AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 1 ON HEALTH AND HUMAN SERVICES

ASSEMBLYMEMBER SHIRLEY N. WEBER, PH.D., CHAIR

WEDNESDAY, APRIL 2, 2014
3:00 P.M. - STATE CAPITOL ROOM 444

ITEMS TO BE HEARD

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5180 DEPARTMENT OF SOCIAL SERVICES

ISSUE 1: COMMUNITY CARE LICENSING – BUDGET AND PROGRAM REVIEW

PROGRAM DESCRIPTION

With a total proposed budget of about $118 million (approximately $36 million General Fund), the Community Care Licensing (CCL) Division in the Department of Social Services (DSS) oversees the licensure or certification of approximately 66,000 licensed community care facilities, and has responsibility for protecting the health and safety of individuals served by those facilities. It is estimated that these facilities have the capacity to serve over 1.3 million Californians.

CCL licenses facilities, including childcare centers, family childcare homes, foster family and group homes, adult residential facilities, and residential care facilities for the elderly. CCL does not license skilled nursing facilities, which are licensed by the Department of Health Care Services, or facilities that provide alcohol and other drug treatment. The display below shows the types of facilities licensed by CCL.

Facility Type	Description
Child Care Licensing Family Child Care Home	24 hr. non-medical care in licensee's home.
Children's Residential Facilities	
Crisis Nursery	Short-term, 24-hr., non-medical care for eligible children under 6 years of age.
Group Homes	24-hr., non-medical care to children in structured environment; facilities are of any capacity.
Small Family Homes & Foster Family Home	24-hr. care in the licensee's home for 6 or fewer children, who have disabilities.
Transitional Housing Placement	Provides care for 16+ yrs. old in independent living.
Adult & Elderly Facilities	
Adult Day Programs	Community based facility/program for person 18+ years old.
Adult Residential Facilities (ARF)	24-hr. non-medical care for adults, 18-59 years old.

Facility Type	Description
Adult Residential Facility for Persons with Special Healthcare Needs	24-hr. services in homelike setting, for up to 5 adults, who have developmental disabilities, being transitioned from a developmental center.
Residential Care Facilities for the Chronically Ill	Facilities with maximum capacity of 25.
Residential Care Facilities for the Elderly (RCFE)	Care, supervision, and assistance with activities of daily living to eligible persons, usually 60+ yrs. old. Facilities range from 6 beds or less, to over 100 beds.
Continuing Care Retirement Communities (CCRC)	Long-term continuing care contract; provides housing, residential services, and nursing care.
Social Rehabilitation Facilities	24-hr. non-medical care in group setting to adults recovering from mental illness.
Special Agencies	
Certified Family Homes (CFH)	CFHs are certified by foster family agencies.

Background Check. Applicants, licensees, adult residents, and employees of community care facilities who have client contact must receive a criminal background check. An individual submits fingerprint imaging to the California Department of Justice (DOJ). The Caregiver Background Check Bureau, within CCL, processes and monitors background checks. If an individual has no criminal history, DOJ will forward a clearance notice to the applicant or licensee and to the Caregiver Background Check Bureau within CCL. If an individual has a criminal history, DOJ sends the record to the Bureau, where staff reviews the transcript and determines if the convictions for crimes may be exempt. For individuals associated with a facility that cares for children, an additional background check is required through the Child Abuse Central Index.

According to DSS, approximately 200,000 background checks are completed annually, with approximately 1,200 (0.6 percent) individuals denied criminal record clearance or exemptions.

CCL Staffing and Facility Monitoring. The roughly 66,000 homes and facilities statewide directly under the regulatory purview of CCL are primarily monitored and licensed by just over 460 licensing analysts. These licensing analysts are located in 25 regional offices throughout the state and are responsible for conducting annually about 24,000 inspections and 13,000 complaint investigations. Current law requires CCL to conduct random inspections on at least 30 percent of all facilities annually, and each facility must be visited no less than once every five years. Although the CCL has had difficulty meeting these time frames in the past, the division is generally meeting these time frames currently.

The table on the separate attachment entitled "CCL Budget Totals" shows the CCL funding and position history over the past ten years, and ties to information subsequent to the chart that describes how the visit protocol changed as a result of funding decreases and increases in citations issued.

