Senior Community Learning

Education, Integrity, with Service

RCFE Regulation Package

Title 22, Division 6, Chapter 8

Health and Safety Code, Division 2, Chapter 3.2.

Manual of Policies and Procedures

COMMUNITY CARE LICENSING DIVISION

RESIDENTIAL CARE FACILITIES FOR THE ELDERLY (RCFE)

Title 22
Division 6
Chapter 8

STATE OF CALIFORNIA

HEALTH AND HUMAN SERVICES AGENCY

DEPARTMENT OF SOCIAL SERVICES

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This Users' Manual is issued as an operational tool.

This Manual contains:

a) Regulations adopted by the Department of Social Services (DSS) for the governance of its agents, licensees, and/or beneficiaries.

b) Regulations adopted by other State Departments affecting DSS programs.

c) Statutes from appropriate Codes which govern DSS programs.

d) Court decisions; and

e) Operational standards by which DSS staff will evaluate performance within DSS programs.

Regulations of DSS are printed in gothic type as is this sentence.

Handbook material, which includes reprinted statutory material, other department's regulations and examples, is separated from the regulations by double lines and the phrases "**HANDBOOK BEGINS HERE**", "**HANDBOOK CONTINUES**", and "**HANDBOOK ENDS HERE**" in bold print. Please note that both other departments' regulations and statutes are mandatory, not optional.

Questions relative to this Users' Manual should be directed to your usual program policy office.

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Article 1. Definitions and Forms

87100 GENERAL

The provisions of Chapter 1, Division 6, shall not apply to the provisions of Chapter 8, Residential Care Facilities for the Elderly (RCFE).

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Section 1569.2, Health and Safety Code.

87101 DEFINITIONS

(a) (1) "Administrator" means the individual designated by the licensee to act in behalf of the licensee in the overall management of the facility. The licensee, if an individual, and the administrator may be one and the same person.

(2) "Admission Agreement" includes all documents that a resident or resident's representative must sign at the time of, or as a condition of, admission.

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Health and Safety Code section 1569.880 provides:

(a) For purposes of this section, an "admission agreement" includes all documents that a resident or his or her representative must sign at the time of, or as a condition of, admission to a residential care facility for the elderly licensed under this chapter.

(b) The admission agreement shall not include any written attachment containing any provision that is prohibited from being included in the admission agreement.

HANDBOOK ENDS HERE

(3) "Adult" means a person who is eighteen (18) years of age or older.

(4) "Adult protective services agency" means a county welfare department, as defined in Welfare and Institutions Code section 15610.13.

HANDBOOK BEGINS HERE

Welfare and Institutions Code section 15610.13 provides:

"'Adult protective services agency' means a county welfare department, except persons who do not work directly with elders or dependent adults as part of their official duties, including members of support staff and maintenance staff."

HANDBOOK ENDS HERE

87101 DEFINITIONS (Continued)

(5) "Advance Health Care Directive" means a written instruction that relates to the provision of health care when the individual is incapacitated. Advance directives include, but are not limited to, a Durable Power of Attorney for Health Care, an Individual Health Care Instruction, a Request to Forego Resuscitative Measures, or a Do Not Resuscitate Form. In an advance directive, a person states choices for medical treatment and/or designates who should make treatment choices if the person creating the advance directive should lose decision-making capacity.

(6) "Allowable Health Condition" means any health condition that the licensee is allowed to care for either in accordance with a specific regulation, or with an exception approved by the licensing agency. This includes restricted health conditions as specified in Section 87612, Restricted Health Conditions.

(7) "Ambulatory Person" means a person who is capable of demonstrating the mental competence and physical ability to leave a building without assistance of any other person or without the use of any mechanical aid in case of an emergency.

(8) "Automated External Defibrillator" (AED) means a light-weight, portable device used to administer an electric shock through the chest wall to the heart. Built-in computers assess the patient's heart rhythm, determine whether defibrillation (electrical shock) is needed and then administer the shock. Audible and/or visual prompts guide the user through the process.

(9) "Applicant" means any individual, firm, partnership, association, corporation, county, city, public agency or other government entity that has made application for a residential care facility for the elderly license, administrator certificate, or special permit.

(10) "Appropriately Skilled Professional" means an individual that has training and is licensed to perform the necessary medical procedures prescribed by a physician. This includes but is not limited to the following: Registered Nurse (RN), Licensed Vocational Nurse (LVN), Physical Therapist (PT), Occupational Therapist (OT) and Respiratory Therapist (RT). These professionals may include, but are not limited to, those persons employed by a home health agency, the resident, or facilities and who are currently licensed in California.`

(b) (1) "Basic Rate" means the SSI/SSP established rate, which does not include that amount allocated for the recipient's personal and incidental needs.

(2) "Basic Services," as defined in Health and Safety Code section 1569.312, means those services required to be provided by the facility in order to obtain and maintain a license and include, in such combinations as may meet the needs of the residents and be applicable to the type of facility to be operated, the following: safe and healthful living accommodations; personal assistance and care; observation and supervision; planned activities; food service; and arrangements for obtaining incidental medical and dental care.

87101 DEFINITIONS (Continued)

HANDBOOK BEGINS HERE

Health and Safety Code section 1569.312 provides:

Every facility required to be licensed under this chapter shall provide at least the following basic services:

(a) Care and supervision as defined in Section 1569.2.

(b) Assistance with instrumental activities of daily living in the combinations which meet the needs of residents.

(c) Helping residents gain access to appropriate supportive services, as defined, in the community.

(d) Being aware of the resident's general whereabouts, although the resident may travel independently in the community.

(e) Monitoring the activities of the residents while they are under the supervision of the facility to ensure their general health, safety, and well-being.

(f) Encouraging the residents to maintain and develop their maximum functional ability through participation in planned activities.

HANDBOOK ENDS HERE

(3) "Behavioral expression" means behavior or behaviors displayed by a resident that may result in harm to self or others including, but not limited to, unsafe wandering as defined in subsection (u), or elopement as defined in subsection (e), expressions of frustration, disorientation, hallucinations, or lacking in hazard awareness or impulse control. Behavioral expression may be due to boredom, fear, overstimulation, perceived threat, fatigue, physical discomfort, pain, "Major Neurocognitive Disorder (major NCD)" as defined in subsection (m), or other causes including, but not limited to, medication interactions and/or illnesses such as urinary tract infections.

(c) (1) "California Clearance" means an individual has no felony or misdemeanor convictions reported by the California Department of Justice. However, the individual may have been arrested with no criminal conviction, convicted of a minor traffic offense or adjudicated as a juvenile.

(2) "Capacity" means that maximum number of persons authorized to be provided services at any one time in any licensed facility.

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87101 DEFINITIONS (Continued)

(3) "Care and Supervision" means those activities which if provided shall require the facility to be licensed. It involves assistance as needed with activities of daily living and the assumption of varying degrees of responsibility for the safety and well-being of residents. "Care and Supervision" shall include, but not be limited to, any one or more of the following activities provided by a person or facility to meet the needs of the residents:

(A) Assistance in dressing, grooming, bathing and other personal hygiene;

(B) Assistance with taking medication, as specified in Section 87465, Incidental Medical and Dental Care Services;

(C) Central storing and distribution of medications, as specified in Section 87465, Incidental Medical and Dental Care Services;

(D) Arrangement of and assistance with medical and dental care. This may include transportation, as specified in Section 87465, Incidental Medical and Dental Care Services;

(E) Maintenance of house rules for the protection of residents;

(F) Supervision of resident schedules and activities;

(G) Maintenance and supervision of resident monies or property;

(H) Monitoring food intake or special diets.

(4) "Certificate holder" means a person who has a current administrator's certificate issued by the Department regardless of whether the person is employed as an administrator in a residential care facility for the elderly.

(5) "Certified administrator" means an administrator who has been issued a residential care facility for the elderly administrator certificate by the Department and whose certificate is current.

(6) "Classroom Hour" means fifty (50) to sixty (60) minutes of classroom instruction within a 60-minute period. No credit is given for meal breaks.

(7) "Classroom setting" means a setting, conducive to learning and free from distractions, for which the primary purpose is education, instruction, training, or conference. Participants must be able to simultaneously interact with each other as well as with the instructor.

(8) "Close friend" means a person who is attached to another by feelings of personal regard as indicated by both parties involved.

87101 DEFINITIONS (Continued)

(9) "Co-locate" means that a vendor applicant is approved for more than one program type, i.e., ARF, RCFE, GH, and has received approval to teach specific continuing education courses at the same time and at the same location. Co-location is allowed for Continuing Education Training Program vendors only.

(10) "Community Care Facility" means any facility, place or building providing nonmedical care and supervision, as defined in Section 87101(c)(3).

(11) "Complete request" means the vendor applicant has submitted, and the Department has received, all required information and materials necessary to approve or deny the request for certification program and/or course approval.

(12) "Conservator" means a person appointed by the Superior Court pursuant to Probate Code section 1800 et. seq. or Welfare and Institutions Code section 5350, to care for the person, or estate, or person and estate, of an adult.

(13) "Consultant" means a person professionally qualified by training and experience to provide expert information on a particular subject.

(14) "Contagious disease" means an illness capable of being transmitted from one human to another human via direct or indirect contact.

(15) "Continuing Care Contract" is defined in Health and Safety Code section 1771(c)(8).

HANDBOOK BEGINS HERE

Health and Safety Code section 1771(c)(8) provides:

"'Continuing care contract' means a contract that includes a continuing care promise made, in exchange for an entrance fee, the payment of periodic charges, or both types of payments. A continuing care contract may consist of one agreement or a series of agreements and other writings incorporated by reference."

HANDBOOK ENDS HERE

(16) "Continuing Education Training Program Vendor" means a vendor approved by the Department to provide continuing education training courses to residential care facility for the elderly administrators and certificate holders to qualify them for renewal of their residential care facility for the elderly administrator certificate.

87101 DEFINITIONS (Continued)

(17) "Control of Property" means the right to enter, occupy, and maintain the operation of the facility property within regulatory requirements. Evidence of control of property shall include, but is not limited to, the following:

(A) A Grant Deed showing ownership; or

(B) The Lease Agreement or Rental Agreement; or

(C) A court order or similar document which shows the authority to control the property pending outcome of probate proceeding or estate settlement.

(18) "Conviction" means:

(A) A criminal conviction in California; or

(B) Any criminal conviction of another state, federal, military or other jurisdiction, which if committed or attempted in California, would have been punishable as a crime in California.

(19) "Course" means either, (1) a quarter- or semester-long structured sequence of classroom instruction covering a specific subject, or (2) a one-time seminar, workshop, or lecture of varying duration.

(20) "Criminal Record Clearance" means an individual has a California clearance and a FBI clearance.

(d) (1) "Day" means calendar day unless otherwise specified.

(2) "Deficiency" means any failure to comply with any provision of the Residential Care Facilities Act for the Elderly and regulations adopted by the Department pursuant to the Act.

(3) "Delayed Egress Device" means a special egress-control device of the time delay type as specified in Health and Safety Code section 1569.699(a).

87101 DEFINITIONS (Continued)

HANDBOOK BEGINS HERE

Health and Safety Code section 1569.699(a) provides:

"When approved by the person responsible for enforcement as described in Section 13146, exit doors in facilities classified as Group R, Division 2 facilities under the California Building Standards Code, licensed as residential care facilities for the elderly, and housing clients with Alzheimer's disease or dementia, may be equipped with approved listed special egress-control devices of the time-delay type, provided the building is protected throughout by an approved automatic sprinkler system and an approved automatic smoke-detection system. The devices shall conform to all of the following requirements:

(1) Automatic deactivation of the egress-control device upon activation of either the sprinkler system or the detection system.

(2) Automatic deactivation of the egress-control device upon loss of electrical power to any one of the following: The egress-control device; the smoke-detection system; exit illumination as required by Section 1012 of the California Building Code.

(3) Be capable of being deactivated by a signal from a switch located in an approved location.

(4) Initiate an irreversible process that will deactivate the egress-control device whenever a manual force of not more than 15 pounds (66.72N) is applied for two seconds to the panic bar or other door-latching hardware. The egress-control device shall deactivate within an approved time period not to exceed a total of 15 seconds, except that the person responsible for enforcement as described in Section 13146 may approve a delay not to exceed 30 seconds in residential care facilities for the elderly serving patients with Alzheimer's disease. The time delay established for each egress-control device shall not be field adjustable.

(5) Actuation of the panic bar or other door-latching hardware shall activate an audible signal at the door.

(6) The unlatching shall not require more than one operation.

HANDBOOK CONTINUES

87101 DEFINITIONS (Continued)

HANDBOOK CONTINUES

(7) A sign shall be provided on the door located above and within 12 inches (305mm) of the panic bar or other door-latching hardware reading:

KEEP PUSHING, THIS DOOR WILL OPEN IN ____ SECONDS, ALARM WILL SOUND.

Sign letters shall be at least one inch (25mm) in height and shall have a stroke of not less than 1/8 inch (3.3mm).

(8) Regardless of the means of deactivation, relocking of the egress-control device shall be by manual means only at the door."

HANDBOOK ENDS HERE

(4) "Dementia" means an overall term for diseases and conditions characterized by a progressive decline in memory, language, problem-solving, and other thinking skills that are severe enough to interfere with a person's ability to perform activities of daily life. Dementia is a general term referring to "Major Neurocognitive Disorder (major NCD)" as defined in subsection (m).

(5) "Department" is defined in Health and Safety Code section 1569.2(c).

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Health and Safety Code section 1569.2(c) provides:

"'Department' means the State Department of Social Services."

HANDBOOK ENDS HERE

(6) "Dietitian" means a person who is eligible for registration by the American Dietetic Association.

(7) "Direct care staff" means the licensee, or those individuals employed by the licensee, who provide direct care to the residents, including, but not limited to, assistance with activities of daily living.

(8) "Director" is defined in Health and Safety Code section 1569.2(d).

87101 DEFINITIONS (Continued)

HANDBOOK BEGINS HERE

Health and Safety Code section 1569.2(d) provides:

"'Director' means the Director of the State Department of Social Services."

HANDBOOK ENDS HERE

(9) "Do-Not-Resuscitate (DNR) Form" means the pre-hospital do-not-resuscitate forms developed by the California Emergency Medical Services Authority and by other local emergency medical services agencies. These forms, when properly completed by a resident or (in certain instances) a resident's Health Care Surrogate Decision Maker, and by a physician, alert pre-hospital emergency medical services personnel to the resident's wish to forego resuscitative measures in the event of the resident's cardiac or respiratory arrest.

(10) "Documentation" means written supportive information including but not limited to the Licensing Report (Form LIC 809).

(e) (1) "Egress Alert Device" means a wrist band or other device which may be worn by a resident or carried on a resident's person, which triggers a visual or auditory alarm when the resident leaves the facility building or grounds.

(2) "Elderly Person" means, for purposes of admission into a residential care facility for the elderly, a person who is sixty (60) years of age or older.

(3) "Elopement" occurs when a resident who is at risk of harm due to their cognitive condition leaves the facility unsupervised, or while in the licensee's care, leaves another safe location unsupervised.

(4) "Emergency Approval to Operate" (EAO) means a temporary approval to operate a facility for no more than 60 days pending the issuance or denial of a license by the licensing agency.

(5) "Evaluator" means any person who is a duly authorized officer, employee or agent of the Department including any officer, employee or agent of a county or other public agency authorized by contract to license community care facilities.

(6) "Evidence of Licensee's Death" shall include, but is not limited to, a copy of the death certificate, obituary notice, certification of death from the decedent's mortuary, or a letter from the attending physician or coroner's office verifying the death of the licensee.

(7) "Exception" means a variance to a specific regulation based on the unique needs or circumstances of a specific resident or staff person. Requests for exceptions are made to the licensing agency by an applicant or licensee. They may be granted for a particular facility, resident or staff person, but cannot be transferred or applied to other individuals.

87101 DEFINITIONS (Continued)

(8) "Existing Facility" means any facility operating under a valid license on the date of application for a new license.

(f) (1) "Facility Hospice Care Waiver" means a waiver from the limitation on retention of residents who require more care and supervision than other residents and residents who are bedridden other than for a temporary illness. The Hospice Care Waiver granted by the Department will permit the retention in a facility of a designated maximum number of terminally ill residents who are receiving hospice services from a hospice agency. The Facility Hospice Care Waiver will apply only to those residents who are receiving hospice care in compliance with a hospice care plan meeting the requirements of Section 87633, Hospice Care for Terminally Ill Residents.

(2) "Federal Bureau of Investigation (FBI) Clearance" means an individual has no felony or misdemeanor convictions reported by the FBI. The individual may also have been arrested with no criminal conviction, convicted of a minor traffic offense or adjudicated as a juvenile.

(g) (1) "Gender Expression" means a person's appearance and behavior, whether or not these are stereotypically associated with the person's sex assigned at birth.

(2) "Gender Identity" means a person's stated identification with a sex, regardless of whether the stated sex is consistent with the person's physical appearance, surgical history, genitalia, legal sex, sex assigned at birth, or name and sex, as they appear in medical records, and regardless of any statement by any other person, including a family member, conservator, or legal representative, that is contrary. A person who lacks the ability to communicate gender identity retains the gender identity most recently expressed by that person.

(3) "Gender-Nonconforming" means a person whose gender expression does not conform to stereotypical expectations of how a man or woman should appear or behave.

(4) "Guardian" means a person appointed by the Superior Court pursuant to Probate Code section 1500 et seq. to care for the person, or person and estate, of a child.

(h) (1) "Healing wounds" include cuts, stage one and two pressure injuries and incisions with the affected area returning to its normal state. They may involve breaking or laceration of the skin and usually damage to the underlying tissues.

(2) "Health Care Provider" means those persons described in Probate Code section 4621: "an individual licensed, certified, or otherwise authorized or permitted by the law of this state to provide health care in the ordinary course of business or practice of a profession."

(3) "Health Care Surrogate Decision Maker" means an individual who participates in health care decision making on behalf of an incapacitated resident. Health care surrogate decision maker may be formally appointed (e.g., by the resident in a Durable Power of Attorney for Health Care or by a court in a conservatorship proceeding) or, in the absence of a formal appointment, may be recognized by virtue of a relationship with the resident (e.g., the resident's next of kin). The licensee or any staff member of the facility shall not be appointed health care surrogate decision maker.

87101 DEFINITIONS (Continued)

(4) "Health Condition Relocation Order" means written notice by the Department to a licensee requiring the relocation of a resident from a residential care facility for the elderly because the resident has a health condition which cannot be cared for within the limits of the license, requires inpatient care in a health facility or has a prohibited health condition as specified in Section 87615, Prohibited Health Conditions.

(5) "Home Economist" means a person who holds a baccalaureate or higher degree in home economics and who specialized in either food and nutrition or dietetics.

(6) "Hospice or Hospice Agency" means an entity which provides hospice services to terminally ill persons, is Medicare certified for hospice, and holds either a Hospice license or a Home Health Agency license from the California Department of Public Health. Any organizations, appropriately skilled professionals, or other professional persons or entities that are subcontracted by the hospice or hospice agency for the provision of specified hospice services to the resident are included within the definition. The hospice agency providing services in an RCFE shall not subcontract with the licensee or any facility staff for the provision of services.

(7) "Hospice Care Plan" means the hospice agency's written plan of care for a terminally ill resident. The hospice shall retain overall responsibility for the development and maintenance of the plan and quality of hospice services delivered.

(i) (1) "Immediate Need" means a situation where prohibiting the operation of the facility would be detrimental to a resident's physical health, mental health, safety, or welfare. Examples of immediate need include but are not limited to:

(A) A change in facility location when residents are in need of services from the same operator at the new location;

(B) A change of facility ownership when residents are in need of services from the new operator.

(2) "Infectious" means something (e.g. material, agent, person) that is capable of transmitting infection: This includes something which contains an organism – such as bacteria, viruses, fungi or parasites, which can cause disorder or disease. Some infectious diseases can be passed from person to person.

(3) "Initial Certification Training Program Vendor" means a vendor approved by the Department to provide the initial eighty (80) hour certification training program to persons who do not possess a valid residential care facility for the elderly administrator certificate.

(4) "Instruction" means to furnish an individual with knowledge or to teach, give orders, or direction of a process or procedure.

87101 DEFINITIONS (Continued)

(5) "Interdisciplinary Team" means a team that shall assist the Department in evaluating the need for relocating a resident of a residential care facility for the elderly when the resident has requested a review of the Department's health-condition relocation order. This team shall consist of the Department's nurse consultant and a social worker, designated by the Department, with experience in the needs of the elderly. Persons selected for an interdisciplinary team review shall not have been involved in the initial decision to issue a relocation order for the resident in question.

(j) (Reserved)

(k) (Reserved)

(l) (1) "LGBT" means lesbian, gay, bisexual, or transgender.

(2) "License" means a basic permit to operate a residential care facility for the elderly.

HANDBOOK BEGINS HERE

Health and Safety Code section 1569.2(g) reads:

"License" means a basic permit to operate a residential care facility for the elderly.

HANDBOOK ENDS HERE

(3) "Licensed Professional" means a person who is licensed in California to provide medical care or therapy. This includes physicians and surgeons, physician assistants, nurse practitioners, registered nurses, licensed vocational nurses, psychiatric technicians, physical therapists, occupational therapists and respiratory therapists, who are operating within his/her scope of practice.

(4) "Licensee" means the individual, firm, partnership, corporation, association or county having the authority and responsibility for the operation of a licensed facility.

(5) "Licensing Agency" means a state, county or other public agency authorized by the Department to assume specified licensing, approval or consultation responsibilities pursuant to Health and Safety Code section 1569.13.

(m) (1) "Major Neurocognitive Disorder" (major NCD) is a clinical term that describes substantially decreased cognitive or mental function due to a medical disease other than a psychiatric illness. Major NCD includes Alzheimer's disease and related disorders diagnosed by a licensed medical professional acting within their scope of practice. Related disorders considered to be major NCDs include, but are not limited to, vascular dementia, Lewy body dementia, Parkinson's disease, and frontotemporal dementia. Major NCDs cause impairment that is sufficient enough to interfere with independence in daily activities and may result in changes that include, but are not limited to, increased tendency to wander and decreased hazard awareness and ability to communicate.

(2) "Mandated Reporter" is defined in Welfare and Institutions Code Section 15630(a).

87101 DEFINITIONS (Continued)

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Welfare and Institutions Code Section 15630(a) provides:

> Any person who has assumed full or intermittent responsibility for the care or custody of an elder or dependent adult, whether or not he or she receives compensation, including administrators, supervisors, and any licensed staff of a public or private facility that provides care or services for elder or dependent adults, or any elder or dependent adult care custodian, health practitioner, clergy member, or employee of a county adult protective services agency or a local law enforcement agency, is a mandated reporter.

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(3) "Medical Professional" means an individual who is licensed or certified in California to perform the necessary medical procedures within his/her scope of practice. This includes, but is not limited to, Medical Doctor (MD), Registered Nurse (RN) and Licensed Vocational Nurse (LVN).

(4) "Mild cognitive impairment" (MCI) refers to people whose cognitive abilities are in a "conditional state" between normal aging and dementia. Normal age-related memory changes can include forgetting a person's name or the location of an object, however, individuals with MCI have difficulty with short-term memory loss. MCI is a state in which at least one cognitive function, usually short-term memory, is impaired to an extent that is greater than would be anticipated in the normal aging process. MCI is characterized by short-term memory problems, but no other symptoms of dementia (e.g., problems with language, judgment, changes in personality or behavior) that affect a person's daily functioning. Individuals with MCI may experience some difficulty with intellectually demanding activities, but lack the degree of cognitive and functional impairment required to meet diagnostic criteria for dementia.

(n) (1) "New Facility" means any facility applying for an initial license whether newly constructed or previously existing for some other purpose.

(2) "Nonambulatory Person" means a person who is unable to leave a building unassisted under emergency conditions. It includes, but is not limited to, those persons who depend upon mechanical aids such as crutches, walkers, and wheelchairs. It also includes persons who are unable, or likely to be unable, to respond physically or mentally to a sensory signal approved by the State Fire Marshal, or an oral instruction relating to fire or other dangers and, if unassisted, to take appropriate action relating to such danger.

87101 DEFINITIONS (Continued)

(3) "Non-Compliance Conference" means a meeting initiated by the Department that takes place between the licensing agency and the licensee to afford the licensee an opportunity to correct licensing violations other than those that pose an immediate danger to residents and that may result in a corrective plan of action. Its purpose is to review the existing deficiencies and to impress upon the licensee the seriousness of the situation prior to the agency requesting administrative action to revoke the license. The Department may initiate administrative action without a non-compliance conference.

(4) "Nonrecurring Lump-Sum Assessment" is defined in Health and Safety Code Section 1569.655(b).

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Health and Safety Code section 1569.655(b) provides in relevant part:

"…For purposes of this subdivision, 'nonrecurring lump-sum assessments' mean rate increases due to unavoidable and unexpected costs that financially obligate the licensee..."

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(5) "Nutritionist" means a person holding a master's degree in food and nutrition, dietetics, or public health nutrition, or who is employed by a county health department in the latter capacity.

(o) (Reserved)

(p) (1) "Physician" means a person licensed as a physician and surgeon by the California Board of Medical Examiners or by the California Board of Osteopathic Examiners.

(2) "Placement Agency" as defined in Health and Safety Code section 1569.47(a), means any county welfare department, county social services department, county mental health department, county public guardian, general acute care hospital discharge planner or coordinator, state-funded program or private agency providing placement or referral services, and regional center for persons with developmental disabilities which is engaged in finding homes or other places for the placement of elderly persons for temporary or permanent care.

(3) "Preadmission Fee" is defined in Health and Safety Code section 1569.651(e) as an application fee, processing fee, admission fee, entrance fee, community fee or other fee, however designated, that is requested or accepted by a licensee of a residential care facility for the elderly prior to admission.

87101 DEFINITIONS (Continued)

(4) "Pressure Injury" means localized damage to the skin and/or soft tissue under the skin that is usually over a bony part of the body or related to a medical or other device. This damage can appear as intact skin or an open ulcer and may be painful. It occurs as a result of intense and/or prolonged pressure on the affected part of the body or pressure combined with shear (an action or stress that causes internal parts of the body to become deformed). Based on appearance and severity, the damage to tissue is a Stage 1, 2, 3, or 4 pressure injury.

(5) "Privately Operated Facility" means a residential care facility for the elderly that is licensed to an individual, firm, partnership, association, or corporation.

(6) "PRN Medication" (pro re nata) means any nonprescription or prescription medication which is to be taken as needed.

(7) "Provision" or "Provide." Whenever any regulation specifies that provision be made for or that there be provided any service, personnel or other requirement, it means that if the resident is not capable of doing so himself, the licensee shall do so directly or present evidence satisfactory to the licensing agency of the particular arrangement by which another provider in the community will do so.

(8) "Provisional License" means a temporary, nonrenewable license, issued for a period not to exceed twelve months which is issued in accordance with the criteria specified in Section 87162, Provisional License.

(9) "Publicly Operated Facility" means a residential care facility for the elderly that is licensed to a city, county, or other government entity.

(q) (Reserved)

87101 DEFINITIONS (Continued)

(r) (1) "Rehabilitation" means the effort to reestablish good character since the date of the last conviction, including, but not limited to, education, counseling or therapy, training, stable employment, restitution, remorse, changes in lifestyle, or community service.

(2) "Relative" means spouse, parent, stepparent, son, daughter, brother, sister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin or any such person denoted by the prefix "grand" or "great", or the spouse of any of the persons specified in this definition, even if the marriage has been terminated by death or dissolution.

