

**State of California
Office of Administrative Law**

In re:

Department of Public Health

**NOTICE OF APPROVAL OF CHANGES
WITHOUT REGULATORY EFFECT**

Regulatory Action:

**California Code of Regulations, Title 1,
Section 100**

Title 22, California Code of Regulations

Adopt sections:

**Amend sections: 70110, 70215, 70841,
71110, 71645, 72203,
72641, 73208, 73639,
74108, 74669, 76211,
76525, 76555, 76651,
76846, 76915, 78437**

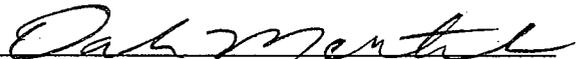
**Repeal sections: 70111, 70114, 71111,
73209, 74109**

OAL File No. 2012-1129-03 N

These changes without regulatory effect amend provisions of Title 22 of the California Code of Regulations to conform to changes to Health and Safety Code sections 1266 and 41514.1 regarding health care facility license fees and the testing of diesel-powered emergency lighting and power systems in certain health care facilities, among other non-substantive changes.

OAL approves this change without regulatory effect as meeting the requirements of California Code of Regulations, Title 1, section 100.

Date: 1/9/2013


Dale P. Mentink
Senior Staff Counsel

For: DEBRA M. CORNEZ
Director

Original: Dr. Ron Chapman, MD; MPH
Copy: Elizabeth Reyes

NONSUBSTANTIVE

STD. 400 (REV. 01-09)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2012-1129-03N	EMERGENCY NUMBER
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For use by Office of Administrative Law (OAL) only

2012 NOV 29 PM 3:49
OFFICE OF ADMINISTRATIVE LAW

ENDORSED FILED IN THE OFFICE OF

2013 JAN -9 PM 2:02

Debra Bowen
DEBRA BOWEN
SECRETARY OF STATE

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY
California Department of Public Health

AGENCY FILE NUMBER (if any)
DPH11-015

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER		PUBLICATION DATE	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Licensing Fees and Emergency Generators	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND See Attachment
	REPEAL See Attachment
TITLE(S) 22	

3. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input checked="" type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify) _____	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

<input type="checkbox"/> Effective 30th day after filing with Secretary of State	<input type="checkbox"/> Effective on filing with Secretary of State	<input checked="" type="checkbox"/> §100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify) _____		

7. CONTACT PERSON Elizabeth Reyes	TELEPHONE NUMBER (916) 445-2529	FAX NUMBER (Optional) (916) 319-9821	E-MAIL ADDRESS (Optional) Elizabeth.Reyes@cdph.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Kathleen M. Keeshen</i>	DATE 11/25/12
TYPED NAME AND TITLE OF SIGNATORY Kathleen M. Keeshen, Deputy Director and Chief Counsel	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

JAN 09 2013

Office of Administrative Law

Attachment to Form 400
DPH 08-016

SECTION (S) AFFECTED

TITLE 22

~~Amend Sections: 70110, 70215, 70841, 71110, 71645, 72203, 72641, 73208,
73639, 74108, 74669, 76211, 76525, 76555, 76651, 76846, 76915, and 78437.~~

Repeal Sections: 70111, 70114, 71111, 73209, 74109.

Licensing and Certification of Health Facilities, Home Health Agencies,
Clinics, and Referral Agencies

Amend Section 70110 to read:

§ 70110. Fee.

(a) Each application for a license shall be accompanied by the prescribed fee as authorized by Health and Safety Code, section 1266.

~~(b) The annual fee for license to operate a hospital, the term for which commences at any time during the calendar year 1975, when the application is filed upon change of ownership, change of location or renewal of a license shall be that specified in the following schedule:~~

<i>Capacity Requested</i>	<i>Fee</i>
1-49 inclusive.....	\$150.00 plus 0.0185 of 1 percent of the gross operating costs for the last fiscal year ending on or before December 31, 1974.
50-99 inclusive.....	\$300.00 plus 0.0185 of 1 percent of the gross operating costs of the last fiscal year ending on or before December 31, 1974.
100 and over.....	\$425.00 plus 0.0185 of 1 percent of the gross operating costs for the last fiscal year ending on or before December 31, 1974.

~~(c) The annual fee for a license to operate a hospital which is being license for the first time, the term for which commences at any time during the calendar year 1975, shall be that specified in the following schedule:~~

<i>Capacity Requested</i>	<i>Fee</i>
1-49 inclusive.....	\$200.00
50-99 inclusive.....	\$300.00

100 and over..... \$800.00

~~(d)(b)~~ No fee shall be refunded to the applicant if the application is withdrawn or if the application is denied by the Department.

~~(e)(c)~~ An additional fee of \$25.00 shall be paid for processing any change of name. However, no additional fee shall be charged for any change of name, which is processed upon a renewal application or upon an application filed because of a change of ownership.

~~(f)(d)~~ Fees for licenses which cover periods in excess of 12 months shall be prorated on the basis of the number of months to be licensed divided by 12 months.

~~(g)(e)~~ Fees shall be waived for any facility conducted, maintained or operated by this state or any state department, authority, bureau, commission or officer or by the Regents of the University of California or by a local hospital district, city or county.

NOTE: Authority cited: Sections 208 (a), 1266, 1275, and 131200, Health and Safety Code. Reference: Sections 1266, 131050, 131051 and 131052, Health and Safety Code.

Repeal Section 70111:

§ 70111. Fee.

~~(a)~~ Each application for a license shall be accompanied by the prescribed fee. The license fee under this section shall be effective January 1, 1979.