Past Budget Reductions Have Increased the Time Between Annual Visits. Prior to 2002–03, most facilities licensed by CCL were required to be visited annually. Budget–related legislation enacted in 2003 lengthened the intervals between visits for most facilities from one year to five years. Additionally, the legislation included “trigger” language that initially required CCL to randomly visit 10 percent of facilities each year. If, in a given year, the number of citations identified exceeded that of the prior year by 10 percent, the random visits that were required to be conducted would increase by an additional 10 percent. As a result of this trigger methodology, CCL is now required to randomly visit 30 percent of facilities each year, and the requirement that each facility be visited every five years continues. It is important to also note that CCL estimates that over 15 percent of its staff was lost due to retirements, transfers, and resignations, as well as a prolonged period of severe fiscal constraints.

Key Indicator Tool. After the 2003 changes and because of other personnel reductions, CCL fell behind in meeting the visitation frequency requirements. In response, DSS designed and implemented the key indicator tool (KIT), which is a shortened version of CCL’s comprehensive licensing inspection instruction, for all of its licensed programs. The KIT complements, but does not replace, existing licensing requirements. A KIT measures compliance with a small number of rules, such as inspection review categories and facility administration and records review, which is then used to predict the likelihood of compliance with other rules. Some facilities, such as facilities on probation, those pending administration action, or those under a noncompliance plan, are ineligible for a key indicator inspection and will receive an unannounced comprehensive health and safety compliance inspection.

CCL has contracted, until December 31, 2014, with the California State University, Sacramento, Institute of Social Research (CSUS, ISR) to provide an analysis and recommendations regarding the development and refinement of the KIT. CSUS, ISR is currently reviewing and analyzing four years of licensing data, both pre and post KIT implementation. However, due to the unforeseen data clean-up and the narrative basis of the data, the project’s approach is currently being re-examined.

On the next page is a chart that summarizes the type of inspections conducted in licensed facilities, how many inspections utilized the Key Indicator Tool (KIT), and how many comprehensive inspections were triggered after the KIT.

CCL Inspections in All Facilities
By Type of Inspection and Protocol
Fiscal Year 2012-13

Type of Inspection	Total of Inspections	How many inspections utilized the Key Indicator Tool (KIT)?	How many inspections that utilized the KIT triggered a comprehensive inspection?
Annual Required Inspection	6,054	5,515 (91.1%)	419 (7.6%)
Random Inspection	17,233	16,682 (96.8%)	1,217 (7.3%)
Required Five-Yr. Visit	3,984	3,673 (92.2%)	375 (10.2%)

Complaints. Complaints are handled at regional offices. Licensing analysts, who would otherwise be conducting inspections, stay in the regional office, two times a month, to receive complaint calls and address general inquiries and requests to verify licensing status from the public. CCL must respond to complaints within 10 days, and may conduct related onsite investigations. During FY 2012-13, DSS received 13,127 complaints and initiated 12,996 (99 percent) of these investigations within ten days of receipt. The department indicates that as of February 10, 2014, there are 5,291 complaints pending, of which 3,151 (59.5 percent) have been ongoing more than 90 days. DSS notes that due to the complexity of complaints and other entity involvement, such as law enforcement, complaints may require more than 90 days of investigation.

Licensing fees and penalties. Licensed facilities must pay an application fee and an annual fee, which is set in statute. The revenue from these fees is used to partially offset the cost of CCL enforcement and oversight activities. In addition to these annual fees, facilities are assessed civil penalties if they are found to have committed a licensing violation. Also, civil penalties assessed on licensed facilities are deposited into the Technical Assistance Fund, and are required to be used by the department for technical assistance, training, and education of licensees.

In FY 2013-14 to date, CCL collected 94 percent of its annual fees. During state FY 2012-13, CCL invoiced $1,370,400 in civil penalties; the amount of civil payments received for FY 2012-13 was $572,000.

Training. Licensing managers, who review complaint investigations and administrative actions by licensing analysts, currently receive 80 hours of state mandated, general supervisory training. However, this training does not provide curriculum specific to CCL licensing managers. Currently, licensing program analysts must complete 18 hours of webinar training and 80 hours of in-person training.

Recent Events. Several high-profile cases in child and adult residential facilities recently surfaced, pertaining to the following:

- **2011 Bureau of State Audits Report**. In October 2011, the California State Auditor issued a report, which found that more than 1,000 addresses for licensed facilities and out-of-home child placements matched with addresses for registered sex offenders in the DOJ's Sex and Arson Registry. DSS immediately began legal actions against eight licensees and issued 36 exclusion orders, barring individuals from licensed facilities. Counties also removed children and ordered sex offenders out of homes. While county child welfare service agencies performed the required background checks, the audit report found that they did not consistently notify DSS of deficiencies or forward required information to DOJ.