(3) "Representative" means an individual who has authority to act on behalf of the resident; including but not limited to, a conservator, guardian, person authorized as the agent in the resident's valid advance health care directive, the resident's spouse, registered domestic partner, or family member, a person designated by the resident, or other surrogate decisionmaker designated consistent with statutory and case law. Without other legal obligation to the contrary, acting as a resident representative does not mean that the individual assumes personal responsibility or liability for payment of any charges incurred by the resident.

(4) "Request to Forego Resuscitative Measures" is defined in Probate Code section 4780.

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Probate Code section 4780 provides:

"(a) As used in this part:

(1) 'Request to forego resuscitative measures' means a written document, signed by

(A) an individual, or a legally recognized surrogate health care decisionmaker, and

(B) a physician that directs a health care provider to forgo resuscitative measures for the individual.

(2) 'Request to forego resuscitative measures' includes a prehospital 'do not resuscitate' form as developed by the Emergency Medical Services Authority or other substantially similar form.

(b) A request to forgo resuscitative measures may also be evidenced by a medallion engraved with the words 'do not resuscitate' or the letters 'DNR', a patient identification number, and a 24-hour toll-free telephone number, issued by a person pursuant to an agreement with the Emergency Medical Services Authority."

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87101 DEFINITIONS (Continued)

(5) "Residential Care Facility for the Elderly" means a housing arrangement chosen voluntarily by the resident, the resident's guardian, conservator or other responsible person; where 75 percent of the residents are sixty years of age or older and where varying levels of care and supervision are provided, as agreed to at time of admission or as determined necessary at subsequent times of reappraisal. Any younger residents must have needs compatible with other residents.

(6) "Responsible Person" means "Representative," as defined in Section 87101(r)(3), for purposes of these regulations and applicable statutes.

(7) "Room and Board" means a living arrangement where care and supervision is neither provided nor available.

(s) (1) "Serious Bodily Injury" is defined in Welfare and Institutions Code Section 15610.67.

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Welfare and Institutions Code Section 15610.67 provides:

> "Serious bodily injury" means an injury involving extreme physical pain, substantial risk of death, or protracted loss or impairment of function of a bodily member, organ, or of mental faculty, or requiring medical intervention, including, but not limited to, hospitalization, surgery, or physical rehabilitation.

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(2) "Serious Deficiency" means any deficiency that presents an immediate or substantial threat to the physical health, mental health, or safety of the residents or clients of a community care facility.

(3) "Shall" means mandatory. "May" means permissive.

(4) "Significant Change in Condition" means a deterioration or improvement in a resident's physical, cognitive, behavioral, or functional condition that is significant enough to require an alteration of the services provided to the resident.

87101 DEFINITIONS (Continued)

(5) "Significant Other" means a person, including a person of the same gender, with whom a resident was sharing a partnership prior to his/her placement in a Residential Care Facility for the Elderly (RCFE). The partnership involves two adults who have chosen to share one another's lives in an intimate and committed relationship of mutual caring.

(6) "Simplified Exemption" means an exemption granted on the Department's own motion, as authorized in Health and Safety Code section 1569.17(c)(4), if the individual's criminal history meets specific criteria established by Department regulation.

(7) "Singular-Plural." Whenever in these regulations the singular is used, it can include the plural.

(8) "Social Worker" means a person who has a graduate degree from an accredited school of social work or who has equivalent qualifications as determined by the Department.

(9) "SSI/SSP" means the Supplemental Security Income/State Supplemental Program.

(10) "Substantial Compliance" means the absence of any deficiencies which would threaten the physical health, mental health, safety or welfare of the residents. Such deficiencies include, but are not limited to, those deficiencies referred to in Section 87758, Serious Deficiencies - Examples, and the presence of any uncorrected serious deficiencies for which civil penalties could be assessed.

(11) "Supervision" means to oversee or direct the work of an individual or subordinate but does not necessarily require the immediate presence of the supervisor.

(t) (1) "Terminally Ill Resident" means that the resident has a prognosis by his/her attending physician that the resident's life expectancy is six months or less if his/her illness or condition runs its normal course.

(2) "Transfer Trauma" means the consequences of the stress and emotional shock caused by an abrupt, involuntary relocation of a resident from one facility to another.

(3) "Transgender" means a person whose gender identity is different from the person’s assigned or presumed sex at birth.

(4) "Transition" means to undergo a process by which a person changes physical sex characteristics or gender expression to match the person’s inner sense of being male or female. This process may include, among other things, a name change, a change in pronoun, and a change in social gender expression, as indicated by hairstyle, clothing, and restroom use. Transition may or may not include hormone use and surgery.

87101 DEFINITIONS (Continued)

(u) (1) "Unlicensed Residential Care Facility for the Elderly" means a facility as defined in Health and Safety Code section 1569.44.

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Health and Safety Code section 1569.44(a) provides:

"(a) A facility shall be deemed to be an 'unlicensed residential care facility for the elderly' and 'maintained and operated to provide residential care' if it is unlicensed and not exempt from licensure, and any one of the following conditions is satisfied:

(1) The facility is providing care and supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.

(2) The facility is held out as, or represented as, providing care and supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.

(3) The facility accepts or retains residents who demonstrate the need for care and supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.

(4) The facility represents itself as a licensed residential facility for the elderly."

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(A) A facility which is "providing care and supervision" as defined in section 87101(c)(3) includes, but is not limited to, one in which an individual has been placed by a placement agency or family members.

(B) A facility which is "held out as or represented as providing care and supervision" includes, but is not limited to:

1. A facility whose license has been revoked or denied, but the individual continues to provide care for the same or different clients with similar needs.

2. A facility where change of ownership has occurred and the same clients are retained.

3. A licensed facility that moves to a new location.

4. A facility which advertises as providing care and supervision.

87101 DEFINITIONS (Continued)

(C) A facility which "accepts or retains residents who demonstrate the need for care and supervision" includes, but is not limited to:

1. A facility with residents requiring care and supervision, even though the facility is providing board and room only, or board only, or room only.

2. A facility where it is apparent that care and supervision are being provided by virtue of the client's needs being met.

(2) "Unsafe wandering" occurs when a resident at risk enters an area that is physically hazardous or contains items that are potential safety hazards. For example, unsafe wandering may occur when a resident enters another resident's room when doing so may lead to an altercation or contact with hazardous items.

(v) (1) "Vendor" means a Department-approved institution, association, individual(s), or other entity that assumes full responsibility or control over a Department-approved Initial Certification Training Program or a Continuing Education Training Program.

(2) "Vendor applicant" means any institution, association, individual(s), or other entity that submits a request for approval of an Initial Certification Training Program or a Continuing Education Training Program.

(3) "Voluntary" means resulting from free will.

(w) (1) "Waiver" means a variance to a specific regulation based on a facility-wide need or circumstance which is not typically tied to a specific resident or staff person. Requests for waivers are made to the licensing agency, in advance, by an applicant or licensee.

(x) (Reserved)

(y) (Reserved)

(z) (Reserved)

NOTE: Authority cited: Sections 1569.23, 1569.30, 1569.318, 1569.616 and 1569.698, Health and Safety Code. Reference: 42 CFR 418.3; Sections 1439.50, 1569.1, 1569.2, 1569.5, 1569.10, 1569.145, 1569.15, 1569.153, 1569.157, 1569.158, 1569.17, 1569.19, 1569.191, 1569.193, 1569.20, 1569.21, 1569.23, 1569.31, 1569.312, 1569.33, 1569.38, 1569.44, 1569.47, 1569.54, 1569.616, 1569.626, 1569.651, 1569.655, 1569.699, 1569.73, 1569.74, 1569.82, 1569.880, 1771, 1797.196, and 13131, Health and Safety Code; Sections 5350, 15610.13 and 15610.67, Welfare and Institutions Code; Sections 1500, 1800 and 4780, Probate Code.

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87102 DESCRIPTIONS OF FORMS 87102

The forms specified in subsections (j) through (l) only apply to this chapter, Chapter 8 (Residential Care Facilities for the Elderly). The forms specified in subsections (a) through (i) also apply to the regulations in Title 22, Division 6, Chapters 5 (Group Homes) and 6 (Adult Residential Facilities). All forms in this section are incorporated, in their entirety, by reference.

(a) LIC 9139 (01/16) - Renewal of Continuing Education Course Approval, Administrator Certification Program.

(b) LIC 9140 (01/16) - Request for Course Approval, Administrator Certification Program.

(c) LIC 9140A (01/16) - Request to Add or Replace Instructor, Administrator Certification Program.

(d) LIC 9141 (01/16) - Vendor Application/Renewal, Administrator Certification Program.

(e) LIC 9142A (01/16) – Roster of Participants - for Vendor Use Only, Administrator Certification Program.

(f) LIC 9142B (01/16) – Roster of Participants – for Exam Proctoring Only, Administrator Certification Program.

(g) LIC 9163 (3/11) – Request for Live Scan Service – Community Care Licensing.

(h) LIC 508 (7/15) Criminal Record Statement.

(i) LIC 9214 (01/16) – Application for Administrator Certification, Administrator Certification Program.

(j) PUB 325 (3/12) - Your Right To Make Decisions About Medical Treatment.

(k) Core of Knowledge Training Standard (01/16) - RCFE 80-Hour Initial Certification.

(l) PUB 475 (10/18) - Residential Care Facility for the Elderly (RCFE) Complaint Poster.

NOTE: Authority cited: Sections 1530, 1569.616(i)(1) and 1569.30, Health and Safety Code. Reference: Sections 1522.41, 1562.3, 1569.267, 1569.269, 1569.33 and 1569.616, Health and Safety Code.

Article 2. License

87105 LICENSE REQUIRED 87105

(a) Pursuant to Health and Safety Code, Section 1569.10, any individual or legal entity providing or intending to provide care and supervision to the elderly in a residential facility shall obtain a current valid license pursuant to the provisions of this chapter. This shall not require an adult residential facility to relocate a resident who becomes 60, nor to change licensing category, provided that the resident's needs remain compatible with those of other residents, and the licensing agency has approved an exception request.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.10, 1569.44 and 1569.45, Health and Safety Code.

87106 OPERATION WITHOUT A LICENSE 87106

(a) An unlicensed facility as defined in Section 87101(u)(2) is in violation of section 1569.10, 1569.44, and/or 1569.45 of the Health and Safety Code unless the facility is exempted from licensure under Section 87107(a).

(b) If the facility is alleged to be in violation of section 1569.10 and/or 1569.44 and/or 1569.45 of the Health and Safety Code, the licensing agency shall conduct a site visit and/or evaluation of the facility pursuant to Health and Safety Code section 1569.35.

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Health and Safety Code section 1569.35(c) provides in part:

"Upon receipt of a complaint, other than a complaint alleging denial of a statutory right of access to a residential care facility for the elderly, the department shall make a preliminary review and, unless the department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, it shall make an onsite inspection within 10 days after receiving the complaint.... In either event, the complainant shall be promptly informed of the department's proposed course of action."

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(c) If the facility is operating without a license, the licensing agency shall issue a Notice of Operation in Violation of Law, and shall refer the case for criminal prosecution and/or civil proceedings.

(d) The licensing agency shall issue an immediate civil penalty pursuant to Section 87768, Unlicensed Facility Penalties and Health and Safety Code section 1569.485.

87106 OPERATION WITHOUT A LICENSE (Continued) **87106**

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Health and Safety Code sections 1569.485(a) and (b) provides in part:

"(a) Notwithstanding any other provision of this chapter, any person who violates section 1569.10 or 1569.44, or both, shall be assessed by the department an immediate civil penalty in the amount of one hundred dollars ($100) per resident each day of violation....

(b) The civil penalty... shall be doubled if an unlicensed facility is operated and the operator refuses to seek licensure or the operator seeks licensure and the licensure application is denied and the operator continues to operate the unlicensed facility...."

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(e) Sections 87106(c) and (d) shall be applied in any combination deemed appropriate by the licensing agency.

(f) The licensing agency shall notify the appropriate local or state Ombudsman, placement, or adult protective service agency if either of the following conditions exist:

(1) There is an immediate threat to the residents' health and safety.

(2) The facility does not submit an application for licensure within 15 calendar days of being served a Notice of Operation in Violation of Law.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.10, 1569.19, 1569.335, 1569.35, 1569.40, 1569.405, 1569.41, 1569.42, 1569.43, 1569.44, 1569.45, 1569.47, 1569.485 and 1569.495, Health and Safety Code.

87107 EXEMPTION FROM LICENSURE **87107**

(a) The following shall be allowed to operate without being licensed as a residential care facility for the elderly:

(1) Any health facility, as defined by Health and Safety Code section 1250.

(2) Any clinic, as defined by Health and Safety Code section 1202.

87107 EXEMPTION FROM LICENSURE (Continued) **87107**

(3) Any facility conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend on prayer or spiritual means for healing in the practice of the religion of such church or denomination. Such facilities shall be limited to those facilities or portions thereof which substitute prayer for medical/nursing services which would otherwise be provided for or required by residents in a health facility, as defined by section 1200 or 1250 of the Health and Safety Code.

(4) Any house, institution, hotel or other similar place that supplies board and room only, or room only, or board only, if no element of care and/or supervision, as defined by this chapter, is provided, made available, or contractually promised, such as in a life care agreement or program agreement with a facility. However, this shall not preclude care and/or supervision provided for brief and irregular periods of time for reasons such as temporary illnesses or emergencies provided that such is determined to be minor and temporary and does not require twenty-four (24) hours supervision of the resident(s).

(5) Recovery houses or other similar facilities providing group living arrangements for persons recovering from alcoholism or drug addiction where the facility provides no care and supervision.

(6) Any alcoholism recovery facility as defined by Health and Safety Code section 11834.02(a) relating to alcohol programs.

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Health and Safety Code section 11834.02(a) provides:

An "'alcoholism or drug abuse recovery or treatment facility' or 'facility' means any premises, place, or building that provides 24-hour residential nonmedical to adults who are recovering from problems related to alcohol, drug, or alcohol and drug misuse or abuse, and who need alcohol, drug or alcohol and drug recovery treatment or detoxification services."

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(7) Any care and supervision of persons by a family member. For purposes of this section "family member" means any spouse, by marriage or otherwise, child or stepchild, by natural birth or by adoption, parent, brother, sister, half-brother, half-sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or any person denoted by the prefix "grand" or "great", or the spouse of any of these persons, even if the marriage has been terminated by death or dissolution.

87107 EXEMPTION FROM LICENSURE (Continued) **87107**

(8) Any arrangement for the care and supervision of a person or persons from only one family by a close friend who is not a licensee or current employee of a Residential Care Facility for the Elderly or of an Adult Residential Facility, and whose friendship pre-existed a provider/recipient relationship, and all of the following conditions are met:

(A) The care and supervision is provided in a home or residence chosen by the recipient, regardless of who owns the home or residence.

(B) The arrangement is not of a business nature, in that the provider does not represent himself or herself as being in the business of provision of care, and any compensation that may be paid to the provider is only for the value of the services rendered.

(C) The arrangement occurs and continues only as long as the needs for care and supervision of the recipient are being adequately met.

(9) Any housing project for elderly or disabled individuals that meets federal requirements as specified in Health and Safety Code section 1569.145(g).

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Health and Safety Code section 1569.145(g) provides:

"Any housing for elderly or disabled persons, or both, that is approved and operated pursuant to Section 202 of Public Law 86-372 (12 U.S.C.A. Sec. 1701q), or Section 811 of Public Law 101-625 (42 U.S.C.A. Sec 8013), or whose mortgage is insured pursuant to Section 236 of Public Law 90-448 (12 U.S.C.A. Sec. 1715z), or that receives mortgage assistance pursuant to Section 221d(3) of Public Law 87-70 (12 U.S.C.A. Sec.17151), where supportive services are made available to residents at their option, as long as the project owner or operator does not contract for or provide the supportive services. The project owner or operator may coordinate, or help residents gain access to, the supportive services, either directly, or through a service coordinator."

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(10) Any similar facility as determined by the Director.

NOTE: Authority cited: Sections 1569.145 and 1569.30, Health and Safety Code. Reference: Sections 1505, 1569.145 and 11834.02, Health and Safety Code; and Grimes v. CDSS (1999) 70 Cal.App.4th 1065.

87108 INTEGRAL FACILITIES 87108

(a) Upon written application, the licensing agency may issue a single license to integral facilities conducting multiple, related programs which would otherwise require separate licenses provided all of the following requirements are met:

(1) Separate buildings or portions of the facility shall be integral components of a single program.

(2) All components of the program shall be managed by the same licensee.

(3) All components of the program shall be conducted at a single site.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Section 1569.30, Health and Safety Code.

87109 TRANSFERABILITY OF LICENSE 87109

(a) The license shall not be transferable.

(b) The licensee shall notify the licensing agency and all residents receiving services, or their representatives, in writing as soon as possible and in all cases at least thirty (30) days prior to the transfer of the property or business, or at the time that a bona fide offer is made, whichever period is longer, as specified in Health and Safety Code Section 1569.191.

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Health and Safety Code section 1569.191 provides:

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

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

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

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

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87109 TRANSFERABILITY OF LICENSE (Continued) **87109**

HANDBOOK CONTINUES

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

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

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

(d) The department shall give priority to applications for licensure that are submitted pursuant to this section in order to ensure timely transfer of the property and business. The department shall make a decision within 60 days after a complete application is submitted on whether to issue a license pursuant to Section 1569.15.

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

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

HANDBOOK ENDS HERE

(c) In all other instances, including a change in licensee, type of license, or location of the facility, the licensee shall notify the licensing agency and all residents receiving services, or their responsible persons, in writing as soon as possible and in all cases at least thirty (30) days prior to the effective date of that change.

(d) In the case of change of ownership or licensee a new application for license shall be submitted by the prospective new licensee.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.11 and 1569.191, Health and Safety Code.

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87111 CONTINUATION OF LICENSE UNDER EMERGENCY CONDITIONS OR SALE OF PROPERTY 87111

(a) The licensing agency may consent to a change of location and continuation of the existing license of any facility for a reasonable period of time when the change is requested because of the accidental destruction of the licensed premises or similar emergency conditions, so long as the new location or place of performance conforms to building, fire and life safety standards.

(b) In the event of a licensee's death, an adult who has control of the property, and had been designated by the licensee as the party responsible to continue operation of the facility upon a licensee's death shall:

(1) notify the Department by the next working day of the licensee's death;

(2) inform the Department within 5 working days if the designee decides not to apply for licensure.

(A) If the designee decides not to apply, the Department will help the designee develop and implement a relocation plan for facility residents.

(c) The Department may permit a designee to continue operation of a previously licensed facility, and grant an Emergency Approval to Operate (EAO) to a facility for up to 60 days pending issuance or denial of a license, provided the following requirements of Health and Safety Code section 1569.193 are met:

(1) The designee notifies the Department during the next working day following the death of the licensee, that he/she will continue to operate the facility.

(2) A notarized designation of the adult, authorized by the licensee, to continue operation of the facility in the event of the licensee's death, was filed by the licensee with the Department.

(A) The notarized statement was signed by the designee, and indicated acceptance of the designation.

(B) The notarized statement contains, or is accompanied by a declaration under penalty of perjury, regarding any criminal convictions of the designee.

(3) The designee is able to operate the facility to the satisfaction of the Department.

(4) The designee files an application for licensure, and provides a copy of the licensee's death certificate, obituary notice, certification of death from the decedent's mortuary, or a letter from the attending physician or coroner's office verifying the death of the licensee, within 20 calendar days of the licensee's death.

87111 CONTINUATION OF LICENSE UNDER EMERGENCY CONDITIONS OR SALE OF PROPERTY (Continued) **87111**

(5) The applicant who is issued an EAO shall perform all the duties, functions, and responsibilities required of a licensee.

(A) Failure to comply with licensing laws and regulations under Section 87111(b) as determined by the licensing agency, shall result in the denial of the application for license. This denial shall also constitute termination of the EAO.

(B) The licensing agency shall provide written notification of the denial and this notice shall be effective immediately upon receipt.

(d) The Department shall determine, within 60 days, after receipt of the completed application, whether a license will be issued.

(e) Following receipt of a completed application, the designee shall not be considered to be operating an unlicensed facility while the Department decides whether to grant the license.

(f) In the event of the sale and transfer of property and business, the applicant (buyer) shall be issued an EAO if the applicant (buyer) complies with Health and Safety Code section 1569.191.

HANDBOOK BEGINS HERE

Health and Safety Code, section 1569.191 provides in part:

"(a) Notwithstanding section 1569.19, in the event of a sale of a licensed facility where the sale will result in a new license being issued, the sale and transfer of property and business shall be subject to both of the following:

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

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

HANDBOOK CONTINUES

87111 CONTINUATION OF LICENSE UNDER EMERGENCY CONDITIONS OR SALE OF PROPERTY (Continued) **87111**

HANDBOOK CONTINUES

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

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

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

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

(d) The department shall give priority to applications for licensure which are submitted pursuant to this section in order to ensure timely transfer of the property and business. The department shall make a decision within 60 days after a complete application is submitted on whether to issue a license pursuant to section 1569.15.

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

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(g) "A bona-fide offer", as specified in Health and Safety Code section 1569.191(a)(1), shall mean a proposal by the buyer to purchase the facility with definite terms in writing communicated to the seller and accompanied by a cash deposit.

NOTE: Authority cited: Sections 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.15, 1569.191 and 1569.193, Health and Safety Code.

87112 CONDITIONS FOR FORFEITURE OF A LICENSE 87112

(a) Conditions for forfeiture of a residential care facility for the elderly license shall be as specified in Health and Safety Code section 1569.19.

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Health and Safety Code section 1569.19 provides in part:

"A license shall be forfeited by operation of law prior to its expiration date when one of the following occurs:

(a) The licensee sells or otherwise transfers the facility or facility property, except when change of ownership applies to transferring of stock when the facility is owned by a corporation, and when the transfer of stock does not constitute a majority change in ownership. The sale of a facility shall be subject to the requirements of this chapter.

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

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

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

(e) The licensee dies. When a licensee dies, the continued operation shall be subject to the requirements of Section 1569.193.

(f) The licensee abandons the facility."

HANDBOOK ENDS HERE

(1) "Licensee abandons the facility" shall mean either of the following:

(A) The licensee informs the licensing agency that the licensee no longer accepts responsibility for the facility, or

(B) The licensing agency is unable to determine the licensee's whereabouts after the following:

1. The licensing agency requests information of the licensee's whereabouts from the facility's staff if any staff can be contacted; and

87112 CONDITIONS FOR FORFEITURE OF A LICENSE (Continued) **87112**

2. The licensing agency has made at least one (1) phone call per day, to the licensee's last telephone number of record, for five (5) consecutive workdays with no response; and

3. The licensing agency has sent a certified letter, requesting the licensee to contact the licensing agency, to the licensee's last mailing address of record with no response within seven (7) calendar days.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Section 1569.19, Health and Safety Code.

87113 POSTING OF LICENSE **87113**

The license shall be posted in a prominent location in the licensed facility accessible to public view.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Section 1569.45, Health and Safety Code.

87114 APPLICANT OR LICENSEE MAILING ADDRESS **87114**

The applicant or licensee shall file his/her mailing address, in writing, with the licensing agency and shall notify the agency, in writing, of any change within 10 calendar days.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.15, 1569.20, 1569.22 and 1569.51, Health and Safety Code.

87118 NONDISCRIMINATION **87118**

(a) Any adult shall be permitted to apply for a license regardless of age, sex, race, religion, color, political affiliation, national origin, disability, marital status, actual or perceived sexual orientation, or ancestry.

(b) All licensed facilities shall receive persons on a nondiscriminatory basis according equal treatment and services without regard to race, color, religion, national origin, actual or perceived sexual orientation or ancestry.

87118 NONDISCRIMINATION (Continued) **87118**

(c) An exception shall be made in the case of any bona fide nonprofit religious, fraternal or charitable organization which can demonstrate to the satisfaction of the Department or the licensing agency that its primary or substantial purpose is not to evade this section.

(1) It may establish reception policies limiting or giving preference to its own members or adherents, provided, however, such membership is nondiscriminatory and such policies shall not be construed as a violation of this section.

(2) Any reception of nonmembers or nonadherents shall be subject to the requirements of this section.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Section 1569.31, Health and Safety Code; Section 51, Civil Code.

Article 3. Application Procedures

87155 APPLICATION FOR LICENSE 87155

(a) Any individual, firm, partnership, association, corporation or governmental entity desiring to obtain a license shall file with the licensing agency an application on forms furnished by the licensing agency. The licensee shall cooperate with the licensing agency in providing verification and/or documentation as requested by the licensing agency. The application and supporting documents shall contain the following:

(1) Name or proposed name and address of facility.

(2) Name and address of the applicant and documentation verifying completion by the applicant of certification requirements as specified in Section 87406, Administrator Certification Requirements.

(A) This section shall apply to all applications for license, unless the applicant has a current license for another residential care facility for the elderly which was initially licensed prior to July 1, 1989 or has successfully completed an approved certification program within the prior five years.

(B) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or person serving in a like capacity or the designated administrator of the facility shall meet the requirements of this section.

(3) If the applicant is a partnership, the name, signature and principal business address of each partner.

(4) If the applicant is a corporation or association, the name, title and principal business address of each officer, executive director, and member of the governing board. The application shall be signed by the chief executive officer or authorized representative. In addition, a copy of the Articles of Incorporation, Constitution and By-laws, and the name and address of each person owning more than 10 percent of stock in the corporation shall be provided.

(5) If the applicant is a corporation, each member of the board of directors, executive director, and any officer shall list the name of all facilities which they have been licensed to operate, employed by or a member of the board of the directors, executive director or an officer.

(6) Procedures as required pursuant to section 1569.175 of the Health and Safety Code.

87155 APPLICATION FOR LICENSE (Continued) **87155**

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Health and Safety Code section 1569.175 provides:

"(a) In addition to any other requirements of this chapter, any residential care facility for the elderly providing residential care for six or fewer persons at which the owner does not reside shall provide a procedure approved by the licensing agency for immediate response to incidents and complaints. This procedure shall include a method of assuring that the owner, licensee, or person designated by the owner or licensee is notified of the incident, that the owner, licensee, or person designated by the owner or licensee has personally investigated the matter, and that the person making the complaint or reporting the incident has received a response of action taken or a reason why no action needs to be taken.

(b) In order to assure the opportunity for complaints to be made directly to the owner, licensee, or person designated by the owner or licensee, and to provide the opportunity for the owner, licensee, or person designated by the owner or licensee to meet residents and learn of problems in the neighborhood, any facility with a nonresident owner shall establish a fixed time on a weekly basis when the owner, licensee, or person designated by the owner or licensee will be present.

(c) Facilities with nonresident owners shall establish procedures to comply with the requirements of this section on or before July 1, 1987."

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(7) Name and address of owner of facility premises if applicant is leasing or renting.

(8) The category of facility to be operated.

(9) Maximum number to be served.

(10) The name, residence and mailing addresses of the facility administrator, a description of the administrator's background and qualifications, and documentation verifying the required education and administrator certification.

(11) Copy of the current organizational chart showing type and number of positions and line of authority. However, facilities for less than sixteen persons may furnish, in lieu of an organization chart, a list of positions and the periods of time that persons in these positions will be providing services at the facility.

87155 APPLICATION FOR LICENSE (Continued) **87155**

(12) Evidence pursuant to Health and Safety Code, section 1520(b).