~~(b)~~ The fee for a license to operate a hospital which is being licensed for the first time, or upon a change of ownership or change of location shall be that specified in the following schedule:

<i>Capacity Requested</i>	<i>Fee</i>
1-49 inclusive.....	\$293.00
50-99 inclusive.....	\$439.00
100 and over.....	\$1,172.00

~~(c)~~ The fee for a license to operate a hospital upon a renewal of a license during the year 1979 shall be that specified in the following schedule:

<i>Capacity Requested</i>	<i>Fee</i>
1-49 inclusive.....	\$200.00 plus 0.01232 of 1 percent of gross operating costs for the last complete fiscal year of the hospital.
50-99 inclusive.....	\$399.00 plus 0.01232 of 1 percent of the gross operating costs of the last complete fiscal year of the hospital
100 and over.....	\$567.00 plus 0.01232 of 1 percent of the gross operating costs for the last complete fiscal year of the hospital

~~(d) No fee shall be refunded to the applicant if the application is withdrawn or if the application is denied by the Department.~~

~~(e) Fees for licenses which cover periods in excess of 12 months shall be prorated on the basis of the total number of months to be licensed divided by 12 months.~~

~~(f) Fees shall be waived for any facility conducted, maintained or operated by this state or any state department, authority, bureau, commission or officer, or by the Regents of the University of California, or by a local hospital district, city or county.~~

NOTE: Authority cited: Sections 1275 and 1729 Health and Safety Code.
Reference: Sections 1266 and 1729, Health and Safety Code.

Repeal Section 70114:

§ 70114. Bed Classification.

~~(a) Each hospital shall notify the Department on forms supplied by the Department of bed classifications as defined in Sections 70006, 70034, 70038 and 70060 within 30 days of the effective date of this section. For hospitals not~~

~~reporting within the 30 day period, the Department will classify the beds based on the latest information in the Department files.~~

~~(b) After the above notification has been received by the Department or the Department has classified the beds, no further reclassification of beds shall take place until on or after January 1, 1977.~~

NOTE: Authority cited: Sections 208 and 1250.1, Health and Safety Code.
Reference: Chapter 854, Statutes of 1976.

Amend Section 70215 to read:

§ 70215. Planning and Implementing Patient Care.

(a) A registered nurse shall directly provide:

(1) Ongoing patient assessments as defined in the Business and Professions Code, § section 2725(d)(b)(4). Such assessments shall be performed, and the findings documented in the patient's medical record, for each shift, and upon receipt of the patient when he/she is transferred to another patient care area.

(a)(2) through (d) remain unchanged.

NOTE: Authority cited: Sections ~~400275(a) and 1275 and 131200~~, Health and Safety Code. Reference: Section 2725(d)(b)(4), Business and Professions Code; and Sections 1276, 131050, 131051 and 131052, Health and Safety Code.

Amend Section 70841 to read:

§ 70841. Emergency Lighting and Power System.

(a) Auxiliary lighting and power facilities shall be readily available at all times.

(1) The emergency lighting and power system shall be maintained in operating condition to provide automatic restoration of power for emergency circuits within ten seconds after normal power failure.

(2) Emergency generators shall be tested as follows:

(A) Emergency Non-diesel generators installed in hospitals shall be tested under load conditions for at least 30 minutes at intervals of not more than 7 days.

(B) Diesel backup generators installed in hospitals shall be tested as required by Health and Safety Code, section 41514.1.

(b) through (e) remain unchanged.

NOTE: Authority cited: Sections 1275 and 131200, Health and Safety Code.
Reference: Sections 1276, 131050, 131051 and 131052, Health and Safety Code.

Amend Section 71110 to read:

§ 71110. Fee.

(a) Each application for a license shall be accompanied by the prescribed fee as authorized by Health and Safety Code, section 1266.

~~(b) The annual fee for a license to operate a hospital, the term for which commences at any time during the calendar year 1975, when the application is filed upon a change of ownership, change of location or renewal of a license shall be that specified in the following schedule:~~

<i>Capacity Requested</i>	<i>Fee</i>
1-49.....	\$150.00 plus 0.0185 of 1 percent of the gross operating costs for the last fiscal year ending on or before December 31, 1974
50-99 inclusive.....	\$300.00 plus 0.0185 of 1 percent of the gross operating costs for the last fiscal year ending on or before December 31, 1974
100 and over.....	\$425.00 plus 0.0185 of 1 percent of the gross operating costs for the last fiscal year ending on or before December 31, 1974.

~~(c) The annual fee for a license to operate a hospital which is being licensed for the first time, the term for which commences at any time during the calendar year 1975, shall be that specified in the following schedule:~~

<i>Capacity Requested</i>	<i>Fee</i>
1-49 inclusive.....	\$200.00
50-99 inclusive.....	\$300.00
100 and over.....	\$800.00

~~(d)(b) No fee shall be refunded to the applicant if the application is withdrawn or if the application is denied by the Department.~~

~~(e)(c) An additional fee of \$25.00 shall be paid for processing any change of name. However, no additional fee shall be charged for any change of name, which is processed upon a renewal application or upon an application filed because of a change of ownership.~~

~~(f)(d) Fees for licenses which cover periods in excess of 12 months shall be prorated on the basis of the number of months to be licensed divided by 12 months.~~

~~(g)(e) Fees shall be waived for any facility conducted, maintained or operated by this state or any state department, authority, bureau, commission or officer or by the Regents of the University of California or by a local hospital district, city or county.~~

NOTE: Authority cited: Sections 208 (a), 1266, 1275, and 131200, Health and Safety Code. Reference: Sections 1266, 131050, 131051 and 131052, Health and Safety Code.