- **Castro Valley Assisted Living Facility.** In October 2013, DSS closed Valley Springs Manor, a Residential Care Facility for the Elderly (RCFE) located in Castro Valley, but news articles reported that more than a dozen elderly residents were left in the facility more than two days after the state ordered the facility to be closed.

- **San Diego County Residential Care Facilities.** In September of 2013, the Union Tribune (UT) released several articles regarding the state of Residential Care Facilities in San Diego. The UT's expose revealed lax state enforcement including low civil penalties in cases of negligence, highlighting infrequent inspections and a lack of liability insurance. Seniors were reported to have endured sexual assault, broken bones, and unfit living conditions. For many of these seniors, the lack of quality care led to death, and in San Diego County alone nearly 28 seniors have died due to neglect suffered while in these facilities.

PANEL

- Will Lightbourne, Director, and Pam Dickfoss, Deputy Director of the CCL Division, California Department of Social Services
  - ➢ DSS will present an Overview and Current Program Update for CCL
- Legislative Analyst's Office
- Department of Finance

There will be no public comment taken under this section.

ISSUE 2: GOVERNOR'S PROPOSAL ON QUALITY ENHANCEMENT AND PROGRAM IMPROVEMENT

The Governor's budget includes $7.5 million ($5.8 million GF) and 71.5 positions for quality enhancement and program improvement measures. The additional positions and resources seek to improve the timeliness of investigations; help to ensure the CCL Division inspects all licensed residential facilities at least once every five years, as statutorily required; increase staff training; and, establish clear fiscal, program, and corporate accountability.

Specifically, the budget includes the following components:

- **Additional positions.** The additional 71.5 positions include:
    - Six special investigator assistants;
    - 21 associate governmental program analysts;
    - One office services supervisor and one office technician;
    - One nurse practitioner;
    - Five licensing program managers, of different management levels;
    - Five staff services managers, of different levels;
    - 30.5 licensing program analysts; and,
    - One attorney.

  70.5 positions are requested to be made permanent.

- **Staff training and development.** The budget provides for increased training for new field staff and training for supervisors and managers by expanding the Licensing Program Analyst academy, implementing ongoing training, and strengthening the Administrator Certification Section. Recognizing the changing needs of clients in RCFEs, the Governor's budget proposes that DSS will assist with policy and practice development for medical and mental health conditions in community facilities, as follows:

    - **Establish medical expertise resources.** Although CCL has no staff with medical expertise, DSS licenses facilities that do allow for incidental medical care. Also, DSS has historically maintained a contract with a nurse consultant to provide medical expertise on specific complaint investigations. The Governor's budget proposes to utilize its one Nurse Practitioner position to develop a process and regulations regarding medical conditions and treatments that can be maintained and provided in community care settings, such as chemotherapy.

    - **Create a Mental Health Populations Unit.** With the upcoming Affordable Care Act, and SB 82 (Budget and Fiscal Review Committee), Chapter 34, Statutes of 2013, implementation, the Governor proposes to create a Mental Health Populations Unit, which would provide technical assistance to enforcement staff and licensees, as well as to individuals who reside in facilities who have increasing mental health care needs. SB 82 triples the number of social rehabilitation facility (SRF) beds, or crisis stabilization beds, for individuals with higher mental health acuity needs. Specifically, the unit would review and develop bill analyses for proposed legislation on Social Rehabilitation Facilities, coordinate interdepartmental communications, and develop regulations with stakeholders to meet additional program needs.

- **Establish a Corporate Accountability Unit.** With increased applications for RCFEs and corporate mergers and acquisitions for facilities, the additional attorney and associate governmental program analyst would perform the following duties: identify and address systemic noncompliance and ensure corrective actions; create management reports that identify patterns and trends; make corrective action recommendations; and, follow-up on corrective action plans to ensure that licensees with poor compliance patterns do not support operational expansions.