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Health and Safety Code section 1520(b) provides:

"(b) Evidence satisfactory to the department that the applicant is of reputable and responsible character. ... If the applicant is a firm, association, organization, partnership, business trust, corporation or company, like evidence shall be submitted as to the members or shareholders thereof, and the person who will be in charge of the community care facility for which application for issuance of license or special permit is made."

HANDBOOK ENDS HERE

(13) A financial plan of operation on forms provided or approved by the Department. Start-up funds shall be sufficient to meet a minimum of three (3) months operating costs. In addition:

(A) Where construction is anticipated to meet the requirements for a license, sufficient financing for the construction shall be available.

(B) The scope of the applicant's services shall be such that an adequate quality of service will be permitted from available funds. The licensing agency shall have the right to verify the availability of these funds.

(14) When there is a change of licensee, the required documentation shall include the information specified in Section 87217(k).

(15) Information concerning insurance carried by the applicant relating to the operation of the facility.

(16) A plan of operation as specified in Section 87208, Plan of Operation.

(17) The fee for processing the application for the requested capacity as specified in Section 87156, Licensing Fees.

(18) Name, address and telephone number of the city or county fire department, the district providing fire protection services, or the State Fire Marshal's Office having jurisdiction in the area where the facility is located.

(19) Such other information as may be required by the licensing agency for the proper administration and enforcement of the licensing law and regulations.

(b) An application shall be filed with the licensing agency which serves the area in which the facility is located.

87155 APPLICATION FOR LICENSE (Continued) 87155

NOTE: Authority cited: Sections 1569.23, 1569.30 and 1569.616, Health and Safety Code. Reference: Sections 1569.1, 1569.2, 1569.10, 1569.15, 1569.151, 1569.1515, 1569.16, 1569.17, 1569.185, 1569.19, 1569.20, 1569.21, 1569.22, 1569.23, 1569.24, 1569.312, 1569.45, 1569.60, 1569.616 and 1569.62, Health and Safety Code.

87156 LICENSING FEES 87156

(a) An applicant or licensee shall be charged fees as specified in Health and Safety Code section 1569.185.

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Health and Safety Code section 1569.185 provides:

> (a)(1) An application fee adjusted by facility and capacity shall be charged by the department for the issuance of a license to operate a residential care facility for the elderly. After initial licensure, a fee shall be charged by the department annually on each anniversary of the effective date of the license. The fees are for the purpose of financing activities specified in this chapter. Fees shall be assessed as follows, subject to paragraph (2):

Fee Schedule

Capacity	Initial Application	Annual
1-3	$ 495.60	$ 495.60
4-6	$ 990.00	$ 495.60
7-15	$ 1,486.80	$ 742.80
16-30	$ 1,980.00	$ 990.00
31-49	$ 2,476.80	$1,238.40
50-74	$ 2,972.40	$1,448.00
75-100	$ 3,469.20	$1,734.00
101-150	$ 3,964.80	$1,982.40
151-200	$ 4,622.40	$2,311.20
201-250	$ 5,280.00	$2,640.00
251-300	$ 5,940.00	$2,970.00
301-350	$ 6,600.00	$3,300.00
351-400	$ 7,260.00	$3,630.00
401-500	$ 8,580.00	$4,290.00
501-600	$ 9,900.00	$4,950.00
601-700	$11,220.00	$5,610.00
701+	$13,200.00	$6,600.00

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87156 LICENSING FEES (Continued) **87156**

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(2) (A) The Legislature finds that all revenues generated by fees for licenses computed under this section and used for the purposes for which they were imposed are not subject to Article XIII B of the California Constitution.

(B) The department, at least every five years, shall analyze initial application fees and annual fees issued by it to ensure the appropriate fee amounts are charged. The department shall recommend to the Legislature that fees established by the Legislature be adjusted as necessary to ensure that the amounts are appropriate.

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

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

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

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

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

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

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87156 LICENSING FEES (Continued) **87156**

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

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

(H) A plan of correction fee of two hundred dollars ($200) when any licensee does not implement a plan of correction on or prior to the date specified in the plan.

(2) No local jurisdiction shall impose any business license, fee, or tax for the privilege of operating a facility licensed under this chapter which serves six or fewer persons.

HANDBOOK CONTINUES

87156 LICENSING FEES (Continued) **87156**

HANDBOOK CONTINUES

(c) (1) The revenues collected from licensing fees pursuant to this section shall be utilized by the department for the purpose of ensuring the health and safety of all individuals provided care or supervision by licensees and to support the activities of the licensing programs, including, but not limited to, monitoring facilities for compliance with licensing laws and regulations pursuant to this chapter, and other administrative activities in support of the licensing program, when appropriated for these purposes. The revenues collected shall be used in addition to any other funds appropriated in the annual Budget Act in support of the licensing program. The department shall adjust the fees collected pursuant to this section to ensure that they do not exceed the costs described in this paragraph.

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

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

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

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(b) The annual fee shall be according to existing licensed capacity unless the licensee requests a lower or higher capacity.

(c) An additional fee shall be charged when the licensee requests an increase or decrease in capacity as specified in Health and Safety Code section 1569.185(b)(1)(C).

(d) When a licensee moves a facility from one location to another, the relocation fee shall be as specified in Health and Safety Code section 1569.185(b)(1)(A).

87156 LICENSING FEES (Continued) **87156**

(1) To qualify for the relocation fee the following shall apply:

(A) The licensee shall have notified the licensing agency before actually relocating the facility.

(B) The categorical type of facility shall remain the same when relocating the facility.

(C) The fee shall be by requested capacity at the new location.

(e) The fees shall be nonrefundable.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.185 and 1569.19, Health and Safety Code.

87157 APPLICATION REVIEW **87157**

(a) No initial license shall be issued until the licensing agency has completed the following:

(1) A review which includes an on-site survey of the proposed premises and a determination of the qualifications of the applicant.

(2) A determination that the applicant has secured a fire clearance from the State Fire Marshal.

(3) A determination that the applicant and facility comply with the provisions of Chapter 3 (commencing with section 1569) of Division 2 of the Health and Safety Code, and the regulations in this chapter.

(b) The licensing agency shall cease review of any application as specified in Health and Safety Code section 1569.16.

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Health and Safety Code section 1569.16 provides in part:

"(a)(1) If an application for a license indicates, or the department determines during the application review process, that the applicant previously was issued a license... and the prior license was revoked within the preceding two years, the department shall cease any further review of the application until two years shall have elapsed from the date of revocation. ...

HANDBOOK CONTINUES

87157 APPLICATION REVIEW (Continued) **87157**

HANDBOOK CONTINUES

(b) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant had previously applied for a license under any of the chapters listed in subdivision (a) and the application was denied within the last year, the department shall, except as provided in section 1569.22, cease further review of the application until one year has elapsed from the date of the denial letter. In those circumstances where denials are appealed and upheld at an administrative hearing, review of the application shall cease for one year from the date of the decision and order being rendered by the department. The cessation of review shall not constitute a denial of the application...."

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(1) "Application was denied within the last year" as specified in Health and Safety Code section 1569.16(b) shall include initial applications.

(2) If cessation of review occurs, the application shall be returned to the applicant. It shall be the responsibility of the applicant to request resumption of review as specified in Health and Safety Code section 1569.16.

(3) The application fee shall be non-refundable as specified in Section 87156(e).

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.15, 1569.16, 1569.17, 1569.20 and 1569.205, Health and Safety Code.

87158 CAPACITY **87158**

(a) A license shall be issued for a specific capacity which shall be the maximum number of residents which can be provided care at any given time. The capacity shall be exclusive of any members of the licensee's own family who reside at the facility. However, the licensing agency shall consider the presence of other family members or other persons who reside in the facility in determining capacity in order to ensure and promote proper living arrangements for both the licensee's family and the residents and to ensure the provision of adequate care and supervision for the residents.

(b) The number of persons that the facility is licensed to admit shall be determined on the basis of the application review by the licensing agency which shall consider:

(1) Physical energy and skills of the licensee as it relates to their ability to meet the needs of the residents.

87158 CAPACITY (Continued) **87158**

(2) Any other household members who may reside at the facility and their individual needs.

(3) Physical features of the facility, such as available living space, which are necessary in order to comply with regulations.

(4) Number of available staff to meet the care needs of the residents.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2, 1569.31 and 1569.312, Health and Safety Code.

87159 WITHDRAWAL OF APPLICATION 87159

(a) The applicant may withdraw an application. However, unless the licensing agency consents in writing to such withdrawal, the Department or licensing agency shall not be deprived of its authority to institute or continue a proceeding against the applicant for the denial of the license upon any ground provided by law or to enter an order denying the license upon any such ground.

(b) The fee for processing the application shall be forfeited.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.185,1569.20, 1569.22, 1569.50, 1569.51 and 1569.52, Health and Safety Code.

87161 RESUBMISSION OF APPLICATION 87161

(a) A new application shall be made whenever there is any change in conditions or limitations described on the current license, including, but not limited to:

(1) Any change in the location of the facility.

(2) Any change in the licensee.

(3) Failure to complete a new application within the required time limit.

(4) Any increase in capacity.

(A) Minor capacity increases may be granted following an evaluation by the licensing agency without the need for resubmission of an application.

87161 RESUBMISSION OF APPLICATION (Continued) **87161**

(5) A corporate organizational change, including, but not limited to, change in structure, sale or transfer of the majority of stock, separating from a parent company, or merger with another company. The licensee shall notify the licensing agency of such organizational change within forty-eight (48) hours.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.3, 1569.10, 1569.11, 1569.15 and 1569.19, Health and Safety Code.

87162 PROVISIONAL LICENSE **87162**

(a) The licensing agency may issue a provisional license to an applicant who has submitted a completed application for an initial license if the licensing agency determines that there are no life safety risks, that the facility is in substantial compliance, as defined in Section 87101(s)(6), with applicable law and regulations, and an immediate need for licensure exists as defined in Section 87101(i)(3).

(1) A provisional license shall not be issued as specified in Health and Safety Code section 1569.1515(b).

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Health and Safety Code section 1569.1515(b) provides:

"(b) The department shall not issue a provisional license or license to any corporate applicant that has a member of the board of directors, the executive director, or an officer who is not eligible for licensure pursuant to sections 1569.16 and 1569.59."

HANDBOOK ENDS HERE

(b) The capacity of a provisional license shall be limited to the number of residents for whom immediate need has been established, or the capacity established for the specific facility, whichever is less.

(c) A provisional license shall not be renewable and shall terminate on the date specified on the license, or upon denial of the application, whichever is earlier.

(1) A provisional license may be issued for a maximum of six (6) months when the licensing agency determines that full compliance with licensing regulations will be achieved within that time period.

87162 PROVISIONAL LICENSE (Continued) **87162**

(2) A provisional license may be issued for a maximum of twelve (12) months when the licensing agency determines, at the time of application, that more than six (6) months is required to achieve full compliance with licensing regulations due to circumstances beyond the control of the applicant.

(d) If, during the provisional licensing period, the licensing agency discovers deficiencies which threaten the physical health, mental health, safety or welfare of the residents, the Department may exercise its discretion to institute administrative action or civil proceedings or to refer for criminal prosecution.

(e) If the licensing agency determines after its review, specified in Section 87157, Application Review, that the licensee does not meet the licensing requirements, the application shall be denied, as specified in Section 87163, Denial of License Application.

(f) If the licensing agency denied the application for an initial license, the applicant may appeal the denial, as provided in Section 87163, Denial of License Application. Until the Director adopts a decision on the denial action, the facility shall be unlicensed.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.15, 1569.1515, 1569.17, 1569.20, 1569.21, 1569.22, 1569.23 and 1569.24, Health and Safety Code.

87163 DENIAL OF LICENSE APPLICATION **87163**

(a) Except as specified in Section 87162(a), which provides that the applicant may be issued a provisional license based upon substantial compliance and immediate need, the licensing agency shall deny an application for an initial license if it is determined that the applicant is not in compliance with applicable law and regulations.

(b) The licensing agency shall have the authority to deny an application for an initial license if the applicant has failed to pay any civil penalty assessments pursuant to Section 87768, Unlicensed Facility Penalties, and in accordance with a final judgment issued by a court of competent jurisdiction, unless payment arrangements acceptable to the licensing agency have been made.

(c) The licensing agency shall have the authority to deny an initial application if the applicant does not comply with Sections 87155(a)(2) and (9), and Health and Safety Code sections 1569.1515(b) and 1569.50.

87163 DENIAL OF LICENSE APPLICATION (Continued) **87163**

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Health and Safety Code section 1569.1515(b) provides:

"(b) The department shall not issue a provisional license or license to any corporate applicant that has a member of the board of directors, the executive director, or an officer who is not eligible for licensure pursuant to Sections 1569.16 and 1569.59."

Health and Safety Code section 1569.50(a) provides:

"(a) The department may deny an application for a license or may suspend or revoke any license issued under this chapter upon any of the following grounds and in the manner provided in this chapter:

(1) Violation by the licensee of this chapter or of the rules and regulations adopted under this chapter.

(2) Aiding, abetting, or permitting the violation of this chapter or of the rules and regulations adopted under this chapter.

(3) Conduct that is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility or the people of the State of California.

(4) The conviction of a licensee, or other person mentioned in Section 1569.17 at any time before or during licensure, of a crime as defined in Section 1569.17.

(5) Engaging in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services for the care of clients."

HANDBOOK ENDS HERE

(d) If the application for an initial license is denied, the application processing fee shall be forfeited.

(e) If the application for an initial license is denied, the licensing agency shall send a written notice of denial by certified mail. The notification shall inform the applicant of the denial; set forth the reasons for the denial; and advise the applicant of the right to appeal.

87163 DENIAL OF LICENSE APPLICATION (Continued) **87163**

(f) Except as otherwise specified by Health and Safety Code section 1569.50(d), an applicant may appeal the denial of the application by sending a written notice of appeal to the licensing agency within 15 days of the postmark date of the denial notice.

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Health and Safety Code section 1569.50(d) provides:

"(d) A licensee who abandons the facility and the residents in care resulting in an immediate and substantial threat to the health and safety of the abandoned residents, in addition to revocation of the license pursuant to this section, shall be excluded from licensure in facilities licensed by the department without the right to petition for reinstatement."

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(g) The licensing agency shall, upon receipt of the notice of appeal, advise the applicant in writing of the appeal procedure.

(h) The proceedings to review such denial shall be conducted pursuant to the provisions of Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.15, 1569.1515, 1569.17, 1569.185, 1569.20, 1569.21, 1569.22, 1569.23, 1569.485, 1569.49, 1569.50, 1569.51, 1569.52 and 1569.53, Health and Safety Code.

Article 4. Operating Requirements

87202 FIRE CLEARANCE 87202

(a) All facilities shall maintain a fire clearance approved by the city, county, or city and county fire department or district providing fire protection services, or the State Fire Marshal. Prior to accepting or retaining any of the following types of persons, the applicant or licensee shall notify the licensing agency and obtain an appropriate fire clearance approved by the city, county, or city and county fire department or district providing fire protection services, or the State Fire Marshal:

(1) Nonambulatory persons.

(2) Bedridden persons

HANDBOOK BEGINS HERE

Health and Safety Code Section 1569.72(c) provides in part:

"(c) …bedridden persons may be admitted to, and remain in, residential care facilities for the elderly that secure and maintain an appropriate fire clearance. A fire clearance shall be issued to a facility in which a bedridden person resides if either of the following conditions are met:

(1) The fire safety requirements are met. Residents who are unable to independently transfer to and from bed, but who do not need assistance to turn or reposition in bed, shall be considered nonambulatory for purposes of this paragraph.

(2) Alternative methods of protection are approved."

Health and Safety Code Sections 1569.72(h)(2)(B)(ii) provides:

"(h)(2)(B)(ii) Either the facility, the resident or residents' representative, or local fire official may request from the Office of the State Fire Marshal a written opinion concerning the interpretation of the regulations promulgated by the State Fire Marshal pursuant to this section for a particular factual dispute. The State Fire Marshal shall issue the written opinion within 45 days following the request."

Health and Safety Code Sections 1569.72(i) provides:

"(i) For facilities that care for six or fewer clients, a local fire official may not impose fire safety requirements stricter than the fire safety regulations promulgated for the particular type of facility by the Office of the State Fire Marshal or the local fire safety requirements imposed on any other single family dwelling, whichever is more strict."

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NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2, 1569.312, and 15692.72, Health and Safety Code.

87203 FIRE SAFETY 87203

All facilities shall be maintained in conformity with the regulations adopted by the State Fire Marshal for the protection of life and property against fire and panic.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.31 and 1569.312, Health and Safety Code.

87204 LIMITATIONS -- CAPACITY AND AMBULATORY STATUS 87204

(a) A licensee shall not operate a facility beyond the conditions and limitations specified on the license, including specification of the maximum number of persons who may receive services at any one time. An exception may be made in the case of catastrophic emergency when the licensing agency may make temporary exceptions to the approved capacity.

(b) Resident rooms approved for 24-hour care of ambulatory residents only shall not accommodate nonambulatory residents. Residents whose condition becomes nonambulatory shall not remain in rooms restricted to ambulatory residents.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2, 1569.31 and 1569.312, Health and Safety Code.

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87205 ACCOUNTABILITY OF LICENSEE GOVERNING BODY 87205

(a) The licensee, whether an individual or other entity, shall exercise general supervision over the affairs of the licensed facility and establish policies concerning its operation in conformance with these regulations and the welfare of the individuals it serves.

(b) If the licensee is a corporation or an association, the governing body shall be active, and functioning in order to assure accountability.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.2, 1569.15, 1569.16, 1569.17, 1569.31 and 1569.312, Health and Safety Code.

87206 ADVERTISEMENTS AND LICENSE NUMBER 87206

(a) In accordance with Health and Safety Code sections 1569.68 and 1569.681, licensees shall reveal each facility license number in all public advertisements, including Internet, or correspondence.

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Health and Safety Code section 1569.681 provides:

(a) Each residential care facility for the elderly licensed under this chapter shall reveal its license number in all advertisements, publications, or announcements made with the intent to attract clients or residents.

(b) Advertisements, publications, or announcements subject to the requirements of subdivision (a) referred to herein include, but are not limited to, those contained in the following:

(1) Newspaper or magazine.

(2) Consumer report.

(3) Announcement of intent to commence business.

(4) Telephone directory yellow pages.

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87206 ADVERTISEMENTS AND LICENSE NUMBER (Continued) **87206**

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(5) Professional or service directory.

(6) Radio or television commercial.

Health and Safety Code section 1569.68 provides:

All residential care facilities shall be required to include their current license number in any public advertisement or correspondence.

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(b) Licensees who operate more than one facility and use a common advertisement for these facilities shall be required to list each facility license number in accordance with Health and Safety Code sections 1569.681 and 1569.68.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.68 and 1569.681, Health and Safety Code.

87207 FALSE CLAIMS **87207**

No licensee, officer or employee of a licensee shall make or disseminate any false or misleading statement regarding the facility or any of the services provided by the facility.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Section 1569.44, Health and Safety Code.

87208 PLAN OF OPERATION

(a) The licensee shall have and maintain a current, written definitive plan of operation for the facility. The licensee shall operate the facility in accordance with the terms specified in the plan of operation and may be cited for not doing so pursuant to Health and Safety Code section 1569.49. The plan and related materials shall be on file in the facility and shall be submitted to the licensing agency with the license application. Any significant changes in the plan of operation which would affect the services to residents shall be submitted to the licensing agency for approval. The plan and related materials shall contain the following:

(1) Statement of purposes and program goals.

(2) A copy of the Admission Agreement, containing basic and optional services.

(3) Statement of admission policies and procedures regarding acceptance of persons for services.

(4) Administrative organization.

(5) Staffing plan, qualifications and duties.

(6) Plan for training staff, as required by Health and Safety Code sections 1569.625, 1569.626, and 1569.69 and as specified in Section 87411, Personnel Requirements–General and Section 87705, Care of Persons with Dementia.

(7) Sketches, showing dimensions, of the following:

(A) Building(s) to be occupied, including a floor plan that describes the capacities of the buildings for the uses intended and a designation of the rooms to be used for nonambulatory residents and for bedridden residents, other than for a termporary illness or recovery from surgery as specified in Section87606(d) and (e).

(B) The grounds showing buildings, driveways, fences, storage areas, pools, gardens, recreation area and other space used by the residents.

(8) Transportation arrangements for persons served who do not have independent arrangements.

(9) A statement whether or not the applicant will handle residents' money or valuables. If money or valuables will be handled, the method for safeguarding pursuant to Sections 87215, Commingling of Money, 87216, Bonding and 87217, Safeguards for Resident Cash, Personal Property, and Valuables.

(10) A statement of the licensee's policy concerning family visits and other communication with residents, as specified in Health and Safety Code section 1569.313.

87208 PLAN OF OPERATION (Continued)

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Health and Safety Code section 1569.313 provides in part:

"The facility's policy concerning family visits and communication shall be designed to encourage regular family involvement with the resident client and shall provide ample opportunities for family participation in activities at the facility."

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(11) A description of the ways in which the licensee will address resident behavioral expression as defined in Section 87101, Definitions, including resident assessments, care practices, and safety measures.

(12) The Infection Control Plan pursuant to Section 87470.

(b) A licensee who advertises or promotes dementia special care, programming or environments shall include additional information in the plan of operation as specified in Section 87706, Advertising Dementia Special Care, Programming, and Environments.

(c) A licensee who accepts or retains bedridden persons shall include additional information in the plan of operation as specified in Section 87606, Care of Bedridden Residents.

NOTE: Authority cited: Section 1569.30 and 1569.49, Health and Safety Code. Reference: Sections 1569.15, 1569.157, 1569.175, 1569.2, 1569.31, 1569.312, 1569.313, 1569.316, 1569.625, 1569.69, 1569.626, 1569.627, and 1569.72, Health and Safety Code.

87209 PROGRAM FLEXIBILITY

(a) The use of alternate concepts, programs, services, procedures, techniques, equipment, space, personnel qualifications or staffing ratios, or the conduct of experimental or demonstration projects shall not be prohibited by these regulations provided that:

(1) Such alternatives shall be carried out with provisions for safe and adequate services.

(2) A written request for a waiver or exception and substantiating evidence supporting the request shall be submitted in advance to the licensing agency by the applicant or licensee.

(3) Prior written approval of the licensing agency shall be received.

(A) In determining the merits of each request, the licensing agency shall use as guidelines the standards utilized or recommended by well-recognized state and national organizations as appropriate.

87209 PROGRAM FLEXIBILITY (Continued) **87209**

(B) The licensing agency shall provide written approval or denial.

(b) Unless prior written approval of the licensing agency is received, all community care facilities shall maintain continuous compliance with the licensing regulations.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Section 1530 and 1569.31, Health and Safety Code.

87211 REPORTING REQUIREMENTS **87211**

(a) Each licensee shall furnish to the licensing agency such reports as the Department may require, including, but not limited to, the following:

(1) A written report shall be submitted to the licensing agency and to the person responsible for the resident within seven days of the occurrence of any of the events specified in (A) through (D) below. This report shall include the resident's name, age, sex and date of admission; date and nature of event; attending physician's name, findings, and treatment, if any; and disposition of the case.

(A) Death of any resident from any cause regardless of where the death occurred, including but not limited to a day program, a hospital, en route to or from a hospital, or visiting away from the facility.

(B) Any serious injury as determined by the attending physician and occurring while the resident is under facility supervision.

(C) The use of an Automated External Defibrillator.

(D) Any incident which threatens the welfare, safety or health of any resident, such as psychological abuse of a resident by staff or other residents, or unexplained absence of any resident.

(2) Occurrences, such as epidemic outbreaks, poisonings, catastrophes or major accidents which threaten the welfare, safety or health of residents, personnel or visitors, shall be reported within 24 hours either by telephone or facsimile to the licensing agency and to the local health officer when appropriate.

(3) Fires or explosions which occur in or on the premises shall be reported immediately to the local fire authority; in areas not having organized fire services, within 24 hours to the State Fire Marshal; and no later than the next working day to the licensing agency.

87211 REPORTING REQUIREMENTS (Continued) **87211**

(b) Any suspected physical abuse that results in serious bodily injury of an elder or dependent adult shall be reported to the local ombudsman, the corresponding licensing agency, and the local law enforcement agency within two (2) hours as required by Welfare and Institutions Code Section 15630(b)(1).

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Welfare and Institutions Code section 15630(b)(1) provides in pertinent part:

> Any mandated reporter who, in his or her professional capacity, or within the scope of his or her employment, has observed or has knowledge of an incident that reasonably appears to be physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect, or is told by an elder or dependent adult that he or she has experienced behavior, including an act or omission, constituting physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect, or reasonably suspects that abuse, shall report the known or suspected instance of abuse by telephone or through a confidential Internet reporting tool, as authorized by Section 15658, immediately or as soon as practicably possible. If reported by telephone, a written report shall be sent, or an Internet report shall be made through the confidential Internet reporting tool established in Section 15658, within two working days.
>
> (A) If the suspected or alleged abuse is physical abuse, as defined in Section 15610.63, and the abuse occurred in a long-term care facility, except a state mental health hospital or a state developmental center, the following shall occur:
>
> (i) If the suspected abuse results in serious bodily injury, a telephone report shall be made to the local law enforcement agency immediately, but also no later than within two hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse, and a written report shall be made to the local ombudsman, the corresponding licensing agency, and the local law enforcement agency within two hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse.

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87211 REPORTING REQUIREMENTS (Continued) **87211**

(c) Any suspected physical abuse that does not result in serious bodily injury of an elder or dependent adult shall be reported to the local ombudsman, the corresponding licensing agency, and the local law enforcement agency within twenty-four (24) hours as required by Welfare and Institutions Code Section 15630(b)(1).

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Welfare and Institutions Code section 15630(b)(1) provides in pertinent part:

> Any mandated reporter who, in his or her professional capacity, or within the scope of his or her employment, has observed or has knowledge of an incident that reasonably appears to be physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect, or is told by an elder or dependent adult that he or she has experienced behavior, including an act or omission, constituting physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect, or reasonably suspects that abuse, shall report the known or suspected instance of abuse by telephone or through a confidential Internet reporting tool, as authorized by Section 15658, immediately or as soon as practicably possible. If reported by telephone, a written report shall be sent, or an Internet report shall be made through the confidential Internet reporting tool established in Section 15658, within two working days.
>
> (A) If the suspected or alleged abuse is physical abuse, as defined in Section 15610.63, and the abuse occurred in a long-term care facility, except a state mental health hospital or a state developmental center, the following shall occur:
>
> (i) . . .
>
> (ii) If the suspected abuse does not result in serious bodily injury, a telephone report shall be made to the local law enforcement agency within 24 hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse, and a written report shall be made to the local ombudsman, the corresponding licensing agency, and the local law enforcement agency within 24 hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse.

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(d) The licensee shall notify the Department, the State Long-Term Care Ombudsman, all residents, and, if applicable, their representatives, in writing within two business days of any of the following specified events, or knowledge thereof:

(1) A notice of default, notice of trustee's sale, or any other indication of foreclosure is issued on the property.

(2) An unlawful detainer action is initiated against the licensee.

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87211 REPORTING REQUIREMENTS (Continued) **87211**

(3) The licensee files for bankruptcy.

(4) The licensee receives a written notice of default of payment of rent described in Section 1161 of the Code of Civil Procedure.

(5) A utility company has sent a notice of intent to terminate electricity, gas, or water service on the property within not more than 15 days of the notice.

