

## **ACTION REQUIRED**

### **AB 978 (Benoit), CHAPTER 291, STATUTES OF 2008**

**Affects:** Foster Family Homes, Group Homes, Small Family Homes, Foster Family Agencies, Certified Family Homes, Transitional Housing Placement Programs, Crisis Nurseries, Adult Residential Facilities, Social Rehabilitation Facilities, Adult Day Programs (All Community Care Facilities), Residential Care Facilities for the Chronically Ill (RCF-CI), Residential Care Facilities for the Elderly (RCFE)

**Subject:** Immediate Civil Penalties; California Department of Social Services (CDSS) use of civil penalty moneys; unannounced facility visits; Plans of Correction; licensing report requirements

**Summary:** AB 978 requires the immediate assessment of civil penalties for designated serious violations at community care facilities (CCFs), including Foster Family Homes, RCF-CIs, and RCFEs. AB 978 requires that collected civil penalties be expended by the CDSS exclusively for the technical assistance, training, and education of licensees.

The bill mandates unannounced follow-up visits within 30 days of the effective date of license suspensions, within 30 days of the effective date of revocations, and within 30 days after service of an order for the immediate exclusions of persons from facilities.

The bill requires the CDSS to ensure that a licensee's Plan of Correction (POC) is measurable and verifiable, and to specify in its licensing reports all violations that, if not corrected, will have a direct and immediate risk to clients in care. In addition, the CDSS shall complete all complaint investigations and place a note of final conclusion in the CDSS facility file, regardless of whether the license was surrendered.

This bill specifically addresses the following for community care facilities (CCFs), RCF-CIs, and RCFEs:

1. Authorizes that collected civil penalty fees be deposited into the Technical Assistance Fund and that the CDSS expend civil penalty fees collected from CCFs, RCF-CIs and RCFEs exclusively for the technical assistance, training, and education of licensees.
2. Requires the CDSS to ensure that a licensee's POC is verifiable and measurable and that the POC specify the evidence that is acceptable to establish that a deficiency has been corrected.
3. Requires that licensing reports specify all violations that, if not corrected, will have a direct and immediate risk to the health, safety, or personal rights of clients in care.
4. Requires the CDSS to complete all complaint investigations and place a note of final conclusion in the CDSS's facility file regardless of whether the license was voluntarily surrendered

5. Requires the CDSS to conduct unannounced visits within 30 days after the effective date of a temporary suspension, within 30 days of the effective date of a revocation, or within 30 days after the CDSS serves an order of immediate exclusion.
6. Defines violations warranting immediate civil penalty assessment of \$150 per day, per violation until correction is made, as follows:
  - a. Fire clearance violations including, but not limited to, overcapacity, ambulatory status, inoperable smoke alarms, and inoperable fire alarm systems with certain exceptions as listed in item 7 below;
  - b. Absence of supervision;
  - c. Accessible bodies of water;
  - d. Accessible firearms or ammunition;
  - e. Refused entry of an agent of the CDSS to a facility; and
  - f. The presence of an excluded person on the premises.
7. Provides that for fire clearance violations mentioned in number 6 above, civil penalties shall not be assessed under the following specific circumstances: 1) the licensee has initiated eviction proceedings; 2) the licensee has requested the appropriate fire clearance based on ambulatory, nonambulatory or bedridden status and the decision is pending; or 3) the licensee has filed an appeal for a denied bedridden fire clearance (penalties shall not be assessed until the final appeal is decided or 60 days have passed from the date of citation, whichever is earlier).

**Implementation:**

Modifications to the Evaluator Manual are required to provide direction to Licensing Program Analysts on the above changes. Additionally, certain licensing forms related to civil penalties will be modified. These changes will be clarified in Information Releases scheduled to be published in the Spring of 2009.

Training will be provided to Licensing Program Analysts by the Technical Assistance Bureau.