Repeal Section 71111:

§ 71111. Fee

~~(a) Each application for a license shall be accompanied by the prescribed fee. The license fee under this section shall be effective January 1, 1979.~~

~~(b) The fee for a license to operate a hospital which is being licensed for the first time, or upon a change of ownership or change of location shall be that specified in the following schedule:~~

<i>Capacity Requested</i>	<i>Fee</i>
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1-49 inclusive.....	\$293.00
50-99 inclusive.....	\$439.00
100 and over.....	\$1,172.00

(c) The fee for a license to operate a hospital upon a renewal of a license during the year 1979 shall be that specified in the following schedule:

Capacity Requested	Fee
1-49 inclusive.....	\$200.00 plus 0.01232 of 1 percent of gross operating costs for the last complete fiscal year of the hospital
50-99 inclusive.....	\$399.00 plus 0.01232 of 1 percent of gross operating costs for the last complete fiscal year of the hospital
100 and over.....	\$567.00 plus 0.01232 of 1 percent of gross operating costs for the last complete fiscal year of the hospital

(d) No fee shall be refunded to the applicant if the application is withdrawn or if the application is denied by the Department.

(e) Fees for licenses which cover periods in excess of 12 months shall be prorated on the basis of the total number of months to be licensed divided by 12 months.

(f) Fees shall be waived for any facility conducted, maintained or operated by this State or any state department, authority, bureau, commission or officer or by the Regents of the University of California or by a local hospital district, city or county.

NOTE: Authority cited: Sections 1275, and 1729, Health and Safety Code.
Reference: Sections 1266, and 1729, Health and Safety Code.

Amend Section 71645 to read:

§ 71645. Emergency Lighting and Power System.

(a) Auxiliary lighting and power facilities shall be readily available at all times.

(1) The emergency lighting and power system shall be maintained in operating condition to provide automatic restoration of power for emergency circuits within ten seconds after normal power failure.

(2) Emergency generators shall be tested as follows:

(A) Emergency Non-diesel generators installed in hospitals shall be tested under load conditions for at least 30 minutes at intervals of not more than seven 7 days.

(B) Diesel backup generators installed in hospitals shall be tested as required by Health and Safety Code, section 41514.1.

(b) through (e) remain unchanged.

NOTE: Authority cited: Sections 1275, and 131200, Health and Safety Code. Reference: Sections 1276, 131050, 131051 and 131052, Health and Safety Code.

Amend Section 72203 to read:

§ 72203. Fee.

(a) Each application for a license shall be accompanied by the prescribed fee as authorized by Health and Safety Code, section 1266. ~~The annual license fee under this section shall be effective for the calendar year of 1979.~~

~~(1) The annual fee for a license to operate a skilled nursing facility which is being licensed for the first time or upon a change of ownership, change of location or renewal of license shall be that specified in the following schedule:~~

Capacity Requested	Fee
1-49 inclusive	\$948 plus \$13 per licensed bed
50-99 inclusive	\$1,186 plus \$13 per licensed bed
100 and over inclusive	\$1,540 plus \$13 per licensed bed

~~(2)(1) No fee shall be refunded to the applicant if the application is withdrawn or if the application is denied by the Department.~~

~~(3)(2) An additional fee of \$25.00 shall be paid for processing any change of name. However, no additional fee shall be charged for any change of name~~

which is processed upon a renewal application or upon application filed because of a change of ownership.

(b) Application fees for licenses which cover periods in excess of 12 months shall be prorated on the basis of the total number of months to be licensed divided by 12 months. ~~(Example: 18 months divided by 12 equals 1.5 times the application fee specified in the fee schedule.)~~

(c) Applications for provisional licenses (for six-month periods) shall be subject to the full amount of the fee specified in the fee schedule as authorized by Health and Safety Code, section 1266(e)(2). If upon the expiration of the provisional license a second provisional (six-month period) license is to be issued, the licensee shall receive credit for the unused portion of the fee collected and no additional fee will be required of the licensee. If a regular license is issued upon the expiration of the first provisional license, the unused portion of the fee collected for the provisional license shall be credited against the annual fee required for the regular license. If neither a second provisional or a regular license is to be issued to the applicant, there will be no refund ~~of~~ of any portion of the fee paid for the provisional license.

(d) *No change.*

NOTE: Authority cited: Sections 1266, 1275, and 131200, Health and Safety Code. Reference: Sections 1266, and 1276, 131050, 131051 and 131052, Health and Safety Code.

Amend Section 72641 to read:

§ 72641. Emergency Lighting and Power System.

(a) *through (d) remain unchanged.*

(e) Emergency generators shall be tested as follows:

(1) Emergency Non-diesel generators shall be tested at least every 14 days under full load condition for a minimum of 30 minutes.

(2) Diesel backup generators in skilled nursing facilities shall be tested as required by Health and Safety Code, section 41514.1.

(f) *No change.*

NOTE: Authority cited: Sections ~~208(a)~~ and 1275, and 131200, Health and Safety Code. Reference: Sections 1276, 131050, 131051 and 131052, Health and Safety Code.

Amend Section 73208 to read:

§ 73208. Fee.

(a) Each application for a license shall be accompanied by the following prescribed fee as authorized by Health and Safety Code, section 1266.

~~(1) The annual fee for a license to operate an intermediate care facility, the term for which commences at any time during the calendar year 1975, when the application is filed upon a change of ownership, change of location, renewal of license or a new license, shall be that specified in the following schedule:~~

<i>Capacity Requested</i>	<i>Fee</i>
1-49 inclusive.....	\$ 800.00 plus \$10.00 per licensed bed.
50-99 inclusive.....	\$1,000.00 plus \$10.00 per licensed bed.
100 and over.....	\$1,300.00 plus \$10.00 per licensed bed.

~~(2)(1) No fee shall be refunded to the applicant if the application is withdrawn or if the application is denied by the Department.~~

~~(3)(2) An additional fee of \$25.00 shall be paid for processing any change of name. However, no additional fee shall be charged for any change of name which is processed upon a renewal application or upon application filed because of a change of ownership.~~

(b) Application fees for licenses which cover periods in excess of 12 months shall be prorated on the basis of the total number of months to be licensed divided by 12 months. ~~(Example: 18 months divided by 12 equal 1.5 times the application fee specified in the fee schedule.)~~

(c) ~~Provisional license fee credit.~~ Applications for provisional licenses (for six-month periods) shall be subject to the full amount of the fee specified in the fee schedule as authorized by Health and Safety Code, section 1266(e)(2). If upon the expiration of the provisional license a second provisional (six-month period) license is to be issued, the licensee shall receive credit for the unused portion of the fee collected and no additional fee will be required of the licensee.

If a regular license is issued upon the expiration of the first provisional license, the unused portion of the fee collected for the provisional license shall be credited against the annual fee required for the regular license. If neither a second provisional nor a regular license is to be issued to the applicant, there will be no refund of any portion of the fee paid for the provisional license.

(d) No change.

NOTE: Authority cited: Sections ~~208(a)~~, 1266, 1275, and 131200, Health and Safety Code. Reference: Sections 1266, 131050, 131051 and 131052, Health and Safety Code.

Repeal Section 73209:

§ 73209. Fee.

~~(a) Each application for a license shall be accompanied by the prescribed fee. The license fee under this section shall be effective January 1, 1979.~~

~~(1) The fee for a license to operate an intermediate care facility which is being licensed for the first time or upon a change of ownership or change of location or renewal of license shall be that specified in the following schedule:~~

<i>Capacity Requested</i>	<i>Fee</i>
1-59 inclusive.....	\$ 948.00 plus \$13.00 per licensed bed
60-99 inclusive.....	\$1,186.00 plus \$13.00 per licensed bed
100 and over.....	\$1,540.00 plus \$13.00 per licensed bed

~~(2) No fee shall be refunded to the applicant if the application is withdrawn or if the application is denied by the Department.~~

~~(b) Application fees for licenses which cover periods in excess of 12 months shall be prorated on the basis of the total number of months to be licensed divided by 12 months. (Example: 18 months divided by 12 equals 1.5 times the application fee specified in the fee schedule.)~~

~~(c) Provisional License Fee Credit. Applications for provisional licenses (for six month periods) shall be subject to the full amount of the fee specified in the fee schedule. If upon the expiration of the provisional license a second provisional (six month period) license is to be issued, the licensee shall receive~~

~~credit for the unused portion of the fee collected and no additional fee will be required of the licensee. If a regular license is issued upon the expiration of the first provisional license, the unused portion of the fee collected for the provisional license shall be credited against the annual fee required for the regular license. If neither a second provisional nor a regular license is to be issued to the applicant, there will be no refund of any portion of the fee paid for the provisional license.~~

~~(d) Fees shall be waived for any facility conducted, maintained or operated by this State or any state department, authority, bureau, commission or officer or by the Regents of the University of California or by a local hospital district, city or county.~~

NOTE: Authority cited: Sections 1275, and 1729, Health and Safety Code.
Reference: Sections 1266, and 1729, Health and Safety Code.

Amend Section 73639 to read:

§ 73639. Emergency Lighting and Power System.

(a) through (d) remain unchanged.

(e) Emergency generators shall be tested as follows:

(1) Emergency Non- diesel generators installed in intermediate care facilities shall be tested under load conditions for at least 30 minutes at intervals of not less than 14 days.

(2) Diesel generators installed in intermediate care facilities shall be tested as required by Health and Safety Code, section 41514.1.

(f) Unchanged.

NOTE: Authority cited: Sections 1275 and 131200, Health and Safety Code.
Reference: Sections 1276, 131050, 131051 and 131052, Health and Safety Code.

Amend Section 74108 to read:

§ 74108. Fee.

(a) Each application for a license shall be accompanied by the following prescribed fee as authorized by Health and Safety Code, section 1266.

~~(1) The annual fee for a license to operate a referral agency, the term of which commences at any time during the calendar year 1975, when the application is filed upon a change of ownership, change of location, renewal of license or a new license, shall be \$200.00 for each application.~~

~~(2)(b) No fee shall be refunded to the applicant if the application is withdrawn or if the application is denied by the Department.~~

~~(3)(c) An additional fee of \$25.00 shall be charged for processing any change of name. However, no additional fee shall be charged for any change of name, which is processed upon a renewal application or upon an application filed because of a change of ownership.~~

NOTE: Authority cited: Sections 208 (a), 1266, 1275, and 131200, Health and Safety Code. Reference: Sections 1266, 131050, 131051 and 131052, Health and Safety Code.

Repeal Section 74109:

§ 74109. Fee.

~~(a) Each application for a license shall be accompanied by the prescribed fee. The license fee under this section shall be effective January 1, 1979.~~

~~(1) The fee for a license to operate a referral agency which is being licensed for the first time or renewal of license, or if an application is received to reflect any change in an existing license any time during 1979, shall be \$266.00.~~

~~(2) No fee shall be refunded to the applicant if the application is withdrawn or if the application is denied by the Department.~~

NOTE: Authority cited: Sections 208, 1222, 1229, 1266, 1275, 1402, 1403, 1523, 1530, 1531, 1729 and 1734, Health and Safety Code. Reference: Sections 1229, 1266, 1403, 1523, and 1729, Health and Safety Code.

Amend Section 74669 to read:

§ 74669. Fee.

(a) Each application for an initial or renewal license shall be accompanied by the prescribed fee ~~specified by statute~~ as authorized by Health and Safety Code, section 1266.

(b) Change of location of a parent or branch office and change of name shall be accompanied by a processing charge of \$25.

(c) An agency whose license renewal date occurs prior to the enrollment date of the Budget Act for that year, shall not be deemed to be operating without a license so long as the renewal application and the fee specified in the Budget Act are submitted to the Department within 20 days after the enrollment of the Budget Act.

(d) If the application is withdrawn or denied, the amount of the fee specified in Section 1729 of the Health and Safety Code shall be returned.

Note: Authority cited: Sections 1734 and ~~400275~~ 131200, Health and Safety Code. Reference: Sections 1266, 1729, 4729.1, 1730, and 1734, 131050, 131051 and 131052, Health and Safety Code.

Amend Section 76211 to read:

§ 76211. Fee.

(a) Each application for a license shall be accompanied by the prescribed fee. ~~The annual license fee under this section shall be effective for the calendar year of 1978. as authorized by Health and Safety Code, section 1266.~~

~~(1) The annual fee for a license to operate an intermediate care facility for the developmentally disabled which is being licensed for the first time or upon a change of ownership, change of location or renewal of license shall be that specified in the following schedule:~~

Capacity Required	Fee
1-59 inclusive.....	\$862.00 plus \$12.00 per licensed bed
60-99 inclusive...	\$1,078.00 plus \$12.00 per licensed bed
100 and over.....	\$1,400.00 plus \$12.00 per licensed bed

~~(2)(b) No fee shall be refunded to the applicant if the application is withdrawn or if the application is denied by the Department.~~

~~(b)(c) Application fees for licenses which cover periods in excess of 12 months shall be prorated on the basis of the total number of months to be~~

~~(e)(d)~~ ~~Provisional License Fee Credit~~: Applications for provisional licenses (for six-month periods) shall be subject to the full amount of the fee specified in the fee schedule as authorized by Health and Safety Code, section 1266(e)(2). If upon the expiration of the provisional license a second provisional (six-month period) license is to be issued, the licensee shall receive credit for the unused portion of the fee collected and no additional fee will be required of the licensee. If a regular license is issued upon the expiration of the first provisional license, the unused portion of the fee collected for the provisional license shall be credited against the annual fee required for the regular license. If neither a second provisional ~~nor~~ or a regular license is to be issued to the applicant, there will be no refund of any portion of the fee paid for the provisional license.

~~(d)(e)~~ Fees shall be waived for any facility conducted, maintained or operated by this State or any state department, authority, bureau, commission or officer or by the Regents of the University of California, or by a local hospital district, city or county.

~~(e)(f)~~ When there is an increase in licensed bed capacity or a change of license category, license fees already paid that year shall be credited against the new license fee.

NOTE: Authority cited: Sections 208(a), 1266, 1275, and 131200, Health and Safety Code. Reference: Sections 1266, 131050, 131051, 131052, Health and Safety Code.

Amend Section 76525 to read:

§ 76525. Clients' Rights.

(a) Each client has the rights listed in (a) of this section which shall not be denied or withheld except as provided in (c) of this section. Each facility shall establish and implement written policies and procedures to ensure that each client admitted is afforded the following rights:

(a)(1) through (8) remain unchanged.

(9) To be assured of the confidential treatment of all information contained in client records, including information contained in an ~~automatic~~ automated data bank. The client's written consent shall be required for the release of information

to persons not otherwise authorized under law to receive it. Persons representing the news media shall not be given any information that identifies or leads to the identification of client, including photographs, unless the client has given written consent. A client may provide written consent which limits the degree of information and the persons to whom information may be given.

(a)(10) through (30) remain unchanged.

(b) through (h) remain unchanged.

~~(i) Intermediate care facilities for the developmentally disabled and distinct parts for the developmentally disabled shall be exempt from the provisions of Sections 1860 through 1868 inclusive, Article 6 of Subchapter 4 of Chapter 1, Title 9 of the California Administrative Code, which sections are superseded by the provisions of Sections 76525 through 76537 of these regulations.~~

NOTE: Authority cited: Sections 1275 and 131200, Health and Safety Code. Reference: Section 51, Civil Code; Sections 297 and 297.5, Family Code; Sections 1276, 1320, 1599, 1599.1, 131050, 131051 and 131052, Health and Safety Code; and Sections 4502, 4503, 4504, and 4505, Welfare and Institutions Code.

Amend Section 76555 to read:

§ 76555. Admission Agreement.

(a) No change.

(b)(1) through (7) remain unchanged.

(8) That no client shall be have his or her services summarily terminated by the licensee unless the client is clearly engaged in behavior which is a threat to property or to the safety of others in the facility.

(c) Prior to any termination of services to a client, the client's authorized representative or placement agency, if any, shall be notified.

(d) A written report of any client being summarily terminated summary termination of services to a client shall be sent to the local licensing office within five days.

(e) No change.

Note: Authority cited: Sections 1275 and 131200, Health and Safety Code.
Reference: Section 51, Civil Code; Sections 297 and 297.5, Family Code; and
Sections 1276, 131050, 131051 and 131052, Health and Safety Code.

Amend Section 76651 to read:

§ 76651. Emergency Lighting and Power System.

(a) through (d) remain unchanged.

(e) Emergency generators shall be tested as follows:

(1) Emergency Non-diesel generators installed in the facilities shall be tested under load conditions for at least 30 minutes at intervals of not less than 14 days.

(2) Diesel generators installed in intermediate care facilities for the developmentally disabled shall be tested as required by Health and Safety Code, section 41514.1.

(f) *Unchanged.*

Note: Authority cited: Sections ~~208(a)~~, 1275 and 131200, Health and Safety Code. Reference: Sections 1276, 131050, 131051 and 131052, Health and Safety Code.

Amend Section 76846 to read:

§ 76846. Fee.

(a) Each application for a license shall be accompanied by the prescribed license fee as authorized by Health and Safety Code, section 1266.

~~(1) The annual fee for a license to operate an intermediate care facility/developmentally disabled habilitative which is being licensed for the first time or upon a change of ownership, change of location or renewal of license shall be that specified in the following schedule:~~

<i>Capacity</i>	<i>Fee</i>
4-15.....	\$380.00

~~(2)(b) No fee shall be refunded to the applicant if the application is withdrawn or if the application is denied by the Department.~~

Note: Authority cited: Sections ~~208.4~~ and 1266, 1267.7, 1275 and 131200, Health and Safety Code. Reference: Sections 1266, 1267.7, 131050, 131051 and 131052, Health and Safety Code.

Amend Section 76915 to read:

§ 76915. Admission of Clients.

(a) The licensee shall:

(1) Accept and retain only those developmentally disabled clients whose active treatment and health care needs can be met by the facility under the provisions of these regulations:

(2) Admit only clients who have had a comprehensive medical, social and psychological evaluation as required by Title 22, California Code of Regulations, Ssection 51343.1(h)(g). ~~Title 22, California Administrative Code.~~

NOTE: Authority cited: Sections ~~208.4~~ and 1267.7, 1275, and 131200, Health and Safety Code. Reference: Sections 1276, 131050, 131051 and 131052, Health and Safety Code.

Amend Section ~~78437~~ to read:

§ 78437. Participant Rights.

(a) Each participant shall have rights which include, but are not limited to, the following:

(a)(1) through (12) remain unchanged.

(13) To be insured of the confidential treatment of all information contained in participant records, including information contained in an ~~automatic~~ automated data bank. The participant's written consent shall be required for the release of information to persons not otherwise authorized under law to receive it. Persons representing the news media shall not be given any information that identifies or leads to the identification of the participant, including photographs, unless the participant has given written consent. A participant may provide written consent which limits the degree of information and the persons to whom information may be given.

(a)(14) through (17) remain unchanged.

(18)(a) To be free from hazardous procedures.

(b) through (c) remain unchanged.

Note: Authority cited: Sections 1275 and 131200, Health and Safety Code.
Reference: Section 51, Civil Code; Sections 297 and 297.5, Family Code; and
Sections 1580, 1586.7, 131050, 131051 and 131052, Health and Safety Code.

CALIFORNIA DEPARTMENT OF PUBLIC HEALTH
Title 22

Justification for Changes Without Regulatory Effect:

Health and Safety Code (H&S Code), sections 1275 and 131200 grant the California Department of Public Health (Department) the authority to adopt, amend, enforce or repeal any reasonable rules and regulations as may be necessary to enable the Department to exercise the powers and perform the duties conferred upon it.

~~Pursuant to California Code of Regulations (CCR), Title 1, Section 100, the proposed revisions are without regulatory effect as they bring the Department's emergency generator regulations into compliance with recent revisions to H&S Code, section 41514.1, and the Department's regulations concerning facility licensing fees into compliance with H&S Code, section 1266. Some additional revisions were made to regulations identified as needing grammatical, wording changes and revisions to reference the correct regulatory requirement. These changes do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory provision.~~

The Department proposes to amend the following sections:

Chapter 1. General Acute Care Hospitals

Section 70110. Fee.

This amendment is necessary because the language of the regulation specifying licensing fees (subsections (b) and (c)) has been superseded by H&S Code, section 1266. Section 1266 authorizes hospital licensing fees and requires development of methodologies to adjust the annual fees per specific criteria. The remaining subsections are renumbered to maintain the correct order in the regulation.

The authority and reference note is updated to eliminate citations to repealed statutes and to reflect the reorganization of the Department of Health Services by SB 162 (Ch. 241, Statutes 2006).

Section 70111. Fee.

This repeal is necessary because the language of the regulation specifying licensing fees has been superseded by H&S Code, section 1266, and the remaining subsections are contained in section 70110. Section 1266 authorizes hospital licensing fees and requires development of methodologies to adjust the annual fees per specific criteria.

Section 70114. Bed Classification.

This repeal is necessary because this regulation was adopted prior to 1977 and is long out of date. The 30 day time period specified in (a) for reporting bed classifications to the Department has long passed. Existing sections 70006, 70034, 70038 and 70060 in Title 22 provide the standards, enforced by the Department pursuant to H&S Code, section 1266, for bed classifications specified in (b)).

Section 70215. Planning and Implementing Patient Care.

Subsection 70215(a)(1) is amended to correct the erroneous reference to section 2725(d) of the Business and Professions Code, to section 2725(b)(4).

The authority and reference note is updated to eliminate citations to repealed statutes and to reflect the reorganization of the Department of Health Services by SB 162 (Ch. 241, Statutes 2006).

Section 70841. Emergency Lighting and Power System.

Section 70841 is amended to specify requirements for the testing of emergency diesel and non-diesel generators in hospitals. H&S Code, section 41514.1 places the testing of diesel generators in California in conformance with the standards of the Joint Commission on the Accreditation of Healthcare Organizations (JCAHO). The amendment of the regulation is required to put the Department into compliance with standards for both types of emergency generators.

A note is added to the section to provide citations to the statutes that authorize the Department to adopt the regulation and references to the statutes being implemented.

Chapter 2. Acute Psychiatric Hospitals

Section 71110. Fee.

This amendment is necessary because the language of the regulation specifying licensing fees (subsections (b) and (c)) has been superseded by Health and Safety Code, section 1266. Section 1266 authorizes hospital licensing fees and requires development of methodologies to adjust the annual fees per specific criteria. The remaining subsections are renumbered to maintain the correct order in the regulation.

Correct a typographical error, in the newly renumbered subsection (b). Change the "n" to capital "N". This does not change the meaning or requirement of the regulation.

The authority and reference note is updated to eliminate citations to repealed statutes and to reflect the reorganization of the Department of Health Services by SB 162 (Ch. 241, Statutes 2006).

Section 71111. Fee.

This repeal is necessary because the language of the regulation specifying licensing fees has been superseded by Health and Safety Code, section 1266, and the remaining subsections are contained in section 71110. Section 1266 authorizes hospital licensing fees and requires development of methodologies to adjust the annual fees per specific criteria.

Section 71645. Emergency Lighting and Power System.

Section 71645 is amended to specify the requirements for the testing of emergency diesel and non-diesel generators in hospitals. H&S Code, section 41514.1 places the testing of diesel generators in California in conformance with the standards of the JCAHO. The amendment of the regulation is required to put the Department into compliance with standards for both types of emergency generators.

A note is added to the section to provide citations to the statutes that authorize the Department to adopt the regulation and references to the statutes being implemented.

Chapter 3. Skilled Nursing Facilities

Section 72203. Fee.

This amendment is necessary because the language of the regulation specifying licensing fees (subsections (a)(1)) has been superseded by H&S Code, section 1266. Section 1266 authorizes licensing fees and requires development of methodologies to adjust the annual fees per specific criteria. The remaining subsections are renumbered to maintain the correct order in the regulation.

Subsection (b) is amended by deleting the parenthetical example as it is no longer needed because the fee schedule is deleted.

Subsection (c) is amended to explain that the reference to the "fee schedule" is now the schedule published by the Department as authorized in H&S Code, section 1266(e)(2). In the last sentence, "or" is changed to "of" to make the sentence read correctly.

The authority and reference note is updated to eliminate citations to repealed statutes, and to reflect the reorganization of the Department of Health Services by SB 162 (Ch. 241, Statutes 2006).

Section 72641. Emergency Lighting and Power System.

Section 72641 is amended to specify the requirements for the testing of emergency diesel and non-diesel generators in skilled nursing facilities. H&S Code, section 41514.1 places the testing of diesel generators in California in conformance with the standards

of the JCAHO. The amendment of the regulation is required to put the Department into compliance with standards for both types of emergency generators.

The authority and reference note is updated to eliminate citations to repealed statutes, and to reflect the reorganization of the Department of Health Services by SB 162 (Ch. 241, Statutes 2006).

Chapter 4. Intermediate Care Facilities

Section 73208. Fee.

This amendment is necessary because the language of the regulation specifying licensing fees (subsections (a)(1)) has been superseded by H&S Code, section 1266. Section 1266 authorizes licensing fees and requires development of methodologies to adjust the annual fees per specific criteria. The remaining subsections are renumbered to maintain the correct order in the regulation.

Subsection (b) is amended by deleting the parenthetical example as it is no longer needed because the fee schedule is deleted.

Subsection (c) is amended to explain that the reference to the "fee schedule" is now the schedule published by the Department as authorized in H&S Code, section 1266(e)(2). In the last sentence, "nor" is changed to "or" to make the sentence read correctly.

The authority and reference note is updated to eliminate citations to repealed statutes, and to reflect the reorganization of the Department of Health Services by SB 162 (Ch. 241, Statutes 2006).

Section 73209. Fee.

This repeal is necessary because the language of the regulation specifying licensing fees has been superseded by H&S Code, section 1266 and the remaining subsections are contained in section 73208. Section 1266 authorizes hospital licensing fees and requires development of methodologies to adjust the annual fees per specific criteria.

The authority and reference note is updated to eliminate citations to repealed statutes, and to reflect the reorganization of the Department of Health Services by SB 162 (Ch. 241, Statutes 2006).

Section 73639. Emergency Lighting and Power System.

Section 73639 is amended to specify requirements for the testing of emergency diesel and non-diesel generators in intermediate care facilities. H&S Code, section 41514.1, places the testing of diesel generators in California in conformance with the standards

of the JCAHO). The amendment of the regulation is required to put the Department into compliance with standards for both types of emergency generators.

A note is added to the section to provide citations to the statutes that authorize the Department to adopt the regulation and references to the statutes being implemented.

Chapter 5. Referral Services

Section 74108. Fee.

This amendment is necessary because the language of the regulation specifying licensing fees (subsections (a)(1)) has been superseded by H&S Code, section 1266. Section 1266 authorizes licensing fees and requires development of methodologies to adjust the annual fees per specific criteria. The remaining subsections are renumbered to maintain the correct order in the regulation.

The authority and reference note is updated to eliminate citations to repealed statutes and to reflect the reorganization of the Department of Health Services by SB 162 (Ch. 241, Statutes 2006).

Section 74109. Fee.

This repeal is necessary because the language of the regulation specifying licensing fees has been superseded by H&S Code, section 1266 and the remaining subsections are contained in section 74108. Section 1266 authorizes hospital licensing fees and requires development of methodologies to adjust the annual fees per specific criteria.

Chapter 6. Home Health Agencies

Section 74669. Fee.

This amendment is necessary because the language of the regulation discussing licensing fees (subsection (a)) has been superseded by H&S Code, section 1266. Section 1266 authorizes licensing fees and requires development of methodologies to adjust the annual fees per specific criteria.

The authority and reference note is updated to eliminate citations to repealed statutes and to reflect the reorganization of the Department of Health Services by SB 162 (Ch. 241, Statutes 2006). This does not alter the substance or any requirement of the regulations.

Chapter 8. Intermediate Care Facilities for the Developmentally Disabled

Section 76211. Fee.

This amendment is necessary because the language of the regulation specifying licensing fees (subsection (a)(1)) has been superseded by H&S Code, section 1266.

Section 1266 authorizes licensing fees and requires development of methodologies to adjust the annual fees per specific criteria. Subsection (a)(2) is renumbered (b). Subsection (b) is renumbered (c) and is amended by deleting the parenthetical example as it is no longer needed because the fee schedule is deleted.

Subsection (c) is renumbered (d) and is amended to explain that the reference to the "fee schedule" is now the schedule published by the Department as authorized in H&S Code, section 1266(e)(2)). In the last sentence, "nor" is changed to "or" to make the sentence read correctly.

Subsection (d) is renumbered (e).

Subsection (e) is renumbered (f).

The authority and reference note is updated to eliminate citations to repealed statutes and to reflect the reorganization of the Department of Health Services by SB 162 (Ch. 241, Statutes 2006).

Section 76525. Clients' Rights.

Subsection 76525(a)(9) is amended to correct the reference from "automatic data bank" to "automated data bank," the correct phrasing.

Subsection 76525(i) is repealed as the sections in the California Code of Regulations to which it refers no longer exist.

The comma (",") is deleted after "4504" in the Authority and Reference Note.

Section 76555. Admission Agreement.

Subsections 76555(b)(8), (c), and (d) are amended to make it clear that the reference to summary termination is to services provided to a client, not to the client himself or herself.

Section 76651. Emergency Lighting and Power System.

Section 76651 is amended to specify requirements for the testing of emergency diesel

and non-diesel generators in intermediate care facilities for the developmentally disabled. H&S Code, section 41514.1 places the testing of diesel generators in California in conformance with the standards of the JCAHO. The amendment of the regulation is required to put the Department into compliance with standards for both types of emergency generators.

The authority and reference note is updated to eliminate citations to repealed statutes and to reflect the reorganization of the Department of Health Services by SB 162 (Ch. 241, Statutes 2006).

Chapter 8.5 Intermediate Care Facilities/Developmentally Disabled Habilitative

Section 76846. Fee.

This amendment is necessary because the language of the regulation specifying licensing fees (subsection (a)(1)) has been superseded by H&S Code, section 1266. Section 1266 authorizes licensing fees and requires development of methodologies to adjust the annual fees per specific criteria. The remaining subsection is renumbered to maintain the correct order in the regulation.

The authority and reference note is updated to eliminate citations to repealed statutes, and to reflect the reorganization of the Department of Health Services by SB 162 (Ch. 241, Statutes 2006).

Section 76915. Admission of Clients.

Subsection 76915(a)(2) is amended to correct the reference from "section 51343.1(h) to "section 51343.1(g).

The authority and reference note is updated to eliminate citations to repealed statutes, and to reflect the reorganization of the Department of Health Services by SB 162 (Ch. 241, Statutes 2006).

Chapter 10. Adult Day Health Centers

Section 78437. Participant Rights.

Subsection 78437(a)(13) is amended to correct the reference from "automatic data bank" to "automated data bank," the correct phrasing.

Subsection 78437(a)(18) is amended to delete "(a)" immediately following "(18)," as it is already present at the beginning of the section, its correct location.

State of California—Health and Human Services Agency
California Department of Public Health



RONALD W. CHAPMAN, MD, MPH
Director



EDMUND G. BROWN JR.
Governor

DELEGATION OF AUTHORITY FOR ADOPTION OF REGULATIONS AND FILING OF STD 400

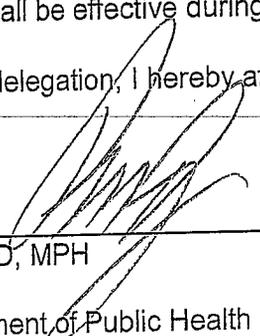
I, Ron Chapman, MD, MPH, Director of the Department of Public Health (CDPH), State of California, am empowered to adopt regulations for this Department pursuant to Article 2 (commencing with section 131200) of Chapter 2 of Part 1 of Division 112 of the Health and Safety Code, Government Code section 11152, and Title 1, California Code of Regulations, section 280.

I thereby delegate my authority and responsibilities for these matters to the following individuals:

Kathleen Billingsley, RN, Chief Deputy Director of Policy and Programs, CDPH
Daniel C. Kim, Chief Deputy Director of Operations, CDPH
Kathleen M. Keeshen, Deputy Director and Chief Counsel Office of Legal Services, CDPH,

This delegation shall be effective during my term as Director or until withdrawn by me in writing.

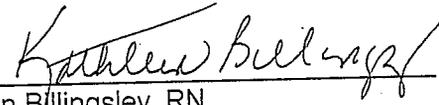
In witness of this delegation, I hereby affix my signature to this delegation order.



Ron Chapman, MD, MPH
Director
California Department of Public Health

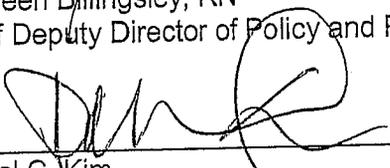
Date: 6/13/11

We fully understand and accept this delegation.



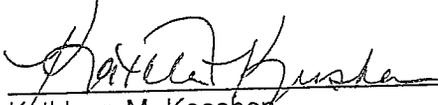
Kathleen Billingsley, RN
Chief Deputy Director of Policy and Programs

Date: 6/13/11



Daniel C. Kim
Chief Deputy Director of Operations

Date: 6/13/11



Kathleen M. Keeshen
Deputy Director and Chief Counsel

Date: June 13, 2011