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The Department does not have the authority to waive the reporting requirements specified in Section 87211(d).

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(e) The licensee shall notify in writing all applicants for potential residence, and, if applicable, the representatives, prior to signing an admission agreement, of any of the events, or knowledge of events specified in Section 87211(d).

(f) Failure to comply with Section 87211(d), or Section 87211(e), or both, may result in a civil penalty of one hundred dollars ($100) for each day of the failure to provide the required notification, not to exceed two thousand dollars ($2,000).

(1) If a resident is relocated without the specified notification, and the resident suffers transfer trauma as defined in Section 87101, or other harm to their health or safety, the Department may suspend or revoke the license or other specified actions pursuant to Health and Safety Code section 1569.686(c)

(g) The licensee shall notify the Department, in writing, within thirty (30) days of the hiring of a new administrator. The notification shall include the following:

(1) Name and residence and mailing addresses of the new administrator.

(2) Date he/she assumed his/her position.

(3) Description of his/her background and qualifications, including documentation of required education and administrator certification.

(A) A photocopy of the documentation is acceptable.

87211 REPORTING REQUIREMENTS (Continued) **87211**

(h) Any change in the chief corporate officer of an organization, corporation or association shall be reported to the licensing agency in writing within fifteen (15) working days following such change. Such notification shall include the name, address and the fingerprint card of the new chief executive officer, as required by Section 87355, Criminal Record Clearance.

NOTE: Authority cited: Sections 1569.30 and 1569.616, Health and Safety Code. Reference: Sections 1569.1, 1569.2, 1569.31, 1569.312, 1569.616, 1569.686 and 1797.196, Health and Safety Code; and Section 15630, Welfare and Institutions Code.

87212 EMERGENCY DISASTER PLAN **87212**

(a) Each facility shall have a disaster and mass casualty plan of action. The plan shall be in writing and shall be readily available.

(b) The plan shall be subject to review by the Department and shall include:

(1) Designation of administrative authority and staff assignments.

(2) Plan for evacuation including:

(A) Fire safety plan.

(B) Means of exiting.

(C) The assembly of residents to a predetermined evacuation site.

(D) Transportation arrangements.

87212 EMERGENCY DISASTER PLAN (Continued) **87212**

(E) Relocation sites which are equipped to provide safe temporary accommodations for residents.

(F) Supervision of residents during evacuation or relocation and contact after relocation to assure that relocation has been completed as planned.

(G) Means of contacting local agencies such as fire department, law enforcement agencies, civil defense and other disaster authorities.

(3) Provision for notifying a resident's hospice agency, if any, in the event of evacuation and/or relocation.

(c) Emergency exiting plans and telephone numbers shall be posted.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.2, 1569.31, 1569.312 and 13131, Health and Safety Code.

87213 FINANCES **87213**

The licensee shall have a financial plan that conforms to the requirements of Section 87155, Application for License, and that assures sufficient resources to meet operating costs for care of residents; shall maintain adequate financial records; and shall submit such financial reports as may be required upon the written request of the licensing agency. Such request shall explain the need for disclosure. The licensing agency reserves the right to reject any financial report and to request additional information or examination, including interim financial statements.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.2 and 1569.15, Health and Safety Code.

87215 COMMINGLING OF MONEY **87215**

Money and valuables of residents entrusted to the licensee of one community care facility licensed under a particular license number shall not be commingled with those of another residential care facility for the elderly of a different license number, regardless of joint ownership.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.31, 1569.60 and 1569.61, Health and Safety Code.

87216 BONDING 87216

(a) Each licensee, other than a county, who is entrusted to safeguard resident cash resources, shall file or have on file with the licensing agency a copy of a bond issued by a surety company to the State of California as principal.

(1) The amount of the bond shall be in accordance with the following schedule:

Total Safeguarded Per Month	Bond Required
$750 or less	$1,000
$751 to $1,500.	$2,000
$1,501 to $2,500	$3,000

Every further increment of $1,000 or fraction thereof shall require an additional $1,000 on the bond.

(b) Whenever the licensing agency determines that the amount of the bond is insufficient to adequately protect the money of residents, or whenever the amount of any bond is impaired by any recovery against the bond, the licensing agency may require the licensee to file an additional bond in such amount as the licensing agency determines to be necessary to adequately protect the residents' money.

(c) Each application for a license or renewal of license shall be accompanied by an affidavit on a form provided by the licensing agency. The affidavit shall state whether the applicant/licensee will be entrusted/is entrusted to safeguard or control cash resources of persons and the maximum amount of money to be handled for all persons in any month.

(d) No licensee shall either handle money of a resident or handle amounts greater than those stated in the affidavit submitted by him or for which his bond is on file without first notifying the licensing agency and filing a new or revised bond as required by the licensing agency.

(e) A written request for a variance from the bonding requirement may be made to the licensing agency. Approval by the licensing agency of a variance shall be in writing. The request shall include a signed statement from the licensee indicating:

(1) That the bonding requirement is so onerous that as a result the facility will cease to operate.

(2) The place of deposit in which the resident's funds are to be held.

(3) That withdrawals will be made only on the authorization of the resident or his responsible person.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.15, 1569.31, 1569.312, 1569.60 and 1569.61, Health and Safety Code.

87217 SAFEGUARDS FOR RESIDENT CASH, PERSONAL PROPERTY, AND VALUABLES 87217

(a) A licensee shall not be required to handle residents' cash resources. However, if a resident incapable of handling his own cash resources, as documented by the initial or subsequent appraisal, is accepted for care, his cash resource shall be safeguarded in accordance with the regulations in this section.

(b) Every facility shall take appropriate measures to safeguard residents' cash resources, personal property and valuables which have been entrusted to the licensee or facility staff. The licensee shall give the residents receipts for all such articles or cash resources.

(c) Every facility shall account for any cash resources entrusted to the care or control of the licensee or facility staff.

(1) Cash resources include but are not limited to monetary gifts, tax credits and/or refunds, earnings from employment or workshops, and personal and incidental need allowances from funding sources such as SSI/SSP.

(d) Except as provided in approved continuing care agreements, no licensee or employee of a facility shall:

(1) accept appointment as a guardian or conservator of the person and/or estate of any resident;

(2) accept any general or special power of attorney for any such person;

(3) become substitute payee for any payments made to any persons;

(A) This requirement does not apply to a licensee who is appointed by the Social Security Administration as representative payee for the resident.

(4) become the joint tenant on any account specified in Section 87217(h) with a resident.

(e) Cash resources and valuables of residents which are handled by the licensee for safekeeping shall not be commingled with or used as the facility funds or petty cash, and shall be separate, intact and free from any liability the licensee incurs in the use of his own or the facility's funds and valuables. This does not prohibit the licensee from providing advances or loans to residents from facility money.

(f) No licensee or employee of a facility shall make expenditures from residents' cash resources for any basic service specified in this Chapter, or for any basic services identified in a contract/admission agreement between the resident and facility.

(1) This requirement does not apply to a licensee who is appointed by the Social Security Administration as representative payee for the resident.

87217 SAFEGUARDS FOR RESIDENT CASH, PERSONAL PROPERTY, AND VALUABLES (Continued) **87217**

(g) Each licensee shall maintain adequate safeguards and accurate records of cash resources and valuables entrusted to his care, including, but not limited to the following:

(1) Records of residents' cash resources maintained as a drawing account shall include a ledger accounting (columns for income, disbursements and balance) for each resident, and supporting receipts filed in chronological order. Each accounting shall be kept current.

(A) An acceptable receipt where cash is provided to residents from their respective accounts, includes: the resident's signature or mark, or responsible party's full signature, and a statement acknowledging receipt of the amount and date received. An acceptable form of receipt would include:

"(full signature of resident) accepts (dollar amount) (amount written in cursive), this date (date), from (payor)".

(B) An acceptable receipt where purchases are made for the resident, from his account, is the store receipt.

(2) Records of residents' cash resources and other valuables entrusted to the licensee for safekeeping shall include a copy of the receipt furnished to the resident as specified in (b) above or to his responsible person. The receipt provided to the resident for money or valuables entrusted to the licensee shall be original and include the resident's and/or his responsible person's signature.

(3) Bank records for transactions of cash resources deposited in and drawn from the account as specified in (h) below.

(h) Immediately upon admission, residents' cash resources entrusted to the licensee and not kept in the licensed facility shall be deposited in any type of bank, savings and loan or credit union account, which is maintained separate from the personal or business accounts of the licensee, provided that the account title clearly notes that it is residents' money and the resident has access to the money upon demand to the licensee.

(1) Such accounts shall be maintained in a local bank, savings and loan or credit union authorized to do business in California, the deposits of which are insured by a branch of the Federal Government; except, however that a local public agency may deposit such funds with the public treasurer.

(2) Cash resources entrusted to the licensee for residents and kept on the facility premises shall be kept in a locked and secure location.

87217 SAFEGUARDS FOR RESIDENT CASH, PERSONAL PROPERTY, AND VALUABLES (Continued) **87217**

(i) Upon discharge of a resident, all cash resources, personal property and valuables of that resident which have been entrusted to the licensee shall be surrendered to the resident, or his responsible person. A signed receipt shall be obtained.

(j) Upon the death of a resident, all cash resources, personal property, and valuables of that resident shall immediately be safeguarded.

(1) All cash resources shall be placed in an account as specified in (g) above.

(2) The executor or the administrator of the estate shall be notified by the licensee, and the cash resources, personal property, and valuables surrendered to said party.

(3) If no executor or administrator has been appointed, the responsible person shall be notified, and the cash resources, personal property, and valuables shall be surrendered to said person in exchange for a signed itemized receipt.

(4) If the licensee is unable to notify a responsible party as specified above, immediate written notice of the resident's death shall be given to the public administrator of the county as provided by Section 7600.5 of the California Probate Code.

(k) Whenever there is a change of licensee, the licensee shall:

(1) notify the licensing agency of any pending change of licensee, and

(2) shall provide the licensing agency an accounting of all residents' cash resources, personal property and valuables entrusted to his/her care. Such accounting shall be made on a form provided or approved by the Department.

(l) When the licensing agency approves the application for the new licensee, the form specified in (2) above shall be updated, signed by both parties, and forwarded to the licensing agency.

(m) All monetary gifts, and any gift exceeding an estimated value of $100, which are given to a licensee by or on behalf of a resident shall be recorded. The record shall be attached to the account specified in (f) above. This shall not include monetary gifts or valuables given by the friends or relatives of a deceased resident.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.15, 1569.31, 1569.60 and 1569.61, Health and Safety Code; Section 11006.9, Welfare and Institutions Code; and Title 20 Code of Federal Regulations, Section 416.601.

87218 THEFT AND LOSS 87218

(a) The licensee shall ensure an adequate theft and loss program as specified in Health and Safety Code section 1569.153.

(1) The initial personal property inventory shall be completed by the licensee, and the resident, or the resident's representative.

(2) A licensee who fails to make reasonable efforts to safeguard resident property, shall reimburse a resident for or replace stolen or lost resident property at its current value. The licensee shall be presumed to have made reasonable efforts to safeguard resident property if there is clear and convincing evidence of efforts to meet each requirement specified in section 1569.153.

(A) A civil penalty shall be levied if the licensee or facility staff have not implemented the theft and loss program, or if the licensee has not shown clear and convincing evidence of its efforts to meet all of the requirements set forth in section 1569.153.

(3) The facility contract of admission, including all documents a resident or his or her representative must sign as a condition of admission, shall not require or suggest a lesser standard of responsibility for the personal property of residents than the law requires.

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Health and Safety Code section 1569.153 provides in part:

"A theft and loss program shall be implemented by the residential care facilities for the elderly within 90 days after January 1, 1989. The program shall include all of the following:

(a) Establishment and posting of the facility's policy regarding theft and investigative procedures.

(b) Orientation to the policies and procedures for all employees within 90 days of employment.

(c) Documentation of lost and stolen resident property with a value of twenty-five dollars ($25) or more within 72 hours of the discovery of the loss or theft and, upon request, the documented theft and loss record for the past 12 months shall be made available to the State Department of Social Services, law enforcement agencies and to the office of the State Long-Term Care Ombudsman in response to a specific complaint. The documentation shall include, but not be limited to, the following:

(1) A description of the article.

(2) Its estimated value.

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87218 THEFT AND LOSS (Continued)

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(3) The date and time the theft or loss was discovered.

(4) If determinable, the date and time the loss or theft occurred.

(5) The action taken.

(d) A written resident personal property inventory is established upon admission and retained during the resident's stay in the residential care facility for the elderly. Inventories shall be written in ink, witnessed by the facility and the resident or resident's representative, and dated. A copy of the written inventory shall be provided to the resident or the person acting on the resident's behalf. All additions to an inventory shall be made in ink, and shall be witnessed by the facility and the resident or resident's representative, and dated. Subsequent items brought into or removed from the facility shall be added to or deleted from the personal property inventory by the facility at the written request of the resident, the resident's family, a responsible party, or a person acting on behalf of a resident. The facility shall not be liable for items which have not been requested to be included in the inventory or for items which have been deleted from the inventory. A copy of a current inventory shall be made available upon request to the resident, responsible party, or other authorized representative. The resident, resident's family, or a responsible party may list those items which are not subject to addition or deletion from the inventory, such as personal clothing or laundry, which are subject to frequent removal from the facility.

(e) Inventory and surrender of the resident's personal effects and valuables upon discharge to the resident or authorized representative in exchange for a signed receipt.

(f) Inventory and surrender of personal effects and valuables following the death of a resident to the authorized representative in exchange for a signed receipt. Immediate written notice to the public administrator of the county upon the death of a resident whose heirs are unable or unwilling to claim the property as specified in Chapter 20 (commencing with Section 1140) of Division 3 of the Probate Code.

(g) Documentation, at least semiannually, of the facility's efforts to control theft and loss, including the review of theft and loss documentation and investigative procedures and results of the investigation by the administrator and, when feasible, the resident council.

(h) Establishment of a method of marking, to the extent feasible, personal property items for identification purposes upon admission and, as added to the property inventory list, including engraving of dentures and tagging of other prosthetic devices.

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87218 THEFT AND LOSS (Continued)

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(i) Reports to the local law enforcement agency within 36 hours when the administrator of the facility has reason to believe resident property with a then current value of one hundred dollars ($100) or more has been stolen. Copies of those reports for the preceding 12 months shall be made available to the State Department of Social Services and law enforcement agencies.

(j) Maintenance of a secured area for residents' property which is available for safekeeping of resident property upon the request of the resident or the resident's responsible party. Provide a lock for the resident's bedside drawer or cabinet upon request of and at the expense of the resident, the resident's family, or authorized representative. The facility administrator shall have access to the locked areas upon request.

(k) A copy of this section and sections 1569.152 and 1569.154 is provided by a facility to all of the residents and their responsible parties, and available upon request, to all of the facility's prospective residents and their responsible parties.

(l) Notification to all current residents and all new residents, upon admission, of the facility's policies and procedures relating to the facility's theft and loss prevention program.

(m) Only those residential units in which there are no unrelated residents and where the unit can be secured by the resident or residents are exempt from the requirements of this section."

HANDBOOK ENDS HERE

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.152, 1569.153 and 1569.154, Health and Safety Code.

87219 PLANNED ACTIVITIES

(a) Residents shall be encouraged to maintain and develop their quality of life through participation in a variety of planned activities. The activities made available shall include:

(1) Socialization to promote or enhance personal relationships. Activities may include, but are not limited, to:

(A) Group discussion and conversation.

(B) Reminiscence activities, such as looking at photos, letters, or greeting cards.

(C) Cultural and/or religious activities, such as holiday celebrations and cultural traditions.

(D) Other social activities such as arts, crafts, games, gardening, pet care, and other recreational activities promoting social interaction.

(2) Daily living skills/activities which foster and maintain independent functioning.

(3) Cognitive and mental stimulation activities such as reading, writing, movies, crossword puzzles, board and card games, and using the computer.

(4) Sensory stimulation, such as music therapy and aromatherapy, or tactile activities, such as pet therapy.

(5) Leisure time activities cultivating personal interests and pursuits, and encouraging leisure-time activities with other residents.

(6) Physical activities that maintain physical health including games, sports, exercises, and other similar activities that promote balance, strength, coordination, flexibility, and range of motion.

(7) Education, achieved through special classes or activities.

(8) Provision for free time so residents may engage in activities of their own choosing.

(b) Residents served shall be encouraged to contribute to the planning, preparation, conduct, clean-up and critique of the planned activities.

87219 PLANNED ACTIVITIES (Continued)

(c) The licensee shall arrange for utilization of available community resources through contact with organizations and volunteers to promote resident participation in community-centered activities which may include:

(1) Attendance at the place of worship of the resident's choice.

(2) Service activities for the community.

(3) Community events such as concerts, tours and plays.

(4) Participation in community organized group activities, such as senior citizen groups, sports leagues and service clubs.

(d) In facilities licensed for seven (7) or more persons, notices of planned activities shall be posted in a central location readily accessible to residents, relatives, and representatives of placement and referral agencies. Copies shall be retained for at least six (6) months.

(e) In facilities licensed for sixteen (16) to forty-nine (49) persons, one staff member, designated by the administrator, shall have primary responsibility for the organization, conduct and evaluation of planned activities. This person shall have had at least six (6) months experience in providing planned activities or have completed or be enrolled in an appropriate education or training program.

(f) In facilities licensed for fifty (50) persons or more, one staff member shall have full-time responsibility to organize, conduct and evaluate planned activities, and shall be given such staff assistance as necessary in order for all residents to participate in accordance with their interests and abilities. The program of activities shall be written, planned in advance, kept up-to-date, and made available to all residents. The responsible employee shall have had at least one year of experience in conducting group activities and be knowledgeable in evaluating resident needs, supervising other employees, and in training volunteers.

(1) An exception to this requirement may be made by the licensing agency upon the facility's presentation in writing of a satisfactory alternative plan.

(2) Where the facility can demonstrate that its residents are self-directed to the extent that they are able to plan, organize and conduct the facility's activity program themselves, this requirement may be reduced or waived by the licensing agency.

(g) Participation of volunteers in planned activities shall be encouraged, and such volunteers shall be under the direction and supervision of the employees responsible for the activity program.

87219 PLANNED ACTIVITIES (Continued)

(h) The licensee shall provide sufficient space to accommodate both indoor and outdoor activities. Activities shall be encouraged by provision of:

(1) A comfortable, appropriately furnished area such as a living room, available to all residents for their relaxation and for entertaining friends and relatives.

(2) Outdoor activity areas that are easily accessible to residents, protected from traffic, and have adequate shady areas.

(i) The licensee shall implement reasonable interventions in order to ensure the safety of all residents utilizing indoor and outdoor areas and take precautions to prevent residents from unsafe wandering and elopement, as defined in Section 87101, Definitions. Such precautions may not conflict with residents' personal rights as specified in Section 87468.1, Personal Rights of Residents in All Facilities and Section 87468.2, Additional Personal Rights of Residents in Privately Operated Facilities.

(j) The licensee shall provide sufficient equipment and supplies to meet the requirements of this section, including access to a variety of reading materials. Special equipment and supplies necessary to reasonably accommodate the individual physical and mental needs of residents shall be provided as appropriate.

(1) When not in use, recreational equipment and supplies shall be stored where they do not create a hazard to residents.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.2, 1569.31 and 1569.312, Health and Safety Code.

87221 RESIDENT COUNCILS

The facility shall permit the formation of a resident council by interested residents, provide space and post notice for meetings, and provide assistance in attending meetings for those residents who request it. In order to permit a free exchange of ideas, at least part of each meeting shall be allowed to be conducted without the presence of any facility personnel. Residents shall be encouraged, but shall not be compelled to attend. The purpose of such an organization shall be to work with the administration in improving the quality of life for all residents by enriching the activity program and to discuss the services offered by the facility and make recommendations regarding identified problems.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.31 and 1569.312, Health and Safety Code.

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87222 REQUIREMENTS FOR EMERGENCY ADULT PROTECTIVE SERVICES PLACEMENTS

(a) The licensee shall be permitted to accept emergency placements by an adult protective services (APS) agency, if the licensee has received approval from the Department to provide emergency shelter services.

(1) To obtain approval, the licensee shall submit a written request to the Department. The request shall include, but not be limited to, the following:

(A) A letter of interest from the county APS agency stating that if the request to provide emergency shelter services is approved, the APS agency may enter into an agreement with the licensee to provide such services.

1. A copy of the written agreement between the APS agency and the licensee, listing the responsibilities of each party, shall be sent to the Department within seven calendar days of signing.

(B) A written addendum to the Plan of Operation, specified in Section 87208, Plan of Operation that includes procedures for the intake of an APS emergency placement. The addendum shall specify how the licensee will meet the needs of a resident placed on an emergency basis, such as on-call staff, additional staff and training.

1. The procedures shall include, but not be limited to, provisions for a private room.

a. The licensee shall provide a private room for the resident until a pre-admission appraisal of the resident's individual service needs has been completed, specified in Section 87457, Pre-admission Appraisal.

b. The Department may approve an alternative to a private room, such as awake or additional staff, but an alternative shall not be approved if it displaces staff or other residents of the facility.

(C) A licensee of a residential care facility for the elderly may accept an adult resident, 18 through 59 years of age, for emergency placement under the following conditions:

1. The APS agency has written a statement indicating a local need exists for the licensee to accept emergency placements of adults 18 through 59 years of age.

a. The licensee attaches this APS statement of local need [Section 87222(a)(1)(C)1.] to the written request, specified in Section 87222(a)(1).

87222 REQUIREMENTS FOR EMERGENCY ADULT PROTECTIVE SERVICES PLACEMENTS (Continued) **87222**

b. The licensee must request a statement each year from the APS agency, indicating a local need still exists as specified in Section 87222(a)(1)(C)1., and submit the statement to the Department.

(b) The Department shall provide written approval or denial of a licensee's request to provide emergency shelter services within 15 working days of its receipt.

(c) The licensee shall comply with the regulations in Title 22, Division 6, Chapter 8 (Residential Care Facilities for the Elderly), unless otherwise stated in Section 87222, Requirements for Emergency Adult Protective Services Placements. These regulations include, but are not limited to, the following:

(1) The licensee shall not exceed the capacity limitations specified on the license and shall not allow rooms approved only for ambulatory residents to be used by nonambulatory residents, as specified in Section 87204, Limitations - Capacity and Ambulatory Status.

(2) The licensee shall meet the requirements in Section 87202 on fire clearance if the licensee has accepted a nonambulatory resident, defined in Section 87101(n).

(d) The licensee shall not accept the following persons as APS emergency placements:

(1) Individuals with prohibited health conditions [Section 87615, Prohibited Health Conditions].

(2) Individuals with restricted health conditions [Section 87612, Restricted Health Conditions].

(A) The licensee may accept an APS emergency placement who is incontinent when the requirements in Section 87625, Managed Incontinence, are met.

(3) Individuals who are receiving hospice care [Section 87633, Hospice Care for Terminally Ill Residents].

(4) Individuals who have active communicable tuberculosis [Section 87455(c)(1)].

(5) Individuals who require 24-hour, skilled nursing or intermediate care [Section 87455(c)(2)].

(6) Individuals whose primary need for care and supervision results from an ongoing behavior, caused by a mental disorder, that would upset the general resident group [Section 87455(c)(3)(A)].

(7) Individuals who are bedridden, as defined in Section 87455(d).

(e) If a licensee accepts an APS emergency placement with dementia, the licensee shall meet the requirements in Section 87405, Care of Persons with Dementia.

87222 REQUIREMENTS FOR EMERGENCY ADULT PROTECTIVE SERVICES PLACEMENTS (Continued) **87222**

(f) The licensee shall not admit an APS emergency placement unless the APS worker is present at the facility at the time of admission.

(g) Prior to acceptance of an APS emergency placement, the licensee shall obtain and keep on file the following information received from the APS worker:

(1) Resident's name.

(2) Resident's ambulatory status.

(3) Name(s) and telephone number(s) of the resident's physician(s).

(4) Name(s), business address(es), and telephone number(s) of the APS worker responsible for the resident's placement and the APS case worker, if known.

(5) Name, address, and telephone number of any person responsible for the care of the resident, if available.

(h) Within seven calendar days of an APS emergency placement, the licensee shall obtain other resident information specified in Section 87506, Resident Records.

(1) The resident must have a tuberculosis test [Section 87458(b)(1)] by the seventh day of placement even though the test results may not be available by the seventh day of placement.

(i) The licensee shall contact the resident's attending physician or the person authorized to act for the physician to identify all of the resident's prescribed medications and usage instructions [Section 87458(b)(3)] by the next working day, but no later than 72 hours from the initial APS emergency placement.

(1) The attending physician or the person acting for the physician shall have access to the resident's records to determine whether the full medication regimen is accounted for and accurate.

(2) If medication verification, as specified in Section 87222(i), has not been obtained within 72 hours from the resident's initial placement, the licensee shall contact the APS worker to request that the resident be relocated, as specified in Section 87222(j).

(j) The licensee shall contact the APS worker to request that the resident be relocated immediately when the licensee identifies that needs cannot be met or that the resident has a condition specified in Section 87222(d).

87222 REQUIREMENTS FOR EMERGENCY ADULT PROTECTIVE SERVICES PLACEMENTS (Continued) **87222**

(1) A licensee cannot retain a resident under age 60 beyond 30 calendar days from initial placement by the APS agency, unless the acceptance and retention requirement provided in Section 87455(b)(6) is met.

(k) Within seven calendar days of the licensee making any changes to an agreement with an APS agency, the licensee shall notify the Department in writing of these changes, which may include a renewed agreement, amended language and/or notification of a terminated agreement.

(l) All emergency placements are subject to the same record requirements as set forth in Section 87506(d).

NOTE: Authority cited: Section 1569.30, Health and Safety Code; Senate Bill 2199 (Chapter 946, Statutes of 1998), Section 14 uncodified. Reference: Sections 1569.1, 1569.2, 1569.31, 1569.312, 1569.315, 1569.316, 1569.47, 1569.54, 1569.698, 1569.699, 1569.71, 1569.72 and 1569.73, Health and Safety Code; Sections 15610.13 and 15763, Welfare and Institutions Code.

87223 RELOCATION OF RESIDENT **87223**

(a) When a resident must be relocated by Department order whether individual health-condition relocations pursuant to Section 87612, Restricted Health Conditions, or temporary suspension orders pursuant to Section 87775(c), the licensee shall not obstruct the relocation process and shall cooperate with the Department in the relocation process. Such cooperation shall include, but not be limited to, the following activities:

(1) Identifying and preparing for removal of the medications, Medi-Cal or Medicare or other medical insurance documents, clothing, safeguarded cash resources, valuables and other belongings of the resident.

(2) Contacting the person responsible for the resident to assist in transporting him or her, if necessary.

(3) Contacting other suitable facilities for placement, if necessary.

(4) Providing access to resident's files when required by the Department.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569, 1569.1, 1569.2, 1569.31, 1569.312 and 1569.54, Health and Safety Code.

87224 EVICTION PROCEDURES 87224

(a) The licensee may evict a resident for one or more of the reasons listed in Section 87224(a)(1) through (5). Thirty (30) days written notice to the resident is required except as otherwise specified in paragraph (5).

(1) Nonpayment of the rate for basic services within ten days of the due date.

(2) Failure of the resident to comply with state or local law after receiving written notice of the alleged violation.

(3) Failure of the resident to comply with general policies of the facility. Said general policies must be in writing, must be for the purpose of making it possible for residents to live together and must be made part of the admission agreement.