- **Increased civil penalties.** According to DSS, because the current civil penalty structure is related to a "per violation" event, the current maximum civil penalty, even in response to serious injury or death of a resident, is $150. The Governor's budget proposes to increase civil penalties for three different types of serious noncompliance, for all facility categories, except foster family homes, specifically:

  - **Zero Tolerance Violations.** Currently, the assessed immediate civil penalty is $150 per day, per violation until corrected. Examples of violations that would qualify for an immediate civil penalty assessment include: absence of supervision; fire clearance violations; accessible firearms; presence of an excluded person; and, accessible bodies of water. As proposed, an immediate civil penalty assessment would be imposed equal to five times (500 percent) of the facility's annual fee per day, per violation, until and including the day the deficiency is corrected. The budget also adds "any violation that results in the injury, illness, or death of a client" to the list of zero tolerance violations.

  - **Repeat Violations.** The budget proposes to authorize DSS to impose an initial immediate civil penalty assessment on repeat violation equal to three times (300 percent) the facility's annual fee, per violation, in addition to a civil penalty assessment equal to 1.5 times (or 150 percent) the annual license fee per day, per violation, until and including the day the deficiency is corrected.

  - **Failure to Correct.** Currently, the assessed civil penalty is $50 per day, per cited violation, up to a maximum of $150 per day. The budget proposes that if the facility fails to correct a deficiency by the identified due date, a civil penalty equal to 25 percent of the annual fee per day, per violation, until and including the day the deficiency is corrected would be imposed.

If two or more civil penalties are applicable, the budget proposes to assess the facility, or individual, at the higher penalty rate. In addition, the budget proposes to expand how revenues that are received from civil penalties can be used.

Below is a chart from the Legislative Analyst's Office (LAO), which compares current law and the Governor's proposal regarding select CCL civil penalties for serious violation

Selected CCL Civil Penalty Levels for Serious Violations: Current Law and Governor's Proposal

	Current Law			Governor's Proposal		
	Initial	Repeat Within 12 Months		Initial	Repeat Within 12 Months	
Examples of Facilities	(Per Day)	(First Day)	(Each Additional Day)	(Per Day)	(First Day)	(Each Additional Day)
Residential Care Facility for the Elderly (4-6 People)	$150	$150	$50	$2,270	$1,362	$681
Adult Day Program (16-30 Adults)	150	150	50	760	456	228
Family Child Care Center (1-8 Children)	150	150	50	365	219	110
Child Care Centers (31-60 Children)	150	150	50	2,420	1,452	726

- **Increased licensing fees.** Currently, all facilities, except for foster family homes, must pay application and annual fees set by statute. The budget proposes a ten percent increase in licensing and application fees, which could result in $1 million additional revenues in the first year. The fees would then be adjusted annually with the Consumer Price Index. The proposal requires the department to analyze initial application fees and annual fees, at least every five years, to determine whether the appropriate fee amounts are charged.

Proposed Application Fee and Annual Fee, by Facility Type
(as of March 7, 2014)

Facility Type	Capacity	Initial Application Fee		Annual Fee	
		Current	Proposed	Current	Proposed
Foster Family and Adoption Agencies	N/A	$2,750	$3,025	$1,375	$1,513
Adult Day Programs	1–15	$165	$182	$83	$91
	16–30	$275	$303	$138	$152
	31–60	$550	$605	$275	$303
	61–75	$689	$758	$344	$378
	76–90	$825	$908	$413	$454
	91–120	$1,100	$1,210	$550	$605
	121+	$1,375	$1513	$688	$757
Other Community Care Facilities	1–3	$413	$454	$413	$454
	4–6	$825	$908	$413	$454
	7–15	$1,239	$1,363	$619	$681
	16–30	$1,650	$1,815	$825	$908
	31–49	$2,064	$2,270	$1,032	$1,135
	50–74	$2,477	$2,725	$1,239	$1,363
	75–100	$2,891	$3,180	$1,445	$1,590
	101–150	$3,304	$3,634	$1,652	$1,817
	151–200	$3,852	$4,237	$1,926	$2,119
	201–250	$4,400	$4,840	$2,200	$2,420
	251–300	$4,950	$5,445	$2,475	$2,723
	301–350	$5,500	$6,050	$2,750	$3,025
	351–400	$6,050	$6,655	$3,025	$3,328
	401–500	$7,150	$7,865	$3,575	$3,933
	501–600	$8,250	$9,075	$4,125	$4,538
	601–700	$9,350	$10,285	$4,675	$5,143
	701+	$11,000	$12,100	$5,500	$6,050

Facility Type	Capacity	Initial Application Fee		Annual Fee	
		Current	Proposed	Current	Proposed
Residential Care Facilities For Persons with Chronic Life-Threatening Illness	1–6	$550	<u>$605</u>	$275 plus $10 per bed	<u>$303 plus $11 per bed</u>
	7–15	$689	<u>$758</u>	$344 plus $10 per bed	<u>$378 plus $11 per bed</u>
	16–25	$825	<u>$908</u>	$413 plus $10 per bed	<u>$454 plus $11 per bed</u>
	26+	$964	<u>$1,060</u>	$482 plus $10 per bed	<u>$530 plus $11 per bed</u>
Residential Care Facilities for the Elderly	1–3	$413	<u>$454</u>	$413	<u>$454</u>
	4–6	$825	<u>$908</u>	$413	<u>$454</u>
	7–15	$1,239	<u>$1,363</u>	$619	<u>$681</u>
	16–30	$1,650	<u>$1,815</u>	$825	<u>$908</u>
	31–49	$2,064	<u>$2,270</u>	$1,032	<u>$1,135</u>
	50–74	$2,477	<u>$2,725</u>	$1,239	<u>$1,363</u>
	75–100	$2,891	<u>$3,180</u>	$1,445	<u>$1,590</u>
	101–150	$3,304	<u>$3,634</u>	$1,652	<u>$1,817</u>
	151–200	$3,852	<u>$4,237</u>	$1,926	<u>$2,119</u>
	201–250	$4,400	<u>$4,840</u>	$2,200	<u>$2,420</u>
	251–300	$4,950	<u>$5,445</u>	$2,475	<u>$2,723</u>
	301–350	$5,500	<u>$6,050</u>	$2,750	<u>$3,025</u>
	351–400	$6,050	<u>$6,655</u>	$3,025	<u>$3,328</u>
	401–500	$7,150	<u>$7,865</u>	$3,575	<u>$3,933</u>
	501–600	$8,250	<u>$9,075</u>	$4,125	<u>$4,538</u>
	601–700	$9,350	<u>$10,285</u>	$4,675	<u>$5,143</u>
	701+	$11,000	<u>$12,100</u>	$5,500	<u>$6,050</u>
Family Day Care	1–8	$66	<u>$73</u>	$66	<u>$73</u>
	9–14	$127	<u>$140</u>	$127	<u>$140</u>
Day Care Centers	1–30	$440	<u>$484</u>	$220	<u>$242</u>
	31–60	$880	<u>$968</u>	$440	<u>$484</u>
	61–75	$1,100	<u>$1,210</u>	$550	<u>$605</u>
	76–90	$1,320	<u>$1,452</u>	$660	<u>$726</u>

Facility Type	Capacity	Initial Application Fee		Annual Fee	
		Current	Proposed	Current	Proposed
	91–120	$1,760	<u>$1,936</u>	$880	<u>$968</u>
	121+	$2,200	<u>$2,420</u>	$1,100	<u>$1,210</u>

- **Establish a Temporary Manager and Receivership Process.** The budget authorizes DSS to appoint a temporary manager or receiver to act as the provisional licensee, if DSS determines that residents of a facility are likely to be in danger of serious injury or death, and the immediate relocation of clients is not feasible. The temporary manager or receiver assumes operation of a facility to bring it into compliance; to facilitate a transfer of ownership to a new licensee; or, to assure the transfer of residents, if the facility is required to close. Facilities that serve less than six residents and are also the principal residence of the licensee are exempt. The budget sets forth language which specifies the following:

    - A process to appoint a temporary manager or receiver;
    - A process by which a licensee may contest the appointment of the temporary manager;
    - A temporary manager or receiver's authorized responsibilities;
    - A receiver's salary and length of appointment; and,
    - Circumstances wherein a facility's owner can sell, lease, or close the facility.

- **Specialized complaint hotline.** Currently, 462 LPAs in 26 licensing offices throughout the state review incoming complaints. Depending on workload, a LPA may remain in the office instead of in the field performing licensing visits. Additionally, every LPA must spend two days a month conducting intake and assessing complaints and incidences, as well as respond to general inquiries. The budget establishes a specialized and centralized toll-free public complaint hotline, which can help acquire better initial information, conduct consistent prioritization, and dispatch incoming complaints to regional offices.

- **Centralized application processing.** As of January 10, 2014, 779 Adult and Senior Facility applications for licensure are pending. Applications can take from six months, up to a year or more, to process. The budget proposes centralizing applications for Adult and Senior Care facilities, which is expected to increase inspections of licensed facilities to at least once every two years.

- **Establish a statewide Quality Assurance Unit.** The current information technology system does not allow for documents and reports to track information statewide, including complaints, actions, or performance. It also does not provide aggregate data to review and identify patterns. The budget proposes to establish a Quality Assurance Unit to identify immediate health and safety risks to clients, develop a statewide quality assurance review model, coordinate licensing case file responses to Public Record Act requests, and identify training needs for quality assurance review. The unit will also assist DSS in ensuring that regional offices have the support necessary to ensure that licensed care facilities are monitored, and that systemic noncompliance is detected and addressed at the appropriate organizational level.

- **Establish an Emergency Client/Resident Contingency Account.** The accounts, which would be within the Technical Assistance Fund, would be used at the discretion of the Director of DSS for the care and relocation of clients and residents, when a facility's license is revoked or temporarily suspended. The money in the account must cover costs, such as transportation expenses, expenses incurred in notifying family members, costs associated with providing continuous care and supervision.

The budget provides for an accompanying trailer bill that proposes language to implement the provisions discussed above.

LAO Comments. The LAO makes the following comments and recommendations:

- Changing needs of clients at RCFEs. Due to the changing medical conditions of RCFE residents, and the changing profiles of those applying for licenses to operate RCFEs, the LAO finds merit in the department's proposal to have a public health nurse and the establishment of a mental health populations unit and corporate accountability unit for CCL.

- Increased application and annual licensing fees, and civil penalties. The LAO finds it reasonable to increase the maximum penalty for serious violations. However, citing uncertainty surrounding the appropriate level of civil penalties, and the variations in these levels across states, LAO suggests that the Legislature consider a more gradual ramp up of civil penalty levels to allow evaluation of the appropriateness of the penalties in a year and whether additional increases should be implemented. In addition, the LAO recommends the Legislature require DSS to report annually with information to help evaluate the appropriateness of penalties.

- Centralize specified activities. The LAO finds the proposal in centralizing application processing and complaint intake could increase state oversight and efficiency. By providing a statewide complaint hotline, the public would have one number to call for any complaint and the state could improve consistency in complaint intake and response. Further, LAO notes that by creating a centralized application processing unit, CCL could ensure that a single licensee with multiple applications would get one reviewer and one set of instructions.

- Temporary manager and receivership. The LAO notes that the new enforcement tool makes sense in concept, but recommends the Legislature to ask DSS the differences between the CCL proposal and how DPH currently administers its temporary manager and receivership process for Skilled Nursing Facilities (SNFs).

STAKEHOLDER REACTION AND STAFF COMMENT

The Subcommittee is in receipt of letters from stakeholders, including the California Assisted Living Association (CALA) and California Advocates for Nursing Home Reform (CANHR). The feedback from advocates to the Governor's proposal is fairly mixed, with support for some components of the proposal, concerns about others, namely fees, questions asking for more information about some of the new licensing elements, but universally with a call for more frequent inspections. Staff concurs with this central question about a large-scale comprehensive quality enhancement initiative in CCL that does not directly address inspection frequency, or a path toward a phased-in approach that would improve frequency of visits, particularly in light of recent media reports on regional issues where residents' health and safety was placed at risk.

PANEL

- Pat Leary, Chief Deputy Director, California Department of Social Services

    - Please briefly summarize the proposal, including the need for the requested positions, the proposed civil penalty structure, the temporary manager and receivership process, and how inspectors can identify widespread problems or patterns across a single licensee.

    - How does the proposal address inspection frequency?

    - Please briefly describe how the KIT will be used within the proposal. Do facilities that have demonstrated success in meeting the key indicators assessment over time continue to receive a KIT assessment or a full assessment?

    - Please summarize the stakeholder process, stakeholder feedback at a high level, and the Department's reaction to this.

- Legislative Analyst's Office
- Department of Finance
- Public Comment

Staff Recommendation:

Staff recommendeds holding this issue open to allow for continuing discussions with the administration on how needs in CCL can be addressed.

ISSUE 3: GOVERNOR'S PROPOSAL ON LICENSING FOR FAMILY CHILD CARE HOMES IN SACRAMENTO COUNTY

On September 30, 2013, Sacramento County terminated its contract with DSS and returned the licensing of 1,752 FCCHs to CCL. The Governor's budget requests to redirect funding, from local assistance to state operations, to support 10.5 permanent positions that would manage the workload, specifically:

- Seven licensing program analysts;
- One licensing program manager;
- Two office assistants; and,
- 0.5 associate governmental program analyst.

The CCL Division in DSS oversees the licensure or certification of approximately 66,000 licensed community care facilities, including FCCHs. Staff in CCL regional offices directly license and monitor FCCHs in accordance with mandated minimum licensing standards and Title 22 regulations. For fiscal year 2014-15, CCL projects that it will license and monitor about 29,550 FCCHs, which serve around 297,082 children.

State law authorizes CCL to contract with counties to license FCCHs. Currently, Inyo and Del Norte Counties license FCCHs. If a county chooses to no longer perform the licensing, approval, or consultation responsibilities, the workload is returned to CCL. Last September, Sacramento County terminated its contact with DSS, and returned the licensing of 1,752 FCCHs to CCL. For current budget year, CCL redirected funding from local assistance to state operations to hire temporary staff to handle the workload.

PANEL

- Pat Leary, Chief Deputy Director, California Department of Social Services
  - Please briefly summarize the need for the requested positions.

- Legislative Analyst's Office

- Department of Finance

- Public Comment

Staff Recommendation:

While no concerns have been raised with this proposal, staff recommendeds holding this issue open until actions are taken on CCL more largely.

ISSUE 4: GOVERNOR'S PROPOSAL ON HOME CARE SERVICES CONSUMER

The budget requests $1,472,000 in General Fund for vendor contract funding ($251,000) and ten positions (seven permanent; two one-year limited-term; and, one two-year limited-term) to establish, and maintain, the operational and administrative components of the Home Care Services Consumer Protection Act (AB 1217, Lowenthal). The positions and related divisions include:

- Community Care Licensing: one staff services manager; two associate governmental program analysts; and, one office technician.

- Legal Division: one attorney.

- Information Systems Division: two staff programmer analysts; two one-year limited term staff programmer analyst; and, one senior information systems analyst.

Initial funding to implement the program will be provided through a General Fund loan, which will be repaid from fees paid by home care organizations and home care aides once the program is operational. The department also intends to submit a FY 2015-16 BCP for resources to ensure that licensing and registration functions are performed.

The Administration also includes a trailer bill, which contains the following provisions:

1. Deletes language that exempts specified individuals from registration requirements for home care aides, and expands the list of individuals and entities that are not considered home care aides or home care organizations.
2. Requires the chief executive officer, or another person serving in a similar capacity, in a home care organization, to consent to a background examination.
3. Prohibits the department from issuing a provisional license to any corporate home care organization applicant that has a member of the board of directors, executive director, or officer who is not eligible for licensure.
4. Revises license renewal requirements, including insurance and workers' compensation policies.
5. Revises a home care organization's licensure requirements to require proof of an employee dishonesty bond.
6. Authorizes the department to cease review on an application if it is determined that the home care applicant was previously issued a license and that license was revoked.
7. Requires home care organization licensees to report suspected or known dependent adult, elder, or child abuse to the department. Upon receipt of these reports, the department must cross-report the suspected or known abuse to local law enforcement and Adult Protective Services or Child Protected Services.

8. Authorizes home care organization applicants and home care aide applicants, who submit applications prior to January 1, 2016, to provide home care services without meeting the tuberculosis examination requirements, provided that those requirements are met by July 1, 2016.

Background. In response to concerns that home care organizations (HCOs) are not required to be licensed, and that home care aides are not required to meet minimum qualifications or screenings, AB 1217 (Lowenthal, Chapter 790, Statutes of 2013), enacted the Home Care Services Consumer Protection Act, effective January 1, 2016.

The Act requires DSS to:

- Develop licensing requirements to regulate organizations that hire aides;
- Obligate licensee and aide applicants of the HCOs to submit to state and federal criminal background checks; and,
- Maintain a public Web-based registry, which will list aides who have passed a criminal background check and which home care organization(s) an aide is affiliated, if applicable.

Aides, who are employed by a HCO as of January 1, 2016, will have until July 1, 2016, to complete their background check. The department estimates that around 70,000 background checks need to be conducted. AB 1217 also provides that DSS has no responsibility for the oversight of home care aides. Independent home care aides, who are not employed by a licensed home care organization, are not subject to regulatory oversight, but may voluntarily apply to be listed on the registry.

Finally, AB 1217 required that the Administration of the Act be fully supported by fees paid by the HCO and home care aides.

PANEL

- Pat Leary, Chief Deputy Director, California Department of Social Services
  - Please briefly summarize the need for the requested positions and this proposal.
  - How has the Administration involved stakeholders in the development of this proposal?
- Legislative Analyst's Office
- Department of Finance
- Public Comment

Staff Recommendation:

Staff recommends holding this issue open.

ISSUE 5: STATE HEARINGS DIVISION – BUDGET/PROGRAM REVIEW AND GOVERNOR'S PROPOSAL

The State provides due process to recipients of public benefits through state hearings conducted by the DSS State Hearings Division (SHD). The SHD is required to provide full, impartial, and timely state hearings to recipients and applicants of various public assistance programs who have disputes with the state or their local county welfare departments. The primary programs involved include CalWORKs, CalFresh, Medi-Cal, and IHSS. Federal mandates require that all requests for hearings be adjudicated within 90 days of a recipient's request, with 60 days required for CalFresh. Two court orders, *King v. McMahon* and *Ball v. Swoap*, impose financial penalties on DSS for failure to adjudicate hearing decisions within the court mandated time frames on all decisions.

GOVERNOR'S PROPOSAL FOR ACA CASELOAD AND NEW AUTOMATION SYSTEM

Governor's budget requests a total of 63 limited term position for the Affordable Care Act (ACA) caseload growth and $9.8 million ($1.3 million GF) in funding. Also included in this request are 11 positions to support the development of a new Appeals Case Management System, at a cost of $1.3 million ($.5 million GF) in funding to replace the failing mainframe database, developed in the 1970s, and the 21 subsystems that make up the current automated State Hearings System (SHS).

New workload coming to the SHS from the ACA is projected to increase the overall fair hearings workload for DSS by 53 percent beginning in October 2013, which does not include the preexisting 26 caseload increase from prior years that the State Hearings Division (SHD) had been experiencing. DSS is requesting resources to address the new workload in Medi-Cal and Covered California appeals cases. The ACA mandates implementation for health programs by January 2014. All health programs, either government-funded/subsidized or private, are required to be available for selection and purchase through federal or State Health Benefit Exchanges, in California called Covered California. Covered California has designated DSS to adjudicate all appeal requests. The Budget Change Proposal (BCP) for this includes additional detail on the methodology that led to the specific level of resources being requested.

The current automation system, SHS, located at DSS headquarters in Sacramento, is used to track, schedule, and manage appeal requests received from all 58 counties. DSS states that the current system does not meet existing business requirements and will not be able to handle the expected increased volume that will be the result of ACA implementation. DSS states that these factors have contributed to a 417 percent increase in GF-imposed civil penalties over the prior five-year period for failing to timely complete all state hearing decisions. Federal instruction and enhanced federal financial participation (FFP) allow for this kind of development of functionalities that provide information linkages between health and social services programs, allowing a unique window for leveraging federal funds to make this investment at minimal state cost.

STAFF COMMENT

Subcommittee staff raised the question for DSS about the status of the "general jurisdiction" caseload in SHD and how it fares alongside this new proposal. This general jurisdiction includes state programs such as CalWORKs, CalFresh, IHSS, and Medi-Cal. In May Revision 2013, the administration requested and the Legislature ultimately approved additional resources for SHD of 22 positions related to a then-expected workload increase associated with the IHSS changes that occurred in 2013-14. SHD has responded to these questions and shared information with legislative staff to explain that these resources have aided tremendously in addressing the backlog that had been a consistent problem with SHD, and the resources continue to portent positive outcomes into the future, with a projected step down of the daily penalty rate. SHD has been asked to present on these improvements in the general jurisdiction caseload as part of its presentation at the hearing.

PANEL

- Will Lightbourne, Director, and Manuel Romero, Deputy Director, State Hearings Division, California Department of Social Services
- Legislative Analyst's Office
- Department of Finance
- Public Comment

Staff Recommendation:

Staff recommends holding this issue open and that the Subcommittee request that information it requested last year on DSS' plans for horizontal integration between health and social services programs be presented at the Subcommittee's next hearing on April 9th.