

## Section 12.03

## Community Care Facilities

This item consists of seven questions and answers on Community care facilities that serve six individuals or less.

**Q<sub>1</sub>** - What is a "Community care facility"?

**A<sub>1</sub>** - Section 1502 of the State of California Health and Safety Code textually states as follows:

"As used in this chapter:

(a) "Community care facility" means any facility, place or building that is maintained and operated to provide non-medical residential care, day treatment, adult day care, or foster family agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mental impaired, incompetent persons, and abused or neglected children, and includes the following:

(1) "Residential facility" means any home, group care facility, or similar facility determined by the director, for 24-hour non-medical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

(2) "Adult day care facility" means any facility that provides non-medical care to persons 18 years of age or older in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis.

(3) "Therapeutic day services facility" means any facility that provides nonmedical care, counseling, educational or vocational support, or social rehabilitation services on less than a 24-hour basis to persons under 18 years of age who would otherwise be placed in foster care or who are returning to families from foster care. Program standards for these facilities shall be developed by the department, pursuant to Section 1530, in consultation with day treatment and foster care providers.

(4) "Foster family agency" means any individual or organization engaged in the recruiting, certifying, and training of, and providing professional support to, foster parents, or in finding homes or other places for placement of children for temporary or permanent care who require that level of care as an alternative to a group home. Private foster family agencies shall be organized and operated on a nonprofit basis.

(5) "Foster family home" means any residential facility providing 24-hour care for six or fewer foster children that is owned, leased, or rented and is the residence of the foster parent or parents, including their family, in whose care the foster children have been placed. The placement may be by a public or private child development agency or by a court order, or by voluntary placement by a parent, parents, or guardian.

(6) "Small family home" means any residential facility, in the licensee's family residence, that provides 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities. A small family home may accept children with special health care needs, pursuant to subdivision (a) of Section 17710 of the Welfare and Institutions Code. In addition to placing children with special health care needs, the department may approve placement of children without special health care needs, up to the maximum capacity.

(7) "Social rehabilitation facility" means any residential facility that provides social rehabilitation services for no longer than 18 months in a group setting to adults recovering from mental illness who temporarily need assistance, guidance or counseling. Program components shall be subject to program standards pursuant to Article 1 (commencing with Section 5670) of Chapter 2.5 of Part 2 of Division 5 of the Welfare and Institutions Code.

(8) "Community treatment facility" means any residential facility that provides mental health treatment services to children in a group setting and that has the capacity to provide secure containment. Program components shall be subject to program standards developed and enforced by the State Department of Mental Health pursuant to Section 4094 of the Welfare and Institutions Code.

Nothing in this section shall be construed to prohibit or discourage placement of persons who have mental or physical disabilities into any category of community care facility that meets the needs of the individual placed, if the placement is consistent with the licensing regulations of the department.

(9) "Full-service adoption agency" means any licensed entity engaged in the business of providing adoption services, that does all of the following:

- (A) Assumes care, custody, and control of a child through relinquishment of the child to the agency or involuntary termination of parental rights to the child.
- (B) Assesses the birth parents, prospective adoptive parents, or child.
- (C) Places children for adoption.

(D) Supervises adoptive placements.

Private full-service adoption agencies shall be organized and operated on a nonprofit basis.

(10) "Non-custodial adoption agency" means any licensed entity engaged in the business of providing adoption services, that does all of the following:

(A) Assesses the prospective adoptive parents.

(B) Cooperatively matches children freed for adoption, who are under the care, custody, and control of a licensed adoption agency, for adoption, with assessed and approved adoptive applicants.

(C) Cooperatively supervises adoptive placements with a full-service adoptive agency, but does not disrupt a placement or remove a child from a placement.

Private non-custodial adoption agencies shall be organized and operated on a nonprofit basis.

(b) "Department" or "state department" means the State Department of Social Services.

(c) "Director" means the Director of Social Services." (End of definition)

**Q<sub>2</sub>** - Under what conditions is a "Community care facility" considered as residential use? In what zone is it permitted?

**A<sub>2</sub>** - Section 1566.3 of the State of California Health and Safety Code states in part:

"Whether or not unrelated persons are living together, a residential facility which serves six or fewer persons shall be considered a family for the purposes of this article. In addition, the residents and operators of such facility shall be considered a family for the purposes of any law or zoning ordinance which relates to the residential use of the property pursuant to this article. ...

...No conditional use permit, zone variance, or other zoning clearance shall be required of a residential facility which serves six or fewer persons which is not required of a family dwelling of the same type in the same zone.

Use of a family dwelling for purposes of a residential facility serving six or fewer persons shall not constitute a change of occupancy for purposes of ... local building codes. ...

For the purposes of this section, "family dwelling," includes, but is not limited to, single family dwellings, including units in duplexes, and units in apartment dwellings, mobile homes located in Mobile home parks, units in cooperatives, units in condominiums, units in townhouses, and units in planned unit developments." (End of quote)

As stated, the State Code preempts any city ordinance. Therefore, the City of Los Angeles cannot impose any restrictions or requirements on these State-licensed facilities unless they are applicable to all dwellings of the same type in the same zone.

**Q<sub>3</sub>** - Specifically, per State law, what types of facilities are permitted to be treated as residential use?

**A<sub>3</sub>** - The following uses are permitted when the number of persons served does not exceed six and the State has granted the appropriate license:

- a) residential care facilities for persons with a chronic, life-threatening illness.
- b) family care home, foster home or group home for mentally disordered or otherwise handicapped persons or dependent and neglected children.
- c) alcoholism or drug abuse recovery facility.
- d) facilities for the elderly.

A facility used for the housing of "wards of the juvenile court", is not considered a community care facility even if it houses six or less clients and therefore such use cannot be considered as residential.

**Q<sub>4</sub>** - Can community care facilities housing six or less persons be established in several apartment units within an apartment building?

**A<sub>4</sub>** - Section 1520.5 of the Health and Safety Code contains provisions that prevent over concentration of residential care facilities which impair the integrity of residential neighborhoods. Section 1520.5(b) states:

"(b) As used in this section, "over concentration" means that if a new license is issued, there will be residential care facilities which are separated by a distance of 300 feet or less, as measured from any point upon the outside walls of the structures housing those facilities. Based on specific local needs and conditions,

the director may approve a separation distance of less than 300 feet with the approval of the city or county in which the proposed facility will be located."

Section 1520(f) further states:

"(f) Foster families and residential care facilities for the elderly shall not be considered in determining over concentration of residential care facilities, and license applications for those facilities shall not be denied upon the basis of over concentration."

**Q<sub>5</sub>**- Can medication be dispensed in these facilities?

**A<sub>5</sub>**- There appears to be no specific language in the State law related to dispensation and administration of medicines in these facilities. However, the intent of the legislature is to provide a number and variety of licensed residential care facilities for persons that are handicapped, are afflicted by illness, or otherwise require a certain degree of special care. While it is assumed that no continuous medical care is provided, the dispensation and administration of medicines is commensurate with the type of care and supervision that these facilities provide.

**Q<sub>6</sub>**- How many staff members are allowed in the facility to administer the program?

**A<sub>6</sub>**- The State code is silent on this issue. It only specifies that the limit of "...six or fewer persons" does not include the licensee or member of the licensee's family or persons employed as facility staff."

**Q<sub>7</sub>**- Does the Fire Department need to approve a facility that cares for 6 or fewer persons?

**A<sub>7</sub>**- Yes, while the City cannot impose additional requirements on these facilities, the State Fire Marshall has adopted standards for the life safety of the occupants. The Fire Department of the City of Los Angeles is in charge of assuring that these standards are met. Any work, not otherwise exempt from a permit, that needs to be done to meet those standards must be performed under a building permit.

(California State Code)