(4) If, after admission, it is determined that the resident has a need not previously identified and a reappraisal has been conducted pursuant to Section 87463, and the licensee and the person who performs the reappraisal believe that the facility is not appropriate for the resident.

(5) Change of use of the facility.

(A) The licensee may, upon no less than sixty (60) days written notice, evict a resident due to change of use of the facility.

1. In addition to written notice to quit requirements specified in Section 87224(d), written notice to evict due to change of use of the facility shall be made to the resident or the resident's responsible person and shall include all requirements specified in Section 1569.682(a)(2)(A) through (F) of the Health and Safety Code.

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Health and Safety Code section 1569.682(a)(2)(A) through (F) provides:

"(a) A licensee of a licensed residential care facility for the elderly shall, prior to transferring a resident of the facility to another facility or to an independent living arrangement as a result of the forfeiture of a license, as described in subdivision (a), (b), or (f) of Section 1569.19, or a change of use of the facility pursuant to the department's regulations, take all reasonable steps to transfer affected residents safely and to minimize possible transfer trauma, and shall, at a minimum, do all of the following:

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87224 EVICTION PROCEDURES (Continued) **87224**

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(2) Provide each resident or the resident's responsible person with a written notice no later than 60 days before the intended eviction. The notice shall include all of the following:

(A) The reason for the eviction, with specific facts to permit a determination of the date, place, witnesses, and circumstances concerning the reasons.

(B) A copy of the resident's current service plan.

(C) The relocation evaluation.

(D) A list of referral agencies.

(E) The right of the resident or resident's legal representative to contact the department to investigate the reasons given for the eviction pursuant to Section 1569.35.

(F) The contact information for the local long-term care ombudsman, including address and telephone number.

…."

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(b) The licensee may, upon obtaining prior written approval from the licensing agency, evict the resident upon three (3) days written notice to quit. The licensing agency may grant approval for the eviction upon a finding of good cause. Good cause exists if the resident is engaging in behavior which is a threat to the mental and/or physical health or safety of himself or to the mental and/or physical health or safety of others in the facility.

(c) The licensee shall, in addition to either serving the required thirty (30) days notice, sixty (60) days notice, or seeking approval from the Department and service three (3) days notice on the resident, notify or mail a copy of the notice to quit to the resident's responsible person.

(d) The licensee shall set forth in the notice to quit the reasons relied upon for the eviction with specific facts to permit determination of the date, place, witnesses, and circumstances concerning those reasons.

87224 EVICTION PROCEDURES (Continued) **87224**

(1) The notice to quit shall include the following information:

(A) The effective date of the eviction.

(B) Resources available to assist in identifying alternative housing and care options which include, but are not limited to, the following:

1. Referral services that will aid in finding alternative housing.

2. Case management organizations which help manage individual care and service needs.

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Available resources to assist in identifying alternative housing and care options include, but are not limited to:

1) California Department of Social Services, Facility Search webpage http://www.cdss.ca.gov/inforesources/Community-Care-Licensing/Facility-Search-Welcome

2) California Department of Social Services "Other Links and Partner Agencies" webpage http://www.cdss.ca.gov/inforesources/Community-Care/Other-Links-and-Partner-Agencies

3) California State Long-Term Care Ombudsman https://www.aging.ca.gov/ProgramsProviders/LTCOP/

Licensees may contact advocacy organizations and provider associations to assist in developing a list of resources. Licensees may also refer to the Department's "Other Links and Partner Agencies" webpage for additional information.

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(C) A statement informing residents of their right to file a complaint with the licensing agency, as specified in Section 87468, subsection (a)(4), including the name, address and telephone number of the licensing office with whom the licensee normally conducts business, and the State Long Term Care Ombudsman office.

87224 EVICTION PROCEDURES (Continued) **87224**

(D) The following exact statement as specified in Health and Safety Code Section 1569.683(a)(4): "In order to evict a resident who remains in the facility after the effective date of the eviction, the residential care facility for the elderly must file an unlawful detainer action in superior court and receive a written judgment signed by a judge. If the facility pursues the unlawful detainer action, you must be served with a summons and complaint. You have the right to contest the eviction in writing and through a hearing."

(e) Upon request of a resident, or his/her designated representative, the Department shall, pursuant to the provisions of Section 1569.35 of the Health and Safety Code, investigate the reasons given for the eviction.

(f) A written report of any eviction shall be sent to the licensing agency within five (5) days.

(g) This section shall not apply to a particular resident who has entered into a continuing care contract with a facility pursuant to Health and Safety Code, Chapter 10, Division 2.

(h) Nothing in this section is intended to preclude the licensee or resident from invoking any other available remedy.

(i) Nothing in Section 87224 precludes the licensee from initiating the urgent relocation to a licensed health facility of a terminally ill resident receiving hospice services when the resident's condition has changed and a joint determination has been made by the Department, the resident or resident's health care surrogate decision maker, the resident's hospice agency, a physician, and the licensee, that the resident's continued retention in the facility poses a health and safety risk to the resident or any other facility resident.

(1) The licensee shall follow the procedures specified in Section 87637(b)(2) to reduce the risk of transfer trauma.

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1, 1569.2, 1569.31, 1569.312, 1569.315, 1569.54, 1569.682, 1569.683, and 1569.73, Health and Safety Code.

Article 5. Physical Environment and Accommodations

87303 MAINTENANCE AND OPERATION

(a) The facility shall be clean, safe, sanitary and in good repair at all times. Maintenance shall include provision of maintenance services and procedures for the safety and well-being of residents, employees and visitors.

(1) Floor surfaces in bath, laundry and kitchen areas shall be maintained in a clean, sanitary, and odorless condition.

(b) A comfortable temperature for residents shall be maintained at all times.

(1) The facility shall heat rooms that residents occupy to a minimum of 68 degree F, (20 degrees C).

(2) The facility shall cool rooms to a comfortable range, between 78 degrees F (26 degrees C) and 85 degrees F (30 degrees C), or in areas of extreme heat to 30 degrees F less than the outside temperature.

(3) Nothing in this section shall prohibit residents from adjusting individual thermostatic controls.

(c) All window screens shall be clean and maintained in good repair.

(d) There shall be lamps or light appropriate for the use of each room and sufficient to ensure the comfort and safety of all persons in the facility.

(e) Water supplies and plumbing fixtures shall be maintained as follows:

(1) All residential care facilities for the elderly where water for human consumption is from a private source shall:

(A) As a condition of initial licensure, provide evidence of an on-site inspection of the source of the water and a bacteriological analysis by a local or state health department or other qualified public or private laboratory which establishes the safety of the water.

(B) Following licensure, provide a bacteriological analysis of the private water supply as frequently as is necessary to assure the safety of the residents, but no less frequently than the time intervals shown in the table below. However, facilities licensed for six or fewer residents shall be required to have a bacteriological analysis subsequent to initial licensure only if evidence supports the need for such an analysis to protect residents.

87303 MAINTENANCE AND OPERATION (Continued)

Licensed Capacity	Analysis Required	Periodic Subsequent Analysis
Under 6	Initial Licensing	Upon evidence of need
7 through 15	Initial Licensing	Annually
16 through 24	Initial Licensing	Every six months
25 or more	Refer to the county health department for compliance with the California Safe Drinking Water Act, Health and Safety Code, Division 5, Part 1, Chapter 7, Water and Water Systems.	

(2) Faucets used by residents for personal care such as shaving and grooming shall deliver hot water. Hot water temperature controls shall be maintained to automatically regulate the temperature of hot water used by residents to attain a temperature of not less than 105 degree F (41 degree C) and not more than 120 degree F (49 degree C).

(3) Taps delivering water at 125 degree F (52 degree C) or above shall be prominently identified by warning signs.

(4) Grab bars shall be maintained for each toilet; bathtub and shower used by residents.

(5) Slip-resistant mats, strips, or flooring shall be used in all bathtub and shower floors.

(A) All slip-resistant mats, strips, or flooring shall be in good repair and maintain slip-resistant properties.

(6) Toilet, handwashing and bathing facilities shall be maintained in operating condition. Additional equipment shall be provided in facilities accommodating physically handicapped and/or nonambulatory residents, based on the residents' needs.

(f) All waste shall be located, stored, and disposed of in a manner that will not transmit communicable diseases or odors, pose a risk to health and safety, or provide a breeding place or food source for insects or rodents.

(1) All containers storing waste shall be in good repair, free of leaks, and emptied in a timely manner.

(2) Syringes and needles are disposed of in accordance with the California Code of Regulations, Title 8, Section 5193 concerning blood borne pathogens.

87303 MAINTENANCE AND OPERATION (Continued)

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California Code of Regulations, Title 8, Sections 5193(d)(3)(B) through (D) are paraphrased in pertinent part:

1. Shearing or breaking of contaminated needles is prohibited.

2. Contaminated needles shall not be bent or recapped.

3. Waste containers shall not be opened or emptied manually.

4. Immediately or as soon as possible after use, contaminated needles shall be placed in appropriate containers that shall be:

   a. Rigid;

   b. Puncture resistant;

   c. Leak proof on the sides and bottom;

   d. Portable, if portability is necessary to ensure easy access by the user;

   e. Labeled as BIOHAZARDOUS WASTE or SHARPS WASTE.

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(3) All outdoor containers, such as garbage receptacles or dumpsters, shall provide suitable access and drainage to allow complete cleaning at the storage area.

(g) Facilities which have machines and do their own laundry shall:

(1) Have adequate supplies available and equipment maintained in good repair. Space used to sort soiled linen shall be separate from the clean linen storage and handling area. Except for facilities licensed for fifteen (15) residents or less, the space used to do laundry shall not be part of an area used for storage of anything other than clean linens and/or other supplies normally associated with laundry activities. Steam, odors, lint and objectionable laundry noises shall not reach resident or employee areas.

(2) Make at least one machine available for use by residents who are able and who desire to do their own personal laundry. This machine shall be maintained in good repair. Equipment in good repair shall be provided to residents who are capable and desire to iron their own clothes.

87303 MAINTENANCE AND OPERATION (Continued)

(h) Emergency lighting shall be maintained. At a minimum this shall include flashlights, or other battery powered lighting, readily available in appropriate areas accessible to residents and staff. Open-flame lights shall not be used.

(i) Facilities shall have signal systems which shall meet the following criteria:

(1) All facilities licensed for 16 or more and all residential facilities having separate floors or buildings shall have a signal system which shall:

(A) Operate from each resident's living unit.

(B) Transmit a visual and/or auditory signal to a central staffed location or produce an auditory signal at the living unit loud enough to summon staff.

(C) Identify the specific resident living unit.

(2) Facilities having more than one wing, floor or building shall be permitted to have a separate system in each, provided each meets the above criteria.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1 and 1569.31, Health and Safety Code.

87305 ALTERATIONS TO EXISTING BUILDINGS OR NEW FACILITIES

(a) Prior to construction or alterations, all facilities shall obtain a building permit.

(b) The licensing agency may require the facility to acquire a local building inspection where the agency determines that a suspected hazard to health and safety exists.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.31 and 1569.312, Health and Safety Code.

87307 PERSONAL ACCOMMODATIONS AND SERVICES

(a) Living accommodations and grounds shall be related to the facility's function. The facility shall be large enough to provide comfortable living accommodations and privacy for the residents, staff, and others who may reside in the facility. The following provisions shall apply:

(1) There shall be common rooms such as living rooms, dining rooms, dens or other recreation/activity rooms. They shall be of sufficient space and/or separation to promote and facilitate the program of activities and to prevent such activities from interfering with other functions.

(2) Resident bedrooms shall be provided which meet, at a minimum, the following requirements:

(A) Bedrooms shall be large enough to allow for easy passage between and comfortable usage of beds and other required items of furniture specified below, and any resident assistant devices such as wheelchairs or walkers.

(B) No room commonly used for other purposes shall be used as a sleeping room for any resident. This includes any hall, stairway, unfinished attic, garage storage area, shed or similar detached building.

(C) No bedroom of a resident shall be used as a passageway to another room, bath or toilet.

(D) Not more than two residents shall sleep in a bedroom.

(3) Equipment and supplies necessary for personal care and maintenance of adequate hygiene practice shall be readily available to each resident. The resident may provide the following items; however, if the resident is unable or chooses not to provide them, the licensee shall assure provision of:

(A) A bed for each resident, except that married couples may be provided with one appropriate sized bed. Each bed shall be equipped with good springs, a clean and comfortable mattress, available pillow(s) and lightweight warm bedding. Fillings and covers for mattresses and pillows shall be flame retardant. Rubber sheeting shall be provided when necessary.

(B) Bedroom furniture, which shall include, for each resident, a chair, night stand, a lamp, or lights sufficient for reading, and a chest of drawers.

(C) Clean linen, including blankets, bedspreads, top bed sheets, bottom bed sheets, pillow cases, mattress pads, bath towels, hand towels and wash cloths. The quantity shall be sufficient to permit changing at least once per week or more often when indicated to ensure that clean linen is in use by residents at all times. The linen shall be in good repair. The use of common wash cloths and towels shall be prohibited.

87307 PERSONAL ACCOMMODATIONS AND SERVICES (Continued)

(D) Hygiene items of general use such as soap and toilet paper.

(E) Portable or permanent closets and drawer space in the bedrooms for clothing and personal belongings. A minimum of eight (8) cubic feet (.743 cubic meters) of drawer space per resident shall be provided.

(F) Basic laundry service (washing, drying, and ironing of personal clothing).

(b) Toilets and bathrooms shall be conveniently located. The licensed capacity shall be established based on Section 87158, Capacity, and the following:

(1) At least one toilet and washbasin for each six (6) persons, which include residents, family and personnel.

(2) At least one bathtub or shower for each ten (10) persons, which includes residents, family and live-in personnel.

(c) Individual privacy shall be provided in all toilet, bath and shower areas.

(d) The following space and safety provisions shall apply to all facilities:

(1) Sufficient room shall be available to accommodate persons served in comfort and safety.

(2) The premises shall be maintained in a state of good repair and shall provide a safe and healthful environment.

(3) All persons shall be protected against hazards within the facility through provision of the following:

(A) Protective devices such as nonslip material on rugs.

(B) Information and instruction regarding life protection and other appropriate subjects.

(4) Stairways, inclines, ramps and open porches and areas of potential hazard to residents with poor balance or eyesight shall be made inaccessible to residents unless equipped with sturdy hand railings and unless well-lighted.

(5) Night lights shall be maintained in hallways and passages to nonprivate bathrooms.

(6) All outdoor and indoor passageways and stairways shall be kept free of obstruction.

87307 PERSONAL ACCOMMODATIONS AND SERVICES (Continued)

(e) The licensee shall supervise residents as needed and as determined by the resident's appraisal pursuant to Section 87457, Pre-Admission Appraisal or Section 87463, Reappraisals, when residents are in proximity to or when there is use of the following items:

(1) Ranges, ovens, heaters, fireplaces, wood stoves, inserts, and other heating devices.

(A) Heating devices shall have protective mechanisms or other measures to prevent access to the device, or to make it inoperable when not in use, in order to reduce the risk of burns or fire.

(2) Fishponds, wading pools, hot tubs, swimming pools, or similar larger bodies of water.

(A) The licensee shall ensure that the bodies of water specified above are inaccessible through fencing, covering, or other means when not in active use by residents.

(f) The licensee shall supervise residents as needed and as determined by the resident's appraisal, pursuant to Section 87457, Pre-Admission Appraisal or Section 87463, Reappraisals, when residents are in proximity to birdbaths, fountains, or similar smaller decorative water features.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.2, 1569.31 and 1569.312, Health and Safety Code.

87308 RESIDENT AND SUPPORT SERVICES

(a) Nothing in these regulations shall prohibit the provision of required services from a centralized service facility serving two or more licensed facilities when approved in writing by the licensing agency.

(b) Administrative offices or area shall be maintained in facilities having a capacity of sixteen (16) persons or more, which includes space for business, administration and admission activities, a reception area and restroom facilities which may be used by visitors. Appropriate equipment shall be available, including a telephone. A private office shall be maintained for the administrator or other professional staff as appropriate.

(c) General storage space shall be maintained for equipment and supplies as necessary to ensure that space used to meet other requirements of these regulations is not also used for storage.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.31 and 1569.312, Health and Safety Code.

87309 STORAGE SPACE AND ACCESS

(a) Except as specified in subsection (b), the licensee shall ensure that disinfectants, cleaning solutions, poisonous substances, knives, matches, tools, sharp objects, and other similar items which could pose a danger to residents are in locked storage and are not left unattended if outside the locked storage.

(1) Disinfectants, cleaning solutions, and poisonous substances shall be stored in areas separate from food supplies as specified in Section 87555, General Food Service Requirements.

(2) Any items in subsection (a)(1) that are transferred from their original container to another container shall have a legible label that indicates:

(A) Name of product on the original container, and

(B) Any product warnings indicated on the original label.

(b) Residents may have access to items specified in subsection (a) for personal use unless there is documentation, as specified in Section 87457, Pre-Admission Appraisal or Section 87463, Reappraisals, that indicates the resident's or other residents' safety would be at risk if allowed access.

(1) The licensee shall implement reasonable interventions in order to ensure that access to the items specified in subsection (a) does not pose a hazard to other residents.

(c) Except as specified in subsection (d), the licensee shall implement reasonable interventions in order to ensure that nutritional supplements, vitamins, alcohol, cigarettes and other potentially toxic substances, such as certain plants, gardening supplies, and auto supplies, are stored so as not to pose a hazard to residents.

(d) Residents may have access to items specified in subsection (c) for personal use unless there is documentation as specified in Section 87457, Pre-Admission Appraisal or Section 87463, Reappraisals, that indicates the resident's or other residents' safety would be at risk if allowed access.

(1) The licensee shall implement reasonable interventions in order to ensure that access to the items specified in subsection (c) does not pose a hazard to other residents.

(e) Medications that are centrally stored shall be stored as specified in Section 87465, Incidental Medical and Dental Care Services.

(f) Due to the physical arrangements in the facility, or the condition or the habits of other residents in the facility, or both, the licensee may require the items specified in subsections (a) and (c) to be centrally stored so as not to pose a safety hazard to others.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.31 and 1569.312, Health and Safety Code.

87311 TELEPHONES

All facilities shall have telephone service on the premises. Facilities with a capacity of sixteen (16) or more persons shall be listed in the telephone directory under the name of the facility.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2, 1569.31 and 1569.312, Health and Safety Code.

87312 MOTOR VEHICLES USED IN TRANSPORTING RESIDENTS

Only drivers licensed for the type of vehicle operated shall be permitted to transport residents. The rated seating capacity of the vehicles shall not be exceeded. Any vehicle used by the facility to transport residents shall be maintained in a safe operating condition.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2, 1569.31 and 1569.312, Health and Safety Code.

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Article 6. Background Check

87355 CRIMINAL RECORD CLEARANCE 87355

(a) The Department shall conduct a criminal record review of all individuals specified in Health and Safety Code section 1569.17 and shall have the authority to approve or deny a facility license, or employment, residence, or presence in the facility, based upon the results of such review.

(b) Prior to the Department issuing a license, the applicant, administrator and any adults other than a client, residing in the facility shall have a criminal record clearance or exemption.

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Health and Safety Code Section 1569.17provides in part:

(a)(1) Before issuing a license to any person or persons to operate or manage a residential care facility for the elderly, the department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation or arrested for any crime specified in subdivision (c) of Section 290 of the Penal Code, for violating Section 245 or 273.5, subdivision (b) of Section 273a or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department cannot grant an exemption if the person was convicted and the person has not been exonerated.

(2) The criminal history information shall include the full criminal record, if any, of those persons, and subsequent arrest information pursuant to Section 11105.2 of the Penal Code.

(3) The following shall apply to the criminal record information:

(A) If the State Department of Social Services finds that the applicant or any other person specified in subdivision (b) has been convicted of a crime, other than a minor traffic violation, the application shall be denied, unless the director grants an exemption pursuant to subdivision (f).

(B) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b) is awaiting trial for a crime other than a minor traffic violation, the State Department of Social Services may cease processing the application until the conclusion of the trial.

(C) If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the State Department of Social Services with a statement of that fact.

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(D) If the State Department of Social Services finds after licensure that the licensee, or any other person specified in paragraph (2) of subdivision (b), has been convicted of a crime other than a minor traffic violation, the license may be revoked, unless the director grants an exemption pursuant to subdivision (f).

(E) An applicant and any other person specified in subdivision (b) shall submit fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, for a state and federal level criminal offender record information search, in addition to the search required by subdivision (a). If an applicant meets all other conditions for licensure, except receipt of the Federal Bureau of Investigation's criminal history information for the applicant and persons listed in subdivision (b), the department may issue a license if the applicant and each person described by subdivision (b) has signed and submitted a statement that he or she has never been convicted of a crime in the United States, other than a traffic infraction as defined in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. If, after licensure, the department determines that the licensee or person specified in subdivision (b) has a criminal record, the license may be revoked pursuant to Section 1569.50. The department may also suspend the license pending an administrative hearing pursuant to Sections 1569.50 and 1569.51.

(b) In addition to the applicant, the provisions of this section shall apply to criminal convictions of the following persons:

(1)(A) Adults responsible for administration or direct supervision of staff.

(B) Any person, other than a client, residing in the facility. Residents of unlicensed independent senior housing facilities that are located in contiguous buildings on the same property as a residential care facility for the elderly shall be exempt from these requirements.

(C) Any person who provides client assistance in dressing, grooming, bathing, or personal hygiene. Any nurse assistant or home health aide meeting the requirements of Section 1338.5 or 1736.6, respectively, who is not employed, retained, or contracted by the licensee, and who has been certified or recertified on or after July 1, 1998, shall be deemed to meet the criminal record clearance requirements of this section. A certified nurse assistant and certified home health aide who will be providing client assistance and who falls under this exemption shall provide one copy of his or her current certification, prior to providing care, to the residential care facility for the elderly. The facility shall maintain the copy of the certification on file as long as the care is being provided by the certified nurse assistant or certified home health aide at the facility. Nothing in this paragraph restricts the right of the department to exclude a certified nurse assistant or certified home health aide from a licensed residential care facility for the elderly pursuant to Section 1569.58.

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87355 CRIMINAL RECORD CLEARANCE (Continued) **87355**

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(D) Any staff person, volunteer, or employee who has contact with the clients.

(E) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in a similar capacity.

(F) Additional officers of the governing body of the applicant or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(2) The following persons are exempt from requirements applicable under paragraph (1):

(A) A spouse, relative, significant other, or close friend of the client shall be exempt if this person is visiting the client or provides direct care and supervision to that client only.

(B) A volunteer to whom all of the following apply:

(i) The volunteer is at the facility during normal waking hours.

(ii) The volunteer is directly supervised by the licensee or a facility employee with a criminal record clearance or exemption.

(iii) The volunteer spends no more than 16 hours per week at the facility.

(iv) The volunteer does not provide clients with assistance in dressing, grooming, bathing, or personal hygiene.

(v) The volunteer is not left alone with clients in care.

(C) A third-party contractor retained by the facility if the contractor is not left alone with clients in care.

(D) A third-party contractor or other business professional retained by the client and at the facility at the request or by the permission of that client. These individuals may not be left alone with other clients.

(E) Licensed or certified medical professionals are exempt from fingerprint and criminal background check requirements imposed by community care licensing. This exemption does not apply to a person who is a community care facility licensee or an employee of the facility.

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87355 CRIMINAL RECORD CLEARANCE (Continued) **87355**

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(F) Employees of licensed home health agencies and members of licensed hospice interdisciplinary teams who have contact with a resident of a residential care facility at the request of the resident or resident's legal decisionmaker are exempt from fingerprint and criminal background check requirements imposed by community care licensing. This exemption does not apply to a person who is a community care facility licensee or an employee of the facility.

(G) Clergy and other spiritual caregivers who are performing services in common areas of the residential care facility, or who are advising an individual resident at the request of, or with permission of, the resident, are exempt from fingerprint and criminal background check requirements imposed by community care licensing. This exemption does not apply to a person who is a community care facility licensee or an employee of the facility.

(H) Any person similar to those described in this subdivision, as defined by the department in regulations.

(I) Nothing in this paragraph shall prevent a licensee from requiring a criminal record clearance of any individual exempt from the requirements of this section, provided that the individual has client contact.

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(c) A licensee or applicant for a license may request a transfer of a criminal record clearance from one state licensed facility to another, or from Trust Line to a state licensed facility by providing the following documents to the Department:

(1) A signed Criminal Background Clearance Transfer Request, LIC 9182 (Rev. 4/02).

(2) A copy of the individual's:

(A) Driver's license, or

(B) Valid identification card issued by the Department of Motor Vehicles, or

(C) Valid photo identification issued by another state or the United States government if the individual is not a California resident.

(3) Any other documentation required by the Department (e.g., LIC 508, Criminal Record Statement [Rev. 1/03] and job description).

87355 CRIMINAL RECORD CLEARANCE (Continued) **87355**

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Section 1569.17(g) of the Health and Safety Code states:

The California Department of Social Services shall hold criminal records clearances in its active files for a minimum of two years after an employee is no longer employed at a licensed facility in order for the criminal records clearances to be transferred.

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(d) All individuals subject to criminal record review shall be fingerprinted and sign a Criminal Record Statement (LIC 508 [Rev. 1/03]) under penalty of perjury.

(1) A person signing the LIC 508 must:

(A) Declare whether he/she has been convicted of a crime, other than a minor traffic violation as specified in Section 87355(h) regardless of whether the individual was granted a pardon for the conviction, received an expungement pursuant to Penal Code 1203.4 or the individual's record was sealed as a result of a court order.

(B) If convicted of a crime other than a minor traffic violation as specified in Section 87355(h), provide information regarding the conviction.

(2) If the signed statement indicates a conviction for any crime other than a minor traffic violation for which the fine was $300 or less, the licensee shall immediately notify the Department and the Department shall take appropriate action as specified in Section 87355(h). The Department shall take the same actions as would be taken in Health and Safety Code section 1569.17(c) if a criminal record transcript had been received.

(3) The license shall submit these fingerprints to the California Department of Justice, along with a second set of fingerprints for the purpose of searching the records of the Federal Bureau of Investigation, or comply with Section 87355(c), prior to the individual's employment, residence, or initial presence in the facility.

(A) Fingerprints shall be submitted to the California Department of Justice by the licensee or sent by electronic transmission to the California Department of Justice by a fingerprinting entity approved by the California Department of Social Services.

(e) All individuals subject to a criminal record review pursuant to Health and Safety Code Section 1569.17(b) shall prior to working, residing or volunteering in a licensed facility:

(1) Submit a valid mailing address at which the individual shall receive communications from the Department.

(A) An individual who holds a criminal record clearance or exemption shall maintain a current and valid mailing address with the Department and shall notify the Department within ten (10) days of any change in mailing address.

87355 CRIMINAL RECORD CLEARANCE (Continued) **87355**

(2) Obtain a California clearance or a criminal record exemption as required by the Department or

(3) Request a transfer of a criminal record clearance as specified in Section 87355(c) or

(4) Request and be approved for a transfer of a criminal record exemption, as specified in Section 87356(r), unless, upon request for a transfer, the Department permits the individual to be employed, reside or be present at the facility.

(f) Violation of Section 87355(e) shall result in an immediate assessment of civil penalties of one hundred dollars ($100) per violation per day for a maximum of five (5) days by the Department.

(1) Subsequent violations within a twelve (12) month period will result in a civil penalty of one hundred ($100) per violation per day for a maximum of thirty (30) days.

(2) The Department may assess civil penalties for continued violations as permitted by Health and Safety Code Section 1569.49.

(g) Violation of Section 87355(e) may result in a denial of the license application or suspension and/or revocation of the license.

(h) If the criminal record transcript of any of the individuals specified in Health and Safety Code section 1569.17(b) discloses a plea or verdict of guilty or a conviction following a plea of nolo contend ere for any crime other than a minor traffic violation for which the fine was less than $300 and an exemption pursuant to Section 87356(a) has not been granted, the Department shall take the actions specified in Health and Safety Code section 1569.17(c).

(1) For an initial applicant, the Department may deny the application.

(2) For current licensees, the Department may institute an administrative action, including, but not limited to, revocation of the license.

(3) For current employees, exclude the affected individual pursuant to Health and Safety Code Section 1569.58 and deny the application or revoke the license, if the individual continues to provide services and/or reside at the facility.

(4) For individuals residing in the facility, including spouses of the applicant, licensee, or employee, exclusion of the affected individual pursuant to Health and Safety Code Section 1569.58 and denial of the application or revocation of the license, if the individual continues to provide services and/or reside in the facility.

87355 CRIMINAL RECORD CLEARANCE (Continued) **87355**

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Health and Safety Code section 1569.17(c)(3) provides in part:

"...If the State Department of Social Services determines, on the basis of the fingerprint images submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, an offense specified in Section 243.4 [sexual battery], 273a, 273d [child abuse], 273g, [lewd conduct in the presence of a child], or 368 [elder or adult dependent abuse] of the Penal Code, or a felony, the State Department of Social Services shall notify the licensee in writing within 15 calendar days of receipt of the notification from the Department of Justice to act immediately to terminate the person's employment, remove the person from the residential care facility for the elderly, or bar the person from entering the residential care facility for the elderly. The State Department of Social Services may subsequently grant an exemption pursuant to subdivision (f)...."

Health and Safety Code section 1569.17(c)(3) provides in part:

"If the conviction was for another crime, except a minor traffic violation, the licensee shall, upon notification by the State Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the residential care facility for the elderly, or bar the person from entering the residential care facility for the elderly, or (2) seek an exemption pursuant to subdivision (f). The department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered by the department...."

Health and Safety Code section 1569.17(h) provides:

"If a licensee or facility is required by law to deny employment or to terminate employment of any employee based written notification from the department that the employee has a prior criminal conviction or is determined unsuitable for employment under Section 1569.58, the licensee or the facility shall not incur civil liability or unemployment insurance liability as a result of that denial or termination."

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(i) The Department shall notify the licensee and the affected individual associated with the facility, in concurrent, separate letters, that the affected individual has a criminal conviction and needs to obtain a criminal record clearance.

(j) The licensee shall maintain documentation of criminal record clearances or criminal record exemptions of employees in the individual's personnel file as required in Section 87412, Personnel Records.

87355 CRIMINAL RECORD CLEARANCE (Continued) **87355**

(k) The licensee shall maintain documentation of criminal record clearances or criminal record exemptions of volunteers that require fingerprinting and non-client adults residing in the facility.

(1) Documentation shall be available at the facility for inspection by the Department.

(l) The Department may seek verification from a law enforcement agency or court of an individual's criminal record as reported to the Department from any member of the public or affected individual.

(1) Upon obtaining confirmation from a law enforcement agency or court of the offense, the Department shall proceed as if this criminal record information was provided by the California Department of Justice.

(m) An individual with arrest history described in Health and Safety Code section 1569.17(e), shall be notified of the following:

(1) The fact of the investigation into conduct associated with arrest information regarding the subject.

(2) The specific arrest(s) upon which the investigation is based.

(3) The date of the arrest(s).

(4) The arresting agency.

(5) The disposition of the arrest, if available, as indicated on criminal history information received from DOJ.

(6) The subject shall not work or reside in a licensed facility until the subject has received a criminal record clearance or exemption.

(7) If the Department obtains evidence through the investigation that the subject may pose a risk to the health and safety of any person who is or may become a client, the Department may deny a criminal record clearance and/or exclude the subject.

(8) The subject may provide written information the subject believes is relevant to the investigation and/or shows the subject is qualified to work in a licensed facility.

(9) The subject will be notified of the Department’s decision regarding whether or not to grant a clearance and of the right to appeal any such decision at that time.

87355 CRIMINAL RECORD CLEARANCE (Continued) **87355**

(n) The Department shall, in cases where the subject does not have a conviction, within 5 business days of a decision to deny a criminal record clearance based on an investigation described in subdivision (m) notify the subject of the following:

(1) The Department has completed its investigation into arrest information.

(2) The Department will not grant that individual a criminal record clearance.

(3) The decision, if not appealed, will bar the subject from presence in a licensed facility.

(4) The arrests which triggered the investigation, including the date of arrest, charges and arresting agency.

(5) The CDSS has determined that the subject may pose a risk to the health and safety of a person who is or may become a client.

(6) The specific conduct upon which the decision is based.

(7) The subject has a right to contest the decision and will receive an Accusation from the Legal Division as well as information about how to request an administrative hearing.

(o) For initial applications, where the subject does not have a conviction, the Accusation described in paragraph (7) of subdivision (n) shall be filed within 40 days of a decision to deny a criminal record clearance.

NOTE: Authority cited: Section 1569.30 and 1569.49(d), Health and Safety Code. Reference: Section 11505, Government Code; Section 1569.17 and 1569.49, Health and Safety Code.

87356 CRIMINAL RECORD EXEMPTION 87356

(a) The Department shall notify a licensee to act immediately to terminate the employment of, remove from the facility or bar from entering the facility any person described in Sections 87356(a)(1) through (5) below while the Department considers granting or denying an exemption. Upon notification, the licensee shall comply with the notice.

(1) Any person who has been convicted of, or is awaiting trial for, a sex offense against a minor;

(2) Any person who has been convicted of a felony;

(3) Any person who has been convicted of an offense specified in Section 243.4, 273a, 273d, 273g, or 368 of the Penal Code or any other crime specified in Health and Safety Code Section 1569.17(c)(3);

(4) Any person who has been convicted of any crime specified below:

(A) Battery

(B) Shooting at Inhabited Dwelling

87356 CRIMINAL RECORD EXEMPTION (Continued)

(C) Corporal Injury on Spouse/Cohabitant

(D) Discharging Firearm with Gross Negligence

(E) Exhibiting Weapon/Firearm

(F) Threat to Commit a Crime Resulting in Gross Bodily Injury or Death

(G) Criminal Threat to Harm or Injure Another Person

(H) Cruelty to Animals

(I) Willful Harm or Injury to Child; or

(5) Any other person ordered to be removed by the Department.

(b) In addition to the requirements of Section 87356(a), the licensee must return the confirmation of removal form that is sent by the Department, within five (5) days of the date of the form, that confirms under penalty of perjury that the individual has been removed from the facility.

(1) Confirmation must be made on either a Removal Confirmation – Exemption Needed, LIC 300A (Rev. 9/03), Removal Confirmation - Denial, LIC 300B (Rev. 9/03), Removal Confirmation - Rescinded, LIC 300C (Rev. 9/03), or Removal Confirmation - Nonexemptible, LIC 300D (Rev. 9/03).

(c) After a review of the criminal record transcript, the Department may grant an exemption if:

(1) The applicant/licensee requests an exemption in writing for himself or herself, or

(2) The applicant/licensee requests an exemption in writing for an individual associated with the facility, or

(3) The applicant/licensee chooses not to seek an exemption on the affected individual's behalf, the affected individual requests an individual exemption in writing, and

(4) The affected individual presents substantial and convincing evidence satisfactory to the Department that he/she has been rehabilitated and presently is of such good character as to justify being issued or maintaining a license, employment or residence in a licensed facility.

87356 CRIMINAL RECORD EXEMPTION (Continued)

(d) To request a criminal record exemption, a licensee or license applicant must submit information that indicates that the individual meets the requirements of Section 87356(c)(4). The Department will notify the licensee or license applicant and the affected individual, in concurrent, separate notices, that the affected individual has a criminal conviction and needs to obtain a criminal record exemption.

(1) The notice to the affected individual shall include a list of the conviction(s) that the Department is aware of at the time the notice is sent that must be addressed in an exemption request.

(2) The notice will list the information that must be submitted to request a criminal record exemption.

(3) The information must be submitted within forty-five (45) calendar days of the date of the Department's notice.

(A) Individuals who submit a criminal record exemption request shall cooperate with the Department by providing any information requested by the Department, including, but not limited to, certified court documents to process the exemption request, pursuant to Section 87356(e).

(B) If the individual for whom the criminal record exemption is requested is an employee or resident other than a spouse or dependent family member and the licensee/license applicant does not submit the information listed in the Department's written notice within 45 calendar days of the date of the notice, the Department may cease processing the exemption request and close the case.

(C) If the individual for whom the criminal record exemption is requested is an applicant, licensee, spouse or dependent family member and the licensee/license applicant does not submit the information listed in the Department's written notice within 45 calendar days of the date of the notice, the Department may deny the exemption request.

(D) Individuals may request a criminal record exemption on their own behalf if the licensee or license applicant:

1. Chooses not to request the exemption and

2. Chooses not to employ or terminates the individual's employment after receiving notice of the individual's criminal history, or

3. Removes the individual who resides in the facility after receiving notice of the individual's criminal history.

87356 CRIMINAL RECORD EXEMPTION (Continued) **87356**

(e) The Department shall consider factors including, but not limited to, the following as evidence of good character and rehabilitation:

(1) The nature of the crime including, but not limited to, whether it involved violence or a threat of violence to others.

(2) Period of time since the crime was committed and number of offenses.

(3) Circumstances surrounding the commission of the crime that would demonstrate the unlikelihood of repetition.

(4) Activities since conviction, such as employment or participation in therapy or education, that would indicate changed behavior.

(5) Granting by the Governor of a full and unconditional pardon.

(6) Character references.

(A) All character references shall be on a Reference Request form (LIC 301E - Exemptions [Rev. 7/03]).

(7) A certificate of rehabilitation from a superior court.

(8) Evidence of honesty and truthfulness as revealed in exemption application documents.

(A) Documents include, but are not limited to:

1. A Criminal Record Statement (LIC 508, Criminal Record Statement [Rev. 1/03]) and

2. The individual's written statement/explanation of the conviction and the circumstances about the arrest.

(9) Evidence of honesty and truthfulness as revealed in exemption application interviews and conversations with the Department.

(f) The Department shall also consider the following factors in evaluating a request for an exemption:

(1) Facility and type of association.

(2) The individual's age at the time the crime was committed.

87356 CRIMINAL RECORD EXEMPTION (Continued) **87356**

(g) The Department may deny an exemption request if:

(1) The licensee and/or the affected individual fails to provide documents requested by the Department, or

(2) The licensee and/or the affected individual fails to cooperate with the Department in the exemption process.

(h) The reasons for any exemption granted or denied shall be in writing and kept by the Department.

(1) Exemption denial notices shall specify the reason the exemption was denied.

(i) The Department has the authority to grant a criminal record exemption that places conditions on the individual's continued licensure, and employment or presence in a licensed facility.

(j) It shall be conclusive evidence that the individual is not of such good character as to justify issuance of an exemption if the individual:

(1) Makes a knowingly false or misleading statement regarding:

(A) Material relevant to their application for a criminal record clearance or exemption,

(B) His or her criminal record clearance or exemption status to obtain employment or permission to be present in a licensed facility, after the Department has ordered that they be excluded from any or all licensed facilities, or

(C) His or her criminal record clearance or exemption status in order to obtain a position with duties that are prohibited to him/her by a conditional exemption; or

(2) Is on probation or parole.

(A) If the individual is currently on probation, and provides sufficient proof that the probationary period(s) is informal, unsupervised and no probation officer is assigned, the Department may, in its discretion, grant a criminal record exemption notwithstanding Section 87356(j)(2).

(k) The Department shall consider granting a criminal record exemption if the individual's criminal history meets all of the applicable criteria specified in Sections 87356(k)(1) through (6) and the individual provides the Department with substantial and convincing evidence of good character as specified in Section 87356(c)(4). For purposes of this section, a violent crime is a crime that, upon evaluation of the code section violated and/or the reports regarding the underlying offense, presents a risk of harm or violence.

87356 CRIMINAL RECORD EXEMPTION (Continued) **87356**

(1) The individual has been convicted of one nonviolent misdemeanor, and one year has lapsed since completing the most recent period of incarceration or probation.

(2) The individual has been convicted of two or more nonviolent misdemeanors and four consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.

(3) The individual has been convicted of one or more violent misdemeanors and 15 consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.

(4) The individual has been convicted of one nonviolent felony and four consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.

(5) The individual has been convicted of two or more nonviolent felonies and ten consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.

(6) The individual has not been convicted a violent felony.

(7) If the individual is currently on probation, and provides sufficient proof that the probationary period(s) is informal, unsupervised and no probation officer is assigned, the period of lapsed time required in Sections 87356(k)(1) through (5) above shall begin from the last date of conviction(s).

(l) It shall be a rebuttable presumption that an individual is not of such good character as to justify the issuance of an exemption if the individual fails to meet the requirements specified in Sections 87356(k)(1) through (6).

(m) The Department shall not grant an exemption if the individual has a conviction for any offense specified in section 1569.17(f)(1) of the Health and Safety Code.

87356 CRIMINAL RECORD EXEMPTION (Continued) **87356**

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Health and Safety Code section 1569.17(f)(1) provides that no exemption shall be granted if an individual has been convicted of any of the following offenses:

(1) Penal Code Sections 136.1 and 186.22 – Gang related/Intimidation of witnesses or victims.

(2) Penal Code Sections 187, 190 through 190.4 and 192(a) – Any murder/Attempted murder/Voluntary manslaughter.

(3) Penal Code Section 203 – Any mayhem.

(4) Penal Code Section 206 - Felony torture.

(5) Penal Code Sections 207, 208, 209, 209.5, 210 – Kidnapping.

(6) Penal Code Sections 211, 212.5, 213, 214 – Any robbery.

(7) Penal Code Section 215 – Carjacking.

(8) Penal Code Section 220 – Assault with intent to commit mayhem, rape, sodomy or oral copulation.

(9) Penal Code Section 243.4 – Sexual battery.

(10) Penal Code Section 261(a), (a)(1), (2), (3), (4) or (6) – Rape.

(11) Penal Code Section 262(a)(1) or (4) – Rape of a spouse.

(12) Penal Code Section 264.1 – Rape in concert.

(13) Penal Code Section 266 – Enticing a minor into prostitution.

(14) Penal Code Section 266c – Induce to sexual intercourse, etc. by fear or consent through fraud.

(15) Penal Code Section 266h(b) – Pimping a minor.

(16) Penal Code Section 266i(b) – Pandering a minor.

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87356 CRIMINAL RECORD EXEMPTION (Continued) **87356**

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(17) Penal Code Section 266j – Providing a minor under 16 for lewd or lascivious act.

(18) Penal Code Section 267 – Abduction for prostitution.

(19) Penal Code Section 269 – Aggravated assault of a child.

(20) Penal Code Section 272 – Contributing to the delinquency of a minor (must involve lewd or lascivious conduct).

(21) Penal Code Section 273a(a) [or 273a(1) if the conviction was prior to January 1, 1994] – Willfully causing or permitting any child to suffer under circumstances or conditions likely to produce great bodily harm or death.

(22) Penal Code Section 273d – Willfully inflicting any cruel or inhuman corporal punishment or injury on a child.

(23) Penal Code Section 285 – Incest.

(24) Penal Code Section 286 – Sodomy.

(25) Penal Code Section 288 – Lewd or lascivious act upon a child under 14.

(26) Penal Code Section 288a – Oral copulation.

(27) Penal Code Section 288.2 – Felony conviction for distributing lewd material to children.

(28) Penal Code Section 288.5(a) – Continuous sexual abuse of a child.

(29) Penal Code Section 289 – Genital or anal penetration or abuse by any foreign or unknown object.

(30) Penal Code Section 290(a) – All crimes for which one must register as a sex offender including attempts and not guilty by insanity.

(31) Penal Code Section 311.2(b), (c) or (d) – Transporting or distributing child-related pornography.

(32) Penal Code Section 311.3 – Sexual exploitation of a child.

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87356 CRIMINAL RECORD EXEMPTION (Continued) **87356**

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(33) Penal Code Section 311.4 – Using a minor to assist in making or distributing child pornography.

(34) Penal Code Section 311.10 – Advertising or distributing child pornography.

(35) Penal Code Section 311.11 – Possessing child pornography.

(36) Penal Code Sections 314 paragraphs 1 or 2 – Lewd or obscene exposure of private parts.

(37) Penal Code Section 347(a) – Poisoning or adulterating food, drink, medicine, pharmaceutical products, spring, well, reservoir or public water supply.

(38) Penal Code Section 368– Elder or dependent adult abuse.

(39) Penal Code Section 417(b) – Drawing, exhibiting or using a loaded firearm.

(40) Penal Code Section 451(a) or (b) – Arson.

(41) Penal Code Section 460(a) – First degree burglary if it is charged and proved that a non-accomplice was present in the residence during the burglary.

(42) Penal Code Sections 186.22 and 518 – Gang related/Extortion.

(43) Penal Code Section 647.6 or prior to 1988 former Section 647a – Annoy or molest a child under 18.

(44) Penal Code Section 653f(c) – Solicit another to commit rape, sodomy, etc.

(45) Penal Code Sections 664/187 – Any attempted murder.

(46) Penal Code Section 667.5(c)(7) – Any felony punishable by death or imprisonment in the state prison for life.

(47) Penal Code Section 667.5(c)(8) – Enhancement for any felony which inflicts great bodily injury.

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87356 CRIMINAL RECORD EXEMPTION (Continued)

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(48) Penal Code Section 667.5(c)(13) – Enhancement for violation of Penal Code Section 12308, 12309 or 12310 – Exploding or igniting or attempting to explode or ignite any destructive device or explosive with intent to commit murder.

(49) Penal Code Section 667.5(c)(14) - Any kidnapping – Penal Code Sections 207, 208, 209, 209.5 and 210.

(50) Penal Code Section 667.5(c)(22) - Any violation of Penal Code Section 12022.53 – Enhancement for listed felonies where use of a firearm.

(51) Penal Code Section 667.5(c)(23) – Use of weapon of mass destruction.

(52) Business and Professions Code Section 729 – Felony sexual exploitation by a physician, psychotherapist, counselor, etc.

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(n) The Department shall consider granting a simplified criminal record exemption if the individual has the criminal history profile outlined in Sections 87356(n)(1) through (4) below:

(1) The individual does not have a demonstrated pattern of criminal activity;

(2) The individual has one or more convictions arising from a single incident of criminal conduct;

(3) Each conviction is a misdemeanor and is for a crime that is nonviolent and does not pose a risk of harm to an individual; and

(4) It has been at least five consecutive years since the date of conviction.

(o) At the Department's discretion, an individual who is otherwise eligible for a simplified exemption may be required to go through the standard exemption process if the Department determines such action will help to protect the health and safety of clients.

87356 CRIMINAL RECORD EXEMPTION (Continued) **87356**

(p) If the Department denies or cannot grant a criminal record exemption the Department shall:

(1) For initial applicants, deny the application.

(2) For current licensees, the Department may institute an administrative action, including but not limited to, revocation of the license.

(3) For current employees, exclude the affected individual pursuant to Health and Safety Code Section 1569.58, deny the application or revoke the license if the individual continues to provide services and/or reside at the facility.

(4) For individuals residing in the facility or the licensee, exclude the affected individual pursuant to Health and Safety Code Section 1569.58, deny the application or revoke the license, if the individual continues to provide services and/or reside at the facility.

(q) If a request for an exemption has been denied, the individual shall be excluded for a period of two years unless the individual has been convicted of a crime for which no exemption may be granted pursuant to Section 87356(m). If a request for an exemption has been denied based on a conviction of a crime for which no exemption may be granted, the individual shall be excluded for the remainder of the individual's life.

(1) If the Department determines during the review of an exemption request, that the individual was denied an exemption for a conviction of a crime for which an exemption may be granted within the preceding two years, the Department shall cease any further review of the request until two years have elapsed from the date of the denial. In cases where the individual requested a hearing on an exemption denial, the Department shall cease review of the request for an exemption until two years from the effective date of the decision and order of the Department upholding the denial. In cases where the individual submitted a petition for reinstatement or reduction in penalty pursuant to Government Code Section 11522 that was denied, the Department shall cease review of the request for an exemption until two years from the effective date of the decision and order of the Department denying the petition.

(2) An exclusion order based solely upon a denied exemption shall remain in effect and the individual shall not be employed in or present in a licensed facility or certified home, unless either a petition or an exemption is granted.

(3) If an individual who has previously been denied an exemption re-applies after the relevant time period described in Section 87356(q)(1) above, the Department may, in accordance with the provisions in Section 87356 et seq., grant or deny the subsequent request for an exemption.

87356 CRIMINAL RECORD EXEMPTION (Continued) **87356**

(4) If an individual submits a petition pursuant to Government Code section 11522 for reinstatement or reduction of penalty for an exclusion, an individual must submit his/her fingerprints through an electronic fingerprinting system approved by the Department and submit to the Department a statement of the reason why the individual should be permitted to work or be present in a facility, along with all information required of an individual requesting a criminal record exemption as provided in Section 87356. If it is determined, based upon information provided by the Department of Justice, that the individual has been convicted of a crime for which no exemption may be granted, the petition shall be denied. An individual's failure to submit fingerprints or other information as requested by the Department, shall be grounds for denial of the petition. The burden shall be on the petitioner to prove sufficient rehabilitation and good character to justify the granting of the petition.

(r) A licensee or applicant for a license may request a transfer of a criminal record exemption from one state licensed facility to another by providing the following documents to the Department:

(1) A signed Criminal Record Exemption Transfer Request, LIC 9188 (Rev. 9/03).

(2) A copy of the individual's:

(A) Driver's license, or

(B) Valid identification card issued by the Department of Motor Vehicles, or

(C) Valid photo identification issued by another state of the United States Government if the individual is not a California resident.

(3) Any other documentation required by the Department (e.g., LIC 508, Criminal Record Statement [Rev. 1/03] and job description).

(s) The Department may consider factors including, but not limited to, the following in determining whether or not to approve the transfer of an exemption from one facility to another:

(1) The basis on which the Department granted the exemption;

(2) The nature and frequency of client contact in the new position;

(3) The category of facility where the individual wishes to transfer;

(4) The type of clients in the facility where the individual wishes to transfer;

87356 CRIMINAL RECORD EXEMPTION (Continued) **87356**

(5) Whether the exemption was appropriately evaluated and granted in accordance with existing exemption laws or regulations; or

(6) Whether the exemption meets current exemption laws or regulations.

(t) If the Department denies the individual's request to transfer a criminal record exemption, the Department shall provide the individual and the licensee with written notification that states the Department's decision and informs the affected individual of their right to an administrative hearing to contest the Department's decision.

(u) At the Department's discretion, an exemption may be rescinded if it is determined that:

(1) The exemption was granted in error, or

(2) The exemption does not meet current exemption laws or regulations, or

(3) The conviction for which an exemption was granted subsequently becomes non-exemptible by law.

(v) The Department may rescind an individual's criminal record exemption if the Department obtains evidence showing that the individual engaged in conduct which is inconsistent with the good character requirement of a criminal record exemption, as evidenced by factors including, but not limited to, the following:

(1) Violations of licensing laws or regulations;

(2) Any conduct by the individual that indicates that the individual may pose a risk to the health and safety of any individual who is or may be a client;

(3) Nondisclosure of a conviction or evidence of lack of rehabilitation that the individual failed to disclose to the Department, even if it occurred before the exemption was issued; or

(4) The individual is convicted of a subsequent crime.

(w) If the Department rescinds an exemption the Department shall:

(1) Notify the licensee and the affected individual in writing; and

(2) Initiate an administrative action.

87356 CRIMINAL RECORD EXEMPTION (Continued) **87356**

(x) If the Department learns that an individual with a criminal record clearance or exemption has been convicted of a subsequent crime, the Department, at its sole discretion, may immediately initiate an administrative action to protect the health and safety of clients.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Section 1569.17, Health and Safety Code; Gresher v. Anderson (2005) 127 Cal App. 4th 88.

Article 7. Personnel

87405 ADMINISTRATOR - QUALIFICATIONS AND DUTIES 87405

(a) All facilities shall have a qualified and currently certified administrator. The licensee and the administrator may be one and the same person. The administrator shall have sufficient freedom from other responsibilities and shall be on the premises a sufficient number of hours to permit adequate attention to the management and administration of the facility as specified in this section. When the administrator is not in the facility, there shall be coverage by a designated substitute who shall have qualifications adequate to be responsible and accountable for management and administration of the facility as specified in this section. The Department may require that the administrator devote additional hours in the facility to fulfill his/her responsibilities when the need for such additional hours is substantiated by written documentation.

(b) The administrator of a facility or facilities shall have the responsibility and authority to carry out the policies of the licensee.

(c) Failure to comply with all licensing requirements pertaining to certified administrators may constitute cause for revocation of the license of the facility.

(d) The administrator shall have the qualifications specified in Sections 87405(d)(1) through (7). If the licensee is also the administrator, all requirements for an administrator shall apply.

(1) Knowledge of the requirements for providing care and supervision appropriate to the residents.

(2) Knowledge of and ability to conform to the applicable laws, rules and regulations.

(3) Ability to maintain or supervise the maintenance of financial and other records.

(4) When applicable, the ability to direct the work of others.

(5) Good character and a continuing reputation of personal integrity.

(6) Have a high school diploma or equivalent, such as a General Education Development (GED) certificate.

(7) Be at least 21 years of age.

(e) The administrator of a facility licensed for sixteen (16) to forty-nine (49) residents shall have completed, with a passing grade, at least fifteen (15) college or continuing education semester or equivalent quarter units; and shall have at least one year's experience providing residential care to the elderly; or equivalent education and experience as approved by the Department.

(f) The administrator in facilities licensed for fifty (50) or more shall have two years of college; at least three years experience providing residential care to the elderly; or equivalent education and experience as approved by the licensing agency.

87405 ADMINISTRATOR - QUALIFICATIONS AND DUTIES (Continued) **87405**

(g) Administrators employed/licensed prior to July 1, 1982, shall not be required to comply with the college and continuing education requirements in Section 87405(e) or the college requirements in Section 87405(f) provided that they have no break in employment as a Residential Care Facility for the Elderly administrator exceeding three (3) consecutive years.

(h) The administrator shall have the responsibility to:

(1) Administer the facility in accordance with these regulations and established policy, program and budget.

(2) Where applicable, report to the licensee on the operation of the facility, and provide the licensee with necessary interpretations of recognized standards of care and supervision.

(3) Develop an administrative plan and procedures to ensure clear definition of lines of responsibility, equitable workloads, and adequate supervision.

(4) Recruit, employ and train qualified staff, and terminate employment of staff who perform in an unsatisfactory manner.

(5) Provide or ensure the provision of services to the residents with appropriate regard for the residents' physical and mental well-being and needs, including those services identified in the residents' Pre-Admission Appraisals, specified in Section 87457, Pre-admission Appraisal, and Reappraisal, as specified in Section 87463.

(6) Make special provisions for the safety and guidance of residents with visual or auditory deficiencies.

(7) Make provision for the resident with unmet needs to attend available community programs, including but not limited to, arranging for transportation.

(8) Have the personal characteristics, physical energy and competence to provide care and supervision and, where applicable, to work effectively with social agencies.

(i) In those cases where the individual is both the licensee and the administrator of a residential care facility for the elderly, the individual shall comply with all of the licensee and certified administrator requirements.

NOTE: Authority cited: Sections 1569. 30 and 1569.616(j), Health and Safety Code. Reference: Sections 1569.1, 1569.2, 1569.17, 1569.31, 1569.312, 1569.315, 1569.613, 1569.616 and 1569.62, Health and Safety Code.

87406 ADMINISTRATOR CERTIFICATION REQUIREMENTS 87406

(a) All individuals shall be residential care facility for the elderly certificate holders prior to being employed as an administrator.

(1) Applicants who possess a valid Nursing Home Administrator license, issued by the California Department of Public Health, shall be exempt from completing an approved Initial Certification Training Program and taking a written exam, provided the individual completes twelve (12) hours of classroom instruction in the following Core of Knowledge areas:

(A) Four (4) hours of instruction in laws, regulations, policies, and procedural standards that impact the operations of residential care facilities for the elderly, including but not limited to the authority referenced in this Chapter.

(B) Four (4) hours of instruction in medication management, including the use, misuse, and interaction of drugs commonly used by the elderly, including antipsychotics, and the adverse effects of psychotropic drugs for use in controlling the behavior of persons with dementia.

(C) Four (4) hours of instruction in resident admission, retention, and assessment procedures.

(2) Individuals who were both the licensee and administrator on or before July 1, 1991, shall complete an Initial Certification Training Program but shall not be required to take the written exam. Individuals exempted from the written exam shall be issued a conditional certification valid only for the administrator of the facility for which the exemption was granted.

(A) As a condition to becoming a certified administrator of another facility, a holder of a conditional certificate issued pursuant to Section 87406(a)(2) shall be required to pass the written exam.

(B) As a condition to applying for a new facility license, the holder of a conditional certificate issued pursuant to Section 87406(a)(2) shall be required to pass the written exam.

(3) An applicant for licensure shall be subject to the same application process for Initial Certification of Administrators as set forth in Section 87406(b).

(b) To receive his/her certificate an applicant shall:

(1) Unless exempted by Section 87406(a)(1), successfully complete a Department-approved Initial Certification Training Program as described in Section 87785(h).

(2) Unless exempted by Section 87406(a)(1) or (a)(2), pass a written exam developed and administered by the Department within sixty (60) days of completion of an Initial Certification Training Program and within three (3) attempts.

87406 ADMINISTRATOR CERTIFICATION REQUIREMENTS (Continued) **87406**

(3) Submit a completed Application for Administrator Certification form LIC 9214 to the Department's Administrator Certification section within thirty (30) days of being notified of having passed the exam, or if the applicant is exempt from taking the written exam, within 30 days of completing the Initial Certification Training Program. The application shall contain the following:

(A) The applicant's name, address, e-mail address, phone number(s), and date of birth.

(B) A statement of whether or not the applicant:

(i) Held or currently holds a license, certification or other approval as a professional in a specified field and the certificate or license number(s).

(ii) Held or currently holds a State-issued care facility license or was or is employed by a State-licensed care facility and the license number.

(iii) Was the subject of any legal, administrative or other action involving licensure, certification or other approvals as specified in Sections 87406(b)(3)(B)(i) and (ii).

(C) Proof that the applicant has successfully completed a Department-approved Initial Certification Training Program or, in the case of a Nursing Home Administrator, proof of completion of the required hours of classroom instruction as specified in Section 87406(a)(1).

(D) Documentation of passing the written exam or qualifying for an exemption pursuant to Section 87406(a)(1) or (a)(2).

(E) A statement certifying that the information submitted is true and correct.

(F) A completed Criminal Record Statement form LIC 508.

(G) A completed Request for Live Scan Service form LIC 9163, signed and dated by the live scan vendor, to document that the applicant has submitted fingerprints to the Department of Justice at a live scan location, or a statement that the applicant has a current criminal record clearance or an exemption on file with the Department.

(H) A non-refundable one hundred dollar ($100) processing fee.

(I) A copy of the front and back of his/her current nursing home wallet license, or equivalent, if the applicant is a current Nursing Home Administrator.

(c) The Department shall not issue a certificate until it receives notification from the Department of Justice that the applicant has a criminal record clearance or an exemption pursuant to Health and Safety Code section 1569.17 or is able to transfer a current criminal record clearance or an exemption pursuant to Health and Safety Code section 1569.17(g)(1).

87406 ADMINISTRATOR CERTIFICATION REQUIREMENTS (Continued) **87406**

(d) No person shall cheat on, subvert, or attempt to subvert, the exam given by the Department, including, but not limited to, engaging in, soliciting, or procuring any of the following:

(1) Any form of communication between one or more examinees and any other person, other than a proctor or exam official, while the exam is in progress.

(2) The taking of all or a part of the exam by a person other than the applicant.

(3) Possession or use at any time during the exam or while the examinee is on the exam premises of any device, material, or document that is not expressly authorized for use by examinees during the exam, including, but not limited to, notes, crib sheets, textbooks, and electronic devices.

(4) Failure to follow any exam instruction or rule related to exam security.

(e) Any applicant caught willfully cheating under this section shall be deemed to have failed that exam and may be denied certification pursuant to Section 87408 as a result of the conduct.

(f) It shall be unlawful for any person not certified under this section to hold himself or herself out as a certified administrator. Any person willfully making any false representation as being a certified administrator is guilty of a misdemeanor.

(g) Certificates issued under this section shall be renewed every two (2) years provided the certificate holder has complied with all renewal requirements.

(h) Certificates shall be valid for a period of two (2) years and expire on either the anniversary date of initial issuance or on the individual's birthday during the second calendar year following certification.

(1) The certificate holder shall make an irrevocable election to have his or her recertification date for any subsequent recertification either on the date two (2) years from the date of issuance of the certificate or on the individual's birthday during the second calendar year following certification.

(i) Time deadlines specified in Sections 87406(b)(2) and (3) may be extended up to sixty (60) days in total for good cause as determined by the Department. Any request for an extension of time shall be made in writing to the Administrator Certification Section Manager within sixty (60) days of completing the Initial Certification Training Program and shall contain a statement of all facts the applicant believes constitute good cause to extend a time deadline.

(1) Good cause may include death of an immediate family member, required fulfillment of military service or other civic duty, or another unavoidable and verifiable event as determined by the Department. Failure of the exam shall not constitute good cause for an extension.

87406 ADMINISTRATOR CERTIFICATION REQUIREMENTS (Continued) **87406**

(2) Absent a good cause extension, the Department shall not process and may deem withdrawn an application that fails to meet the time deadlines specified in Sections 87406(b)(2) or (3).

(3) Any applicant who fails to meet the time deadlines specified in Sections 87406(b)(2) and (3) must begin the certification process described in Section 87406(b) anew, and complete it within the time deadlines specified in Sections 87406(b)(2) and (3).

NOTE: Authority cited: Sections 1569.23, 1569.30 and 1569.616, Health and Safety Code. Reference: Sections 1569.17, 1569.171, 1569.23, 1569.315, 1569.50, 1569.613 and 1569.616, Health and Safety Code.

87407 ADMINISTRATOR RECERTIFICATION REQUIREMENTS 87407

(a) Administrators shall complete at least forty (40) classroom hours of continuing education during each two (2)-year certification period, including.

(1) For administrators who renew their administrator certification on or after January 1, 2003, at least eight (8) hours in subjects related to serving residents with Alzheimer's Disease and other dementias, including, but not limited to, instruction related to direct care, physical environment, and admissions procedures and assessment.

(A) This instruction may be taken as a single eight (8)-hour class or in smaller increments that total at least eight (8) hours within each two (2)-year renewal period.

(2) At least four (4) hours of instruction in laws, regulations, policies, and procedural standards that impact the operation of residential care facilities for the elderly, including but not limited to the regulations contained in this Chapter.

(3) If not included in the certified administrator's Initial Certification Training Program, at least one (1) hour of instruction in cultural competency and sensitivity in issues relating to the underserved aging lesbian, gay, bisexual, and transgender community.

(b) Continuing education hours must be sufficiently related by subject matter and logic to the Core of Knowledge, current and relevant to facility operations and care, and completed through courses approved for residential care facility for the elderly administrators by the Department.

(c) Courses approved for continuing education credit shall require the physical presence of the certificate holder in a classroom setting as defined in Section 87101(c)(7), except that up to one-half of the required forty (40) hours of continuing education necessary to renew the certificate may be satisfied through interactive online courses as specified in Section 87788(i)(1).

(1) The Department will not count toward the continuing education requirements more than ten (10) hours of instruction, in-class and/or online, completed in a single day.

87407 ADMINISTRATOR RECERTIFICATION REQUIREMENTS (Continued) **87407**

(2) Home study or correspondence-type courses will not be counted toward completion of continuing education requirements as they are not interactive by design.

(3) Completion of an Initial Certification Training Program or component(s) thereof will not be counted toward completion of continuing education requirements as the Program is intended for new administrators.

(4) Any specific continuing education course may only be accepted once per renewal period toward completion of the continuing education requirements.

(d) To apply for recertification prior to the expiration date of the certificate, the certificate holder shall submit to the Department's Administrator Certification Section, post-marked on, or up to ninety (90) days before, the certificate expiration date:

(1) A completed Application for Administrator Certification form LIC 9214.

(2) Evidence of completion of forty (40) continuing education hours as specified in Section 87407(a), or, if applicable, twenty (20) continuing education hours as specified in Section 87407(g).

(3) Payment of a non-refundable one hundred dollar ($100) processing fee.

(4) A copy of the front and back of his/her current nursing home wallet license, or equivalent, if the applicant is a current Nursing Home Administrator.

(e) To apply for recertification after the expiration date of the certificate, but within four (4) years of the certificate expiration date, the certificate holder shall submit to the Department's Administrator Certification Section:

(1) A completed Application for Administrator Certification form LIC 9214.

(2) Evidence of completion of the required continuing education hours as specified in Section 87407(a), or 87407(g), if applicable. The total number of hours required for recertification shall be determined by computing the number of continuing education hours the certificate holder would have been required to complete if they had remained certified. The date of computation shall be the date application for renewal is received by the Department's Administrator Certification Section.

(3) Payment of a non-refundable delinquency fee equal to three times the one hundred dollar ($100) renewal fee, or three hundred dollars ($300).

(4) A copy of the front and back of his/her current nursing home wallet license, or equivalent, if the applicant is a current Nursing Home Administrator.

(f) Certificates not renewed within four (4) years of their expiration date shall not be renewed, restored, reissued or reinstated.

87407 ADMINISTRATOR RECERTIFICATION REQUIREMENTS (Continued) **87407**

(1) Holders of certificates not renewed within four (4) years of their expiration date must begin anew the certification process specified in Section 87406(b).

(g) Certificate holders who possess a valid Nursing Home Administrator license shall be required to complete only twenty (20) of the required forty (40) hours of continuing education, but including the requirements of Section 87407(a)(1)-(3).

(h) Certificate holders, as a condition of recertification, shall have a current criminal record clearance or exemption.

(i) A non-refundable processing fee of twenty-five dollars ($25) shall be paid for the replacement of a lost certificate.

(j) A certificate holder shall report any change of mailing address within thirty (30) days of the change to the Department's Administrator Certification Section.

(k) Whenever a certified administrator assumes or relinquishes responsibility for administering a residential care facility for the elderly, he or she shall provide written notice, within thirty (30) days, to:

(1) The local licensing office responsible for receiving information regarding personnel changes at the licensed facility with whom the certificate holder is or was associated, and

(2) The Department's Administrator Certification Section.

NOTE: Authority cited: Sections 1569.30 and 1569.616, Health and Safety Code. Reference: Sections 1569.17, 1569.171, 1569.23, 1569.315, 1569.613 and 1569.616, Health and Safety Code.

87408 ADMINISTRATOR CERTIFICATE DENIAL OR REVOCATION 87408

(a) The Department may deny or revoke any administrator certificate for violation of licensing regulations or on any of the following grounds:

(1) The certificate holder or applicant procured or attempted to procure a certificate by fraud, misrepresentation, bribery, or other unlawful behavior.

(2) The certificate holder or applicant knowingly made or gave a false statement or information in conjunction with the application for a certificate.

(3) The Department has issued an exclusion order against the certificate holder pursuant to Health and Safety Code sections 1558, 1568.092, 1569.58 or 1596.8897 after the Department issued the certificate, and;

(A) The certificate holder did not appeal the exclusion order, or

87408 ADMINISTRATOR CERTIFICATE DENIAL OR REVOCATION 87408
(Continued)

(B) After the appeal, the Department issued a decision and order that upheld the exclusion order.

(4) The certificate holder or applicant does not have a current criminal record clearance or exemption.

(5) The certificate holder fails to comply with certificate renewal requirements.

(A) The Department may reinstate a certificate that has been revoked for failure to comply with certificate renewal requirements provided all conditions for recertification have been satisfied, including payment of all appropriate renewal and delinquency fees.

(6) The certificate holder engaged in conduct which is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility or the people of the State of California.

(b) Any denial or revocation of an administrator certificate may be appealed as provided by Health and Safety Code section 1569.51.

(c) Unless otherwise ordered by the Department, any application for an administrator certificate submitted after a denial or revocation action shall be processed in accordance with the provisions of Health and Safety Code section 1569.16.

HANDBOOK BEGINS HERE

Health and Safety Code section 1569.16, in pertinent part, provides that:

"(a)(1) If an applicant for a license indicates, or the department determines during the application review process, that the applicant previously was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3 (commencing with Section 1500), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) and the prior license was revoked within the preceding two years, the department shall cease any further review of the application until two years have elapsed from the date of the revocation.

(a)(3) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant was excluded from a facility licensed by the department pursuant to Section 1558, 1568.092, 1569.58, or 1596.8897, the department shall cease any further review of the application unless the excluded individual has been reinstated pursuant to Section 11522 of the Government Code by the department.

HANDBOOK CONTINUES

87408 ADMINISTRATOR CERTIFICATE DENIAL OR REVOCATION 87408
(Continued)

HANDBOOK CONTINUES

(b) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant had previously applied for a license under any of the chapters listed in paragraph (1) of subdivision (a) and the application was denied within the last year, the department shall, except as provided in Section 1569.22, cease further review of the application until one year has elapsed from the date of the denial letter. In those circumstances where denials are appealed and upheld at an administrative hearing, review of the application shall cease for one year from the date of the decision and order being rendered by the department. The cessation of review shall not constitute a denial of the application."

HANDBOOK ENDS HERE

NOTE: Authority cited: Sections 1569.30 and 1569.616(j), Health and Safety Code. Reference: Sections 1569.16, 1569.17, 1569.50, 1569.51, 1569.613 and 1569.616, Health and Safety Code.

87409 ADMINISTRATOR CERTIFICATE FORFEITURE 87409

(a) Unless otherwise ordered by the Department, the certificate shall be considered forfeited under any of the following conditions:

(1) The Department has revoked any license held by the certificate holder after the Department issued the certificate.

(2) The Department has issued an exclusion order against the certificate holder pursuant to Health and Safety Code sections 1558, 1568.092, or 1569.58 after the Department issued the certificate, and;

(A) The certificate holder did not appeal the exclusion order or,

(B) After the appeal, the Department issued a decision and order that upheld the exclusion order.

(b) Unless otherwise ordered by the Department, any application for an administrator certificate submitted after a certificate has been forfeited shall be processed in accordance with the provisions of Health and Safety Code sections 1569.16 and/or 1569.58(h).

87409 ADMINISTRATOR CERTIFICATE FORFEITURE 87409
(Continued)

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Health and Safety Code section 1569.16, in pertinent part, provides that:

"(a)(1) If an application for a license indicates, or the department determines during the application review process, that the applicant previously was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3 (commencing with Section 1500), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) and the prior license was revoked within the preceding two years, the department shall cease any further review of the application until two years have elapsed from the date of the revocation.

(a)(3) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant was excluded from a facility licensed by the department pursuant to Section 1558, 1568.092, 1569.58, or 1596.8897, the department shall cease any further review of the application unless the excluded individual has been reinstated pursuant to Section 11522 of the Government Code by the department.

(b) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant had previously applied for a license under any of the chapters listed in paragraph (1) of subdivision (a) and the application was denied within the last year, the department shall, except as provided in Section 1569.22, cease further review of the application until one year has elapsed from the date of the denial letter. In those circumstances where denials are appealed and upheld at an administrative hearing, review of the application shall cease for one year from the date of the decision and order being rendered by the department. The cessation of review shall not constitute a denial of the application."

Health and Safety Code section 1569.58(h), in pertinent part, provides that:

"(1)(A) In cases where the excluded person appealed the exclusion order and there is a decision and order of the department upholding the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or from being a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

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87409 ADMINISTRATOR CERTIFICATE FORFEITURE (Continued)

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(1)(B) The excluded individual may petition for reinstatement one year after the effective date of the decision and order of the department upholding the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the decision and order.

(2)(A) In cases where the department informed the excluded person of his or her right to appeal the exclusion order and the excluded person did not appeal the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

(2)(B) The excluded individual may petition for reinstatement after one year has elapsed from the date of the notification of the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the exclusion order."

HANDBOOK ENDS HERE

NOTE: Authority cited: Sections 1569.30 and 1569.616(j), Health and Safety Code. Reference: Sections 1568.092, 1569.16, 1569.50, 1569.58 and 1569.616, Health and Safety Code.

87411 PERSONNEL REQUIREMENTS - GENERAL

(a) Facility personnel shall at all times be sufficient in numbers, and competent to provide the services necessary to meet resident needs. In facilities licensed for sixteen or more, sufficient support staff shall be employed to ensure provision of personal assistance and care as required in Section 87608, Postural Supports. Additional staff shall be employed as necessary to perform office work, cooking, house cleaning, laundering, and maintenance of buildings, equipment and grounds. The licensing agency may require any facility to provide additional staff whenever it determines through documentation that the needs of the particular residents, the extent of services provided, or the physical arrangements of the facility require such additional staff for the provision of adequate services.

(b) All persons who supervise employees or who supervise or care for residents shall be at least eighteen (18) years of age.

87411 PERSONNEL REQUIREMENTS - GENERAL (Continued)

(c) All RCFE staff who assist residents with personal activities of daily living shall receive initial and annual training as specified in Health and Safety Code sections 1569.625 and 1569.69.

(1) Staff providing care shall receive appropriate training in first aid from persons qualified by such agencies as the American Red Cross.

(2) This training shall be administered on the job, in a classroom setting, or any combination of the two.

(3) The training shall include, but not be limited to, the following:

(A) The aging process and physical limitations and special needs of the elderly.

(B) Importance and techniques of personal care services, including but not limited to, bathing, grooming, dressing, feeding, toileting, and infection control, as specified in Section 87470, Infection Control Requirements.

(C) Residents rights, as specified in Section 87468, Personal Rights.

(D) Policies and procedures regarding medications, including the knowledge in Section 87411(d)(4). Any on-the-job training provided for the requirements in Section 87411(d)(4) may also count towards the requirement in this subsection.

(E) Psychosocial needs of the elderly, such as recreation, companionship, independence, etc.

(F) Recognizing signs and symptoms of dementia in individuals.

(4) All training shall be conducted by a person who is knowledgeable in a subject that is relevant to the subject area in which training is to be provided, and who satisfies at least one of the following criteria related to education and experience:

(A) Both a four-year college degree, graduate degree or professional degree, and two (2) years of experience in an area relevant to caring for the needs of the elderly, or

(B) License to work as a health care provider in California, or

(C) At least two years of experience in California as an administrator of an RCFE, within the last eight years, and with a record of administering facilities in substantial compliance, as defined in Section 87101(s)(9).

87411 PERSONNEL REQUIREMENTS - GENERAL (Continued)

(5) Training may include use of books, video instruction tapes, interactive CD-ROMs and similar materials, upon the approval of that material by a trainer who satisfies the criteria of Section 87411(c)(3).

(6) The licensee shall maintain documentation pertaining to staff training in the personnel records, as specified in Section 87412(c)(2). For on-the-job training, documentation shall consist of a statement or notation, made by the trainer, of the content covered in the training. Each item of documentation shall include a notation that indicates which of the criteria of Section 87411(c)(3) is met by the trainer.

(d) All personnel shall be given on the job training or have related experience in the job assigned to them. This training and/or related experience shall provide knowledge of and skill in the following, as appropriate for the job assigned and as evidenced by safe and effective job performance:

(1) Principles of good nutrition, good food preparation and storage, and menu planning.

(2) Housekeeping and sanitation principles.

(3) Skill and knowledge required to provide necessary resident care and supervision, including the ability to communicate with residents.

(4) Knowledge required to safely assist with prescribed medications which are self-administered.

(5) Knowledge necessary in order to recognize early signs of illness and the need for professional help.

(6) Knowledge of community services and resources.

(e) In facilities licensed for sixteen (16) or more, the requirements of Section 87411(d) shall be met with planned on the job training program that utilizes orientation, skill training and continuing education.

(f) All personnel, including the licensee and administrator, shall be in good health, and physically and mentally capable of performing assigned tasks. Good physical health shall be verified by a health screening, including a chest x-ray or an intradermal test, performed by a physician not more than six (6) months prior to or seven (7) days after employment or licensure. A report shall be made of each screening, signed by the examining physician. The report shall indicate whether the person is physically qualified to perform the duties to be assigned, and whether he/she has any health condition that would create a hazard to him/herself, other staff members or residents. A signed statement shall be obtained from each volunteer affirming that he/she is in good health. Personnel with evidence of physical illness or emotional instability that poses a significant threat to the well-being of residents shall be relieved of their duties.

87411 PERSONNEL REQUIREMENTS - GENERAL (Continued)

(g) Prior to employment or initial presence in the facility, all employees and volunteers subject to a criminal record review shall:

(1) Obtain a California clearance or a criminal record exemption as required by law or Department regulations or

(2) Request a transfer of a criminal record clearance as specified in Section 87355(c) or

(3) Request and be approved for a transfer of a criminal record exemption, as specified in Section 87356(r), unless, upon request for a transfer, the Department permits the individual to be employed, reside or be present at the facility.

(h) All services requiring specialized skills shall be performed by personnel qualified by training or experience in accordance with recognized professional standards.

(i) Residents shall not be used as substitutes for required staff but may, as a voluntary part of their program of activities, participate in household duties and other tasks suited to the resident's needs and abilities.

(j) Volunteers may be utilized but may not be included in the facility staffing plan. Volunteers shall be supervised.

NOTE: Authority cited: Sections 1569.30, 1569.625, and 1569.69. Health and Safety Code. Reference: Sections 1569.17, 1569.31, 1569.312, 1569.625, and 1569.69, Health and Safety Code; and Section 42001, Vehicle Code.

87412 PERSONNEL RECORDS

(a) The licensee shall ensure that personnel records are maintained on the licensee, administrator and each employee. Each personnel record shall contain the following information:

(1) Employee's full name.

(2) Social Security number.

(3) Date of employment.

(4) Written verification that the employee is at least 18 years of age, including, but not necessarily limited to, a copy of his/her birth certificate or driver's license.

87412 PERSONNEL RECORDS (Continued) **87412**

(5) Home address and telephone number.

(6) Educational background.

(A) For administrators this shall include verification that he/she meets the educational requirements in Sections 87405(d) through (g).

(7) Past experience, including types of employment and former employers.

(8) Type of position for which employed.

(9) Termination date if no longer employed by the facility.

(10) Reasons for leaving.

(11) A health screening as specified in Section 87411, Personnel Requirements - General.

(12) Hazardous health conditions documents as specified in Section 87411, Personnel Requirements - General.

(13) For employees that are required to be fingerprinted pursuant to Section 87355, Criminal Record Clearance:

(A) A signed statement regarding their criminal record history as required by Section 87355(d).

(B) Documentation of either a criminal record clearance or a criminal record exemption as required by Section 87355(e).

1. For Certified Administrators, a copy of their current and valid Administrative Certification meets this requirement.

(b) Personnel records shall be maintained for all volunteers and shall contain the following:

(1) A health statement as specified in Section 87411(f).

(2) Health screening documents as specified in Section 87411(f).

(3) For volunteers that are required to be fingerprinted pursuant to Section 87355, Criminal Record Clearance:

(A) A signed statement regarding their criminal record history as required by Section 87355(d).

87412 PERSONNEL RECORDS (Continued) **87412**

(B) Documentation of either a criminal record clearance or a criminal record exemption as required by Section 87355(e).

(c) Licensees shall maintain in the personnel records verification of required staff training and orientation.

(1) The following staff training and orientation shall be documented:

(A) For staff who assist with personal activities of daily living, there shall be documentation of at least ten hours of initial training within the first four weeks of employment, and at least four hours of training annually thereafter in one or more of the content areas as specified in Section 87411(c)(2).

(B) For staff who provide direct care to residents with dementia in a facility in which the licensee advertises dementia special care, programming, and/or environments, the licensee shall document the following:

1. The orientation received as specified in Section 87707(a)(1).

2. The in-service training received as specified in Section 87707(a)(2).

(2) Documentation of staff training shall include:

(A) Trainer's full name;

(B) Subject(s) covered in the training;

(C) Date(s) of attendance; and

(D) Number of training hours per subject.

1. If the training is provided by a trainer in a classroom setting, documentation shall consist of notices of course completion signed by the trainer.

2. If the educational hours/units are obtained through an accredited educational institution, documentation shall include a copy of a transcript or official grade slip showing a passing mark.

3. If the educational hours/units are obtained through continuing education, documentation shall include a transcript or official grade slip showing a passing mark, if applicable, or a Certificate of Completion.

87412 PERSONNEL RECORDS (Continued) **87412**

(d) The licensee shall maintain documentation that an administrator has met the certification requirements specified in Section 87406, Administrator Certification Requirements or the recertification requirements in Section 87407, Administrator Recertification Requirements.

(e) In all cases, personnel records shall demonstrate adequate staff coverage necessary for facility operation by documenting the hours actually worked.

(f) All personnel records shall be available to the licensing agency to inspect, audit, and copy upon demand during normal business hours. Records may be removed if necessary for copying. Removal of records shall be subject to the following requirements:

(1) Licensing representatives shall not remove any current emergency or health-related information for current personnel unless the same information is otherwise readily available in another document or format.

(2) Prior to removing any records, a licensing representative shall prepare a list of the records to be removed, sign and date the list upon removal of the records, and leave a copy of the list with the administrator or designee.

(3) Licensing representatives shall return the records undamaged and in good order within three business days following the date the records were removed.

(g) All personnel records shall be maintained at the facility.

(1) The licensee shall be permitted to retain such records in a central administrative location provided that they are readily available to the licensing agency at the facility as specified in Section 87412(f).

(h) All personnel records shall be retained for at least three (3) years following termination of employment.

NOTE: Authority cited: Sections 1569.30 and 1569.616, Health and Safety Code. Reference: Sections 1569.17(c), 1569.31, 1569.312, 1569.613, 1569.616, 1569.625, and 1569.626, Health and Safety Code.

87413 PERSONNEL - OPERATIONS 87413

(a) In each facility:

(1) When regular staff members are absent, there shall be coverage by personnel with qualifications adequate to perform the assigned tasks.

(2) Care and supervision of residents shall be provided without physical or verbal abuse, exploitation or prejudice.

(3) The licensee shall provide for and encourage all personnel to report observations or evidence of such abuse, exploitation or prejudice.

(b) If the facility is licensed for sixteen (16) persons or more, there shall be a dated weekly employee time schedule displayed conveniently for employee reference. The schedule shall contain employee's name, job title, hours of work, and days off.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.2, 1569.31 and 1569.312, Health and Safety Code.

87415 NIGHT SUPERVISION 87415

(a) The following persons providing night supervision from l0:00 p.m. to 6:00 a.m. shall be familiar with the facility's planned emergency procedures, shall be trained in first aid as required in Section 87465, Incidental Medical and Dental Care Services, and shall be available as indicated below to assist in caring for residents in the event of an emergency:

(1) In facilities caring for less than sixteen (16) residents, there shall be a qualified person on call on the premises.

(2) In facilities caring for sixteen (16) to one hundred (100) residents at least one employee shall be on duty on the premises, and awake. Another employee shall be on call, and capable of responding within ten minutes.

(3) In facilities caring for one hundred one (101) to two hundred (200) residents, one employee shall be on call, on the premises; one employee shall be on duty on the premises and awake; and one employee shall be on call and capable of responding within ten minutes.

(4) Every additional 100 residents, or fraction thereof, shall require an additional one (1) staff person on duty, on the premises and awake.

87415 NIGHT SUPERVISION (Continued)

(5) In facilities required to have a signal system, specified in Section 87303, Maintenance and Operation, at least one night staff person shall be located to enable immediate response to the signal system. If the signal system is visual only, that person shall be awake.

(6) The requirements of this section shall not prohibit compliance with additional supervisory requirements required by the State Fire Marshal.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.2, 1569.31 and 1569.312, Health and Safety Code.

Article 8. Resident Assessments, Fundamental Services and Rights

87452 DEFICIENCIES IN COMPLIANCE

Renumbered to Section 87756 by Manual Letter No. CCL-08-01, effective 3/5/08.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.15, 1569.16, 1569.17, 1569.20, and 1569.205, Health and Safety Code.

87455 ACCEPTANCE AND RETENTION LIMITATIONS

(a) Acceptance or retention of residents by a licensee shall be in accordance with the criteria specified in this Chapter 8, thereby allowing residents to age in place in the least restrictive environment when appropriate.

(b) The following persons may be accepted or retained by the licensee:

(1) Persons capable of administering their own medications.

(2) Persons receiving medical care and treatment outside the facility or who are receiving needed medical care from a visiting nurse.

(3) Persons who may need assistance with self-administration of medication as specified in Section 87465, Incidental Medical and Dental Care Services.

(4) Persons who display behavioral expression as defined in Section 87101, Definitions.

(5) Persons who may need assistance with managing money.

(6) Persons with mild temporary emotional disturbance resulting from personal loss or change in living arrangement.

(7) Persons who are bedridden provided the requirements of Section 87606 are met.

(8) Persons who are under 60 years of age whose needs are compatible with other residents in care, if they require the same amount of care and supervision as do the other residents in the facility.

(9) Persons who have been diagnosed as terminally ill and who have obtained the services of hospice, certified in accordance with federal medicare conditions of participation and licensure, provided the licensee has obtained a facility hospice care waiver in accordance with the provisions of Section 87632, Hospice Care Waiver, and hospice care is being provided in accordance with the provisions of Section 87633, Hospice Care for Terminally Ill Residents.

87455 ACCEPTANCE AND RETENTION LIMITATIONS (Continued)

(c) No resident shall be accepted or retained if any of the following apply:

(1) The resident has active communicable tuberculosis.

(2) The resident requires 24-hour, skilled nursing or intermediate care as specified in Health and Safety Code Sections 1569.72(a) and (a)(1):

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Health and Safety Code Sections 1569.72(a) and (a)(1) provide in part:

"(a) …no resident shall be admitted or retained in a residential care facility for the elderly if any of the following apply:

(1) The resident requires 24-hour, skilled nursing or intermediate care."

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(d) A resident suspected of having a contagious or infectious disease shall be isolated, and a physician contacted to determine suitability of the resident's retention in the facility.

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Health and Safety Code section 1569.73(a) provides in relevant part:

"(a) Notwithstanding Section 1569.72 or any other provision of law, a residential care facility for the elderly may obtain a waiver from the department for the purpose of allowing a resident who has been diagnosed as terminally ill by his or her physician and surgeon to remain in the facility, or allowing a person who has been diagnosed as terminally ill by his or her physician and surgeon to become a resident of the facility if that person is already receiving hospice services and would continue to receive hospice services without disruption if he or she became a resident, when all of the following conditions are met:

(1) The facility agrees to retain the terminally ill resident, or accept as a resident the terminally ill person, and to seek a waiver on behalf of the individual, provided the individual has requested the waiver and is capable of deciding to obtain hospice services.

HANDBOOK CONTINUES

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87455 ACCEPTANCE AND RETENTION LIMITATIONS (Continued)

HANDBOOK CONTINUES

(2) The terminally ill resident, or the terminally ill person to be accepted as a resident, has obtained the services of a hospice certified in accordance with federal medicare conditions of participation and licensed pursuant to Chapter 8 (commencing with Section 1725) or Chapter 8.5 (commencing with Section 1745).

(3) The facility, in the judgment of the department, has the ability to provide care and supervision appropriate to meet the needs of the terminally ill resident or the terminally ill person to be accepted as a resident, and is in substantial compliance with regulations governing the operation of residential care facilities for the elderly.

(4) The hospice has agreed to design and provide for care, services, and necessary medical intervention related to the terminal illness as necessary to supplement the care and supervision provided by the facility.

(5) An agreement has been executed between the facility and the hospice regarding the care plan for the terminally ill resident or terminally ill person to be accepted as a resident. The care plan shall designate the primary caregiver, identify other caregivers, and outline the tasks the facility is responsible for performing and the approximate frequency with which they shall be performed. The care plan shall specifically limit the facility's role for care and supervision to those tasks allowed under this chapter..."

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NOTE: Authority cited: Sections 1569.30 and 1569.698, Health and Safety Code. Reference: Sections 1250, 1569.1, 1569.2, 1569.31, 1569.312, 1569.54, 1569.699, 1569.72 and 1569.73, Health and Safety Code.

87456 EVALUATION OF SUITABILITY FOR ADMISSION

(a) Prior to accepting a resident for care and in order to evaluate his/her suitability, the facility shall, as specified in this article 8:

(1) Conduct an interview with the applicant and his responsible person.

(2) Perform a pre-admission appraisal.

(3) Obtain and evaluate a recent medical assessment.

(4) Execute the admissions agreement.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.2 and 1569.312, Health and Safety Code.

87457 PRE-ADMISSION APPRAISAL

(a) Prior to admission, the prospective resident and his/her responsible person, if any, shall be interviewed by the licensee or the employee responsible for facility admissions.

(1) Sufficient information about the facility and its services shall be provided to enable all persons involved in the placement to make an informed decision regarding admission.

(2) The prospective resident's desires regarding admission, and his/her background, including any specific service needs, medical background and functional limitations shall be discussed.

(b) No person shall be admitted without his/her consent and agreement, or that of his/her responsible person, if any.

(c) Prior to admission a determination of the prospective resident's suitability for admission shall be completed and shall include an appraisal of their individual service needs in comparison with the admission criteria specified in Section 87455, Acceptance and Retention Limitations.

(1) The appraisal shall document, at a minimum:

(A) An evaluation of the prospective resident's functional capabilities, mental condition, and social factors as specified in Sections 87459, Functional Capabilities and 87462, Social Factors.

(B) Whether the prospective resident's or other residents' safety would be at risk if the prospective resident is allowed access to any of the items specified in Section 87307, Personal Accommodations and Services and in Section 87309, Storage Space and Access.

87457 PRE-ADMISSION APPRAISAL (Continued)

(2) Except as provided in Section 87638(g)(3), if an initial appraisal or any reappraisal identifies an individual resident service need which is not being met by the general program of facility services, advice shall then be obtained from a physician, social worker, or other appropriate consultant to determine if the needs can be met by the facility. If so, the licensee and the consultant shall develop a plan of action which shall include:

(A) Objectives, within a time frame, which relate to the resident's problems and/or unmet needs.

(B) Plans for meeting the objectives.

(C) Identification of any individuals or agencies responsible for implementing each part of the plan.

(D) Method of evaluating progress.

(3) The prospective resident, or his/her responsible person, if any, shall be involved in the development of the appraisal.

(A) Repealed by Manual Letter No. CCL-08-01, effective 3/5/08.

(4) If a needs assessment has already been completed by a placement agency or consultant, this shall be obtained and included in the facility's appraisal.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.2 and 1569.312, Health and Safety Code.

87458 MEDICAL ASSESSMENT

(a) Prior to a person's acceptance as a resident, the licensee shall obtain documentation of a medical assessment, signed by a licensed medical professional acting within the scope of their practice and made within the last year, to be kept in the resident's record.

(b) The licensee shall obtain an updated medical assessment when required by the Department.

(c) The medical assessment shall include, but not be limited to:

(1) A physical examination of the resident indicating the licensed medical professional's diagnosis or diagnoses and results of an examination for all of the following:

(A) Communicable tuberculosis.

(B) Infectious diseases.

87458 MEDICAL ASSESSMENT (Continued) **87458**

(C) Contagious diseases.

(D) Other medical conditions.

(2) Documentation of prior medical services and history and current medical status including, but not limited to height, weight, and blood pressure.

(3) A record of current prescribed medications, and an indication of whether the medication should be centrally stored, pursuant to Section 87465, Incidental Medical and Dental Care Services.

(4) Identification of physical limitations of the person to determine his/her capability to participate in the programs provided by the licensee, including any medically necessary diet limitations.

(5) The determination whether the person is ambulatory or nonambulatory as defined in Section 87101, Definitions, or bedridden as defined in Health and Safety Code section 1569.72. The assessment shall indicate whether nonambulatory status is based upon the resident's physical condition, mental condition, or both.

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Health and Safety Code section 1569.72 provides in part:

"(b)(1) For the purposes of this section, 'bedridden' means requiring assistance in turning and repositioning in bed or being unable to independently transfer to and from bed, except in a facility with appropriate and sufficient care staff, mechanical devices, if necessary, and safety precautions, as determined by the director in regulations."

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(6) Cognitive conditions, such as MCI and major NCD as defined in Section 87101, Definitions.

(7) A description of any known behavioral expression as defined in Section 87101, Definitions.

(8) Information applicable to the pre-admission appraisal specified in Section 87457, Pre-Admission Appraisal.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.2, 1569.31, 1569.312, 1569.315 and 1569.54, Health and Safety Code.

87459 FUNCTIONAL CAPABILITIES 87459

(a) The facility shall assess the person's need for personal assistance and care by determining his/her ability to perform specified activities of daily living. Such activities shall include, but not be limited to:

(1) Bathing, including need for assistance:

(A) In getting in and out of the bath.

(B) In bathing one or more parts of the body.

(C) Through use of grab bars.

(2) Dressing and grooming, including the need for partial or complete assistance.

(3) Toileting, including the need for:

(A) Assistance equipment.

(B) Assistance of another person.

(4) Transferring, including the need for assistance in moving in and out of a bed or chair.

(5) Continence, including:

(A) Bowel and bladder control.

(B) Whether assistive devices such as a catheter are used.

(6) Eating, including the need for:

(A) Adaptive devices.

(B) Assistance from another person.

(7) Physical condition, including:

(A) Vision.

(B) Hearing.

(C) Speech.

87459 FUNCTIONAL CAPABILITIES (Continued)

(D) Walking with or without equipment or other assistance.

(E) Dietary limitations.

(F) Medical history and problems.

(G) Need for prescribed medications.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1250, 1569.1, 1569.2, 1569.31, 1569.312 and 1569.315, Health and Safety Code.

87461 MENTAL CONDITIONS

(a) The facility shall determine the amount of supervision necessary by assessing the mental status of the prospective resident to determine if the individual:

(1) tends to wander;

(2) is confused or forgetful;

(3) is capable of managing his/her own cash resources;

(4) actively participates in social activities or is withdrawn;

(5) has a documented history of behaviors which may result in harm to self or others.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.2, 1569. 31, 1569.312 and 1569.316, Health and Safety Code.

87462 SOCIAL FACTORS

The facility shall obtain sufficient information about each person's likes and dislikes and interests and activities, to determine if the living arrangements in the facility will be satisfactory, and to suggest the program of activities in which the individual may wish to participate.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.2, 1569.31 and 1569.312, Health and Safety Code.

87463 REAPPRAISALS

(a) The pre-admission appraisal, as specified in Section 87457, Pre-Admission Appraisal, shall be updated in writing as frequently as necessary or once every 12 months, whichever occurs first, to note significant changes in condition, as defined in Section 87101, Definitions, and to keep the appraisal accurate. For the purposes of this section, the updated pre-admission appraisal shall be referred to as the reappraisal.

(b) The reappraisal shall document significant changes in the resident's physical, mental, cognitive, behavioral, or functional condition, including those required to be documented as specified in Section 87466, Observation of the Resident.

(1) Significant changes in condition, as defined in Section 87101, Definitions, include, but are not limited, to:

(A) Physical trauma, such as a heart attack or stroke.

(B) Cognitive functions, such as thinking, remembering, reasoning, exercising judgement, and decision-making.

(C) Behavioral expression, as defined in Section 87101, Definitions, that may result in harm to self or others, such as unsafe wandering, elopement, hallucinations, lacking in hazard awareness, or lacking in impulse control.

(D) A mental or social trauma, such as the loss of a loved one.

(E) Illness or injury that results in a significant change in the health care or dietary needs of the resident.

(F) Whether the resident's and other residents' safety would be at risk if the resident is allowed to have access to any of the items specified in Section 87307, Personal Accommodations and Services and in Section 87309, Storage Space and Access.

(c) If the licensee observes or is made aware of behavioral expression, as defined in Section 87101, that has caused or may cause harm to the resident or others, the licensee shall document all of the following in the resident's reappraisal:

(1) A description of the behavioral expression.

(2) If known, identification of events occurring just prior to the behavioral expression including, but not limited to, interactions with other residents or staff, sudden or recent changes in the physical environment, signs of possible new physical illness or injury (such as fever, cough, urinary urgency, or limping), overstimulation (such as from noise or visitors), or physical sensations a resident may not be able to express verbally that may include, but are not limited to, fatigue, heat, cold, pain, hunger, thirst, boredom, fear, wanting to walk, or need for toileting.

87463 REAPPRAISALS (Continued)

(3) Interventions to be implemented to minimize the risks to the health and safety of the resident or others associated with the resident's behavioral expression. The licensee shall use the least restrictive intervention to manage the behavioral expression based on the individual needs of the resident.

(d) If a resident is receiving specialized services, the licensee shall consult with those care providers in order to ensure changes in the resident's condition are properly addressed, document such consultation, and place documentation in the resident's record.

(e) The licensee shall immediately, or as soon as reasonably possible, bring any significant change in condition, as defined in Section 87101, Definitions, to the attention of the appropriate licensed medical professional and if applicable, other specialized care provider. Documentation of such communication shall be added to the resident's record and shall include:

(1) Description of the significant change in condition;

(2) Date and time the communication occurred and the name of the appropriate licensed medical professional, and if applicable, other specialized care provider, with whom the licensee communicated;

(3) Recommendation, if any, of the appropriate licensed medical professional, and if applicable, other specialized care provider; and

(4) Change in care to be provided, if any.

(f) The licensee shall immediately, or as soon as reasonably possible, communicate with the resident and, if applicable, the resident's representative, about any significant change in condition and the recommendation, if any, of the appropriate licensed medical professional, and if applicable, other specialized care provider. Documentation of such communication shall be added to the resident's record.

(g) The licensee shall ensure corresponding changes are made in the care and supervision provided to the resident.

(h) The licensee shall request that all residents receive an annual routine visit with a licensed medical professional once every twelve months, either in person or by video appointment.

(1) Documentation of the annual routine visit, such as a visit summary, shall be added to the resident's record.

(2) Documentation of a resident's refusal to receive an annual routine visit, or if applicable, their representative's refusal on their behalf, shall be added to the resident's record.

(3) If a resident refuses to receive an annual routine visit, or if applicable, their representative refuses an annual routine visit on their behalf, but later agrees to one, documentation of the annual routine visit shall be added to the resident's record.

87463 REAPPRAISALS (Continued)

(i) When there is significant change in condition, as defined in Section 87101, Definitions, or once every 12 months, whichever occurs first, the licensee shall arrange an in-person or virtual meeting or conference call to share the reappraisal with the resident, the resident's representative, if applicable, and appropriate facility staff, as specified in Section 87467, Resident Participation in Decision Making.

(j) The licensee shall evaluate staffing needs to ensure that there is a sufficient number of direct care staff, as specified in Section 87411, Personnel Requirements -- General, to support each resident's physical, social, emotional, safety and health care needs, as identified in their current appraisal.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.156, 1569.2, 1569.31, 1569.312 and 1569.315, Health and Safety Code.

87464 BASIC SERVICES

(a) The services provided by the facility shall be conducted so as to continue and promote, to the extent possible, independence and self-direction for all persons accepted for care. Such persons shall be encouraged to participate as fully as their conditions permit in daily living activities both in the facility and in the community.

(b) As used in this chapter, basic services are those services required to be provided in order to obtain and maintain a license.

(c) The admission agreement shall specify which of the basic services are desired and/or needed by, and will be provided for, each resident.

(d) A facility need not accept a particular resident for care. However, if a facility chooses to accept a particular resident for care, the facility shall be responsible for meeting the resident's needs as identified in the pre-admission appraisal specified in Section 87457, Pre-admission Appraisal and providing the other basic services specified below, either directly or through outside resources.

(e) If the resident is an SSI/SSP recipient, then the basic services shall be provided and/or made available at the basic rate at no additional charge to the resident.

(1) This shall not preclude the acceptance by the facility of voluntary contributions from relatives or others on behalf of an SSI/SSP recipient.

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(A) The Social Security Administration has interpreted Federal Regulations (20 CFR 416.1102, 416.1103, and 416.1145) to mean that any contribution given directly to the facility on behalf of an SSI/SSP recipient will not count as income (i.e., will not reduce the recipient's SSI/SSP check) if the payment is used for items other than food, clothing or shelter (e.g., care and supervision).

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87464 BASIC SERVICES (Continued)

(2) An extra charge to the resident shall be allowed for a private room if a double room is made available but the resident prefers a private room, provided the arrangement is documented in the admissions agreement and the charge is limited to 10% of the Board and Room portion of the SSI/SSP grant.

(3) An extra charge to the resident shall be allowed for provision of special food services or products beyond that specified in (f)(2) below, when the resident wishes to purchase the services and agrees to the extra charge in the admission agreement.

(f) Basic services shall at a minimum include:

(1) Care and supervision as defined in Section 87101(c)(3) and Health and Safety Code section 1569.2(c).

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Health and Safety Code section 1569.2(c) provides:

(c) "Care and supervision" means the facility assumes responsibility for, or provides or promises to provide in the future, ongoing assistance with activities of daily living without which the resident's physical health, mental health, safety, or welfare would be endangered. Assistance includes assistance with taking medications, money management, or personal care.

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(2) Safe and healthful living accommodations and services, as specified in Section 87307, Personal Accommodations and Services.

(3) Three nutritionally well-balanced meals and snacks made available daily, including low salt or other modified diets prescribed by a doctor as a medical necessity, as specified in Section 87555, General Food Service Requirements.

(4) Personal assistance and care as needed by the resident and as indicated in the pre-admission appraisal, with those activities of daily living such as dressing, eating, bathing and assistance with taking prescribed medications, as specified in Section 87608, Postural Supports.

(5) Regular observation of the resident's physical and mental condition, as specified in Section 87466, Observation of the Resident.

(6) Arrangements to meet health needs, including arranging transportation, as specified in Section 87465, Incidental Medical and Dental Care Services.

(7) A planned activities program which includes social and recreational activities appropriate to the interests and capabilities of the resident, as specified in Section 87219, Planned Activities.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.2, 1569.31, 1569.312 and 1569.313, Health and Safety Code; and Sections 11006.9 and 12350, Welfare and Institutions Code

87465 INCIDENTAL MEDICAL AND DENTAL CARE SERVICES

(a) A plan for incidental medical and dental care shall be developed by each facility. The plan shall encourage routine medical and dental care and provide for assistance in obtaining such care, by compliance with the following:

(1) The licensee shall arrange, or assist in arranging, for medical and dental care appropriate to the conditions and needs of residents.

(2) The licensee shall provide assistance in meeting necessary medical and dental needs. This includes transportation which may be limited to the nearest available medical or dental facility which will meet the resident's need. In providing transportation the licensee shall do so directly or make arrangements for this service.

(3) When residents require prosthetic devices, vision and hearing aids, the staff shall be familiar with the use of these devices, and shall assist such persons with their utilization as needed.

(4) The licensee shall assist residents with self-administered medications as needed.

(5) Facility staff, except those authorized by law, shall not administer injections, but staff designated by the licensee may assist persons with self-administration as needed. Assistance with self-administered medications shall be limited to the following:

(A) Medications usually prescribed for self-administration which have been authorized by the person's physician.

(B) Medications during an illness determined by a physician to be temporary and minor.

(C) Assistance required because of tremor, failing eyesight and similar conditions.

(D) Assistance with self-administration does not include forcing a resident to take medication, hiding or camouflaging medications in other substances without the resident's knowledge and consent, or otherwise infringing upon a resident's right to refuse to take a medication.

(6) When requested by the prescribing physician or the Department, a record of dosages of medications which are centrally stored shall be maintained by the facility.

87465 INCIDENTAL MEDICAL AND DENTAL CARE SERVICES (Continued)

(7) There shall be adequate privacy for first aid treatment of minor injuries and for examination by a physician if required.

(8) If a facility has no medical unit on the grounds, a complete first aid kit shall be maintained and be readily available in a specific location in the facility. The kit shall be a general type approved by the American Red Cross, or shall contain at least the following:

(A) A current edition of a first aid manual approved by the American Red Cross, the American Medical Association or a state or federal health agency.

(B) Sterile first aid dressings.

(C) Bandages or roller bandages.

(D) Scissors.

(E) Tweezers.

(F) Thermometers.

(9) The licensee shall ensure that infection control practices are maintained in the facility as specified in Section 87470, Infection Control Requirements.

(b) If the resident's physician has stated in writing that the resident is able to determine and communicate his/her need for a prescription or nonprescription PRN medication, facility staff shall be permitted to assist the resident with self-administration of his/her PRN medication.

(c) If the resident's physician has stated in writing that the resident is unable to determine his/her own need for nonprescription PRN medication but can communicate his/her symptoms clearly, facility staff designated by the licensee shall be permitted to assist the resident with self-administration, provided all of the following requirements are met:

(1) There is written direction from a physician, on a prescription blank, specifying the name of the resident, the name of the medication, all of the information in Section 87465(e), instructions regarding a time or circumstance (if any) when it should be discontinued, and an indication when the physician should be contacted for a medication reevaluation.

(2) Once ordered by the physician the medication is given according to the physician's directions.

87465 INCIDENTAL MEDICAL AND DENTAL CARE SERVICES (Continued) **87465**

(3) A record of each dose is maintained in the resident's record. The record shall include the date and time the PRN medication was taken, the dosage taken, and the resident's response.

(d) If the resident is unable to determine his/her own need for a prescription or nonprescription PRN medication, and is unable to communicate his/her symptoms clearly, facility staff designated by the licensee, shall be permitted to assist the resident with self-administration provided all of the following requirements are met:

(1) Facility staff shall contact the resident's physician prior to each dose, describe the resident's symptoms, and receive direction to assist the resident in self-administration of that dose of medication.

(2) The date and time of each contact with the physician, and the physician's directions, shall be documented and maintained in the resident's facility record.

(3) The date and time the PRN medication was taken, the dosage taken, and the resident's response shall be documented and maintained in the resident's facility record.

(e) For every prescription and nonprescription PRN medication for which the licensee provides assistance there shall be a signed, dated written order from a physician, on a prescription blank, maintained in the residents file, and a label on the medication. Both the physician's order and the label shall contain at least all of the following information.

(1) The specific symptoms which indicate the need for the use of the medication.

(2) The exact dosage.

(3) The minimum number of hours between doses.

(4) The maximum number of doses allowed in each 24-hour period.

(f) Emergency care requirements shall include the following:

(1) The name, address, and telephone number of each resident's physician and dentist shall be readily available to that resident, the licensee, and facility staff.

(2) The name, address and telephone number of each emergency agency to be called in the event of an emergency, including but not limited to the fire department, crisis center or paramedical unit or medical resource, shall be posted in a location visible to both staff and residents.

87465 INCIDENTAL MEDICAL AND DENTAL CARE SERVICES (Continued) **87465**

(3) The name and telephone number of an ambulance service shall be readily available.

(4) Renumbered to Section 87411(c)(1) by Manual Letter No. CCL-08-01, effective 3/5/08.

(g) The licensee shall immediately telephone 9-1-1 if an injury or other circumstance has resulted in an imminent threat to a resident's health including, but not limited to, an apparent life-threatening medical crisis except as specified in Section 87469(c)(2), (c)(3), or (c)(4).

(h) The following requirements shall apply to medications which are centrally stored:

(1) Medications shall be centrally stored under the following circumstances:

(A) The preservation of medicines requires refrigeration, if the resident has no private refrigerator.

(B) Any medication is determined by the physician to be hazardous if kept in the personal possession of the person for whom it was prescribed.

(C) Because of potential dangers related to the medication itself, or due to physical arrangements in the facility and the condition or the habits of other persons in the facility, the medications are determined by either a physician, the administrator, or Department to be a safety hazard to others.

(2) Centrally stored medicines shall be kept in a safe and locked place that is not accessible to persons other than employees responsible for the supervision of the centrally stored medication.

(3) Each container shall carry all of the information specified in (6)(A) through (E) below plus expiration date and number of refills.

(4) All centrally stored medications shall be labeled and maintained in compliance with state and federal laws. No persons other than the dispensing pharmacist shall alter a prescription label.

(5) Each resident's medication shall be stored in its originally received container. No medications shall be transferred between containers.

(6) The licensee shall be responsible for assuring that a record of centrally stored prescription medications for each resident is maintained for at least one year and includes:

(A) The name of the resident for whom prescribed.

(B) The name of the prescribing physician.

(C) The drug name, strength and quantity.

87465 INCIDENTAL MEDICAL AND DENTAL CARE SERVICES (Continued) **87465**

(D) The date filled.

(E) The prescription number and the name of the issuing pharmacy.

(F) Instructions, if any, regarding control and custody of the medication.

(i) Prescription medications which are not taken with the resident upon termination of services, not returned to the issuing pharmacy, nor retained in the facility as ordered by the resident's physician and documented in the resident's record nor disposed of according to the hospice's established procedures or which are otherwise to be disposed of shall be destroyed in the facility by the facility administrator and one other adult who is not a resident. Both shall sign a record, to be retained for at least three years, which lists the following:

(1) Name of the resident.

(2) The prescription number and the name of the pharmacy.

(3) The drug name, strength and quantity destroyed.

(4) The date of destruction.

(j) In all facilities licensed for sixteen (16) persons or more, one or more employees shall be designated as having primary responsibility for assuring that each resident receives needed first aid and needed emergency medical services and for assisting residents as needed with self-administration of medications. The names of the staff employees so responsible and the designated procedures shall be documented and made known to all residents and staff.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.2, 1569.31, 1569.312 and 1569.73, Health and Safety Code.

87466 OBSERVATION OF THE RESIDENT **87466**

The licensee shall ensure that residents are regularly observed for changes in physical, mental, emotional and social functioning and that appropriate assistