. The notice shall specify whether the deficiencies  
9 constitute denial of the application or whether further corrections  
10 for compliance will likely result in approval of the application.

11 ~~SEC. 9.~~

12 *SEC. 5.* Section 1569.24 of the Health and Safety Code is  
13 amended to read:

14 1569.24. (a) Within 90 days after a facility accepts its first  
15 resident for placement following its initial licensure, the department  
16 shall conduct its first annual unannounced visit to the facility in  
17 accordance with Section 1569.33. The licensee shall notify the  
18 department, within five business days after accepting its first  
19 resident for placement, that the facility has commenced operating.

20 (b) The department may take appropriate remedial action as  
21 provided for in this chapter.

22 ~~SEC. 10.~~

23 *SEC. 6.* Section 1569.33 of the Health and Safety Code is  
24 amended to read:

25 1569.33. (a) (1) Every licensed residential care facility for  
26 the elderly shall be subject to unannounced visits by the  
27 department. The department shall visit these facilities at least once  
28 per year and as often as necessary to ensure the quality of care  
29 provided.

30 (2) The department shall inspect facilities using inspection  
31 protocols that are research based, field tested, reviewed by  
32 stakeholders, and evaluated annually to ensure that facilities are  
33 in compliance with licensing requirements. All inspections shall  
34 include a review of all zero tolerance violations for that facility  
35 type. *Addenda to the regular review shall be conducted for*  
36 *facilities caring for individuals with dementia or individuals who*  
37 *are bedridden and facilities providing hospice services.*

38 (3) The inspection required at least once per year pursuant to  
39 paragraph (1) shall trigger a comprehensive inspection *subject to*

1 *all laws and regulations governing this facility type* if either of the  
2 following occurs:

3 (A) One zero tolerance violation, including, but not limited to,  
4 a fire clearance violation, absence of supervision, accessible bodies  
5 of water, accessible firearms, ammunition, or both, refused entry  
6 to a facility or any part of a facility, or the presence of an excluded  
7 person on the premises.

8 ~~(B) Any two type A violations without regard to whether it is~~  
9 ~~listed as part of the annual inspection protocols. A type A violation~~  
10 ~~is a violation that poses an immediate risk.~~

11 (B) *Any combination of other violations as determined by the*  
12 *department. However, for the first two years following the date of*  
13 *the act that amended this subparagraph, the combination used by*  
14 *the department shall be two type A violations without regard to*  
15 *whether they are listed as part of the annual inspection protocols.*  
16 *A type A violation is a violation that poses an immediate risk to*  
17 *health, safety, or personal rights. The combination of violations*  
18 *as determined by the department pursuant to this subparagraph*  
19 *shall be reported to the Legislature in the department's annual*  
20 *report.*

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

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

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

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

1 SEC. 11. Section 1596.803 of the Health and Safety Code is  
2 amended to read:

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

10 Fee Schedule			
11	12	13	14
15	16	17	18
19	20	21	22
23	24	25	26
27	28	29	30
31	32	33	34
35	36	37	38
39	40		
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

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

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

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

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

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

39 (E) A probation monitoring fee equal to the annual fee, in  
40 addition to the annual fee for that category and capacity for each

1 year a license has been placed on probation as a result of a  
 2 stipulation or decision and order pursuant to the administrative  
 3 adjudication procedures of the Administrative Procedure Act  
 4 (Chapter 4.5 (commencing with Section 11400) and Chapter 5  
 5 (commencing with Section 11500) of Part 1 of Division 3 of Title  
 6 2 of the Government Code).

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

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

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

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

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

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

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

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

6 ~~SEC. 12.~~

7 *SEC. 7.* Section 1596.858 of the Health and Safety Code is  
8 amended to read:

9 1596.858. A license shall be forfeited by operation of law prior  
10 to its expiration date when any of the following occurs:

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

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

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

22 (d) The licensee is convicted of an offense specified in Section  
23 220, 243.4, or 264.1, or paragraph (1) of Section 273a, Section  
24 273d, 288, or 289 of the Penal Code, or is convicted of another  
25 crime specified in subdivision (c) of Section 667.5 of the Penal  
26 Code.

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

36 (f) The licensee abandons the facility.

37 ~~SEC. 13.~~

38 *SEC. 8.* Section 1597.09 of the Health and Safety Code is  
39 amended to read:

1 1597.09. (a) Each licensed child day care center shall be  
 2 subject to unannounced visits by the department. The department  
 3 shall visit these facilities at least once per year and as often as  
 4 necessary to ensure the quality of care provided.

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

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

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

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

22 *(2) Any combination of other violations as determined by the*  
 23 *department. However, for the first two years following the date of*  
 24 *the act that amended this paragraph, the combination used by the*  
 25 *department shall be two type A violations without regard to*  
 26 *whether they are listed as part of the annual inspection protocols.*  
 27 *A type A violation is a violation that poses an immediate risk. The*  
 28 *combination of violations as determined by the department*  
 29 *pursuant to this paragraph shall be reported to the Legislature in*  
 30 *the department's annual report.*

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

35 ~~SEC. 14.~~

36 *SEC. 9.* Section 1597.13 of the Health and Safety Code is  
 37 amended to read:

38 1597.13. (a) The department and any local agency with which  
 39 it contracts for the licensing of day care centers shall grant or deny  
 40 an application for license within 30 days after receipt of all

1 appropriate licensing application materials, as determined by the  
2 department, after a site visit has been completed and the facility  
3 has been found to be in compliance with licensing standards. The  
4 department shall conduct an initial site visit within 30 days after  
5 the receipt of all appropriate licensing application materials.

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

11 ~~SEC. 15.~~

12 *SEC. 10.* Section 1597.14 of the Health and Safety Code is  
13 amended to read:

14 1597.14. (a) Notwithstanding Section 1596.858, in the event  
15 of a sale of a licensed child day care center where the sale will  
16 result in a new license being issued, the sale and transfer of  
17 property and business shall be subject to both of the following:

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

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

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

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

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

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

1 (d) The department shall give priority to applications for  
2 licensure that are submitted pursuant to this section in order to  
3 ensure timely transfer of the property and business. ~~Applicants for~~  
4 ~~licensure pursuant to this subdivision are exempt from the initial~~  
5 ~~site visit required by Section 1597.13. This does not preclude the~~  
6 ~~department, when acting within its discretionary authority, from~~  
7 ~~making an initial site visit. The department shall make a decision~~  
8 *Notwithstanding Section 1569.13, upon receipt of the application*  
9 *materials pursuant to regulations, the department may elect not*  
10 *to conduct a preclicensing site visit if the department determines*  
11 *that there will be no material change to the management or*  
12 *operations of the facility. The department shall make a decision*  
13 *within 60 days after a complete application is submitted on whether*  
14 *to issue a license pursuant to Section 1596.95.*

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

20 ~~SEC. 16.~~

21 *SEC. 11.* Section 1597.55a of the Health and Safety Code is  
22 amended to read:

23 1597.55a. (a) (1) Every family day care home shall be subject  
24 to unannounced visits by the department as provided in this section.  
25 The department shall visit these facilities at least once every two  
26 years and as often as necessary to ensure the quality of care  
27 provided.

28 (2) The department shall inspect facilities using inspection  
29 protocols that are research based, field tested, reviewed by  
30 stakeholders, and evaluated annually to ensure that facilities are  
31 in compliance with licensing requirements. All inspections shall  
32 include a review of all zero tolerance violations for that facility  
33 type.

34 (3) The inspection required at least once per year pursuant to  
35 paragraph (1) shall trigger a comprehensive inspection if either of  
36 the following occurs:

37 (A) One zero tolerance violation, including, but not limited to,  
38 a fire clearance violation, absence of supervision, accessible bodies  
39 of water, accessible firearms, ammunition, or both, refused entry

1 to a facility or any part of a facility, or the presence of an excluded  
2 person on the premises.

3 ~~(B) Any two type A violations without regard to whether it is~~  
4 ~~listed as part of the annual inspection protocols. A type A violation~~  
5 ~~is a violation that poses an immediate risk.~~

6 *(B) Any combination of other violations as determined by the*  
7 *department. However, for the first two years following the date of*  
8 *the act that amended this subparagraph, the combination used by*  
9 *the department shall be two type A violations without regard to*  
10 *whether they are listed as part of the annual inspection protocols.*  
11 *A type A violation is a violation that poses an immediate risk. The*  
12 *combination of violations as determined by the department*  
13 *pursuant to this subparagraph shall be reported to the Legislature*  
14 *in the department's annual report.*

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

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

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

23 (1) When a license is on probation.

24 (2) When the terms of agreement in a facility compliance plan  
25 require an annual evaluation.

26 (3) When an accusation against a licensee is pending.

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

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

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

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

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

1 (1) *The visit shall take place only during the period beginning*  
2 *one hour before, and ending one hour after, the facility's normal*  
3 *business hours or at any time child care services are being*  
4 *provided.*

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

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

11 ~~SEC. 17.~~

12 *SEC. 12.* By January 31, 2012, and by January 31, 2013, the  
13 State Department of Social Services shall convene a workgroup  
14 that shall meet at least one time on or before each of these dates  
15 to review the implementation of the annual inspection protocols.  
16 The workgroup shall make recommendations concerning improving  
17 the inspection protocols. The workgroup shall be composed of  
18 representatives from the various departments within the California  
19 Health and Human Services Agency, legislative staff, stakeholders  
20 representing providers of all facility types, and stakeholders  
21 representing consumers of all facility types. The department shall  
22 include the discussion and conclusions of the workgroup as well  
23 as a thorough description, data, and evaluation of the annual  
24 inspection protocols in its annual report to both the Senate and  
25 Assembly budget subcommittees that oversee the licensing of care  
26 facilities by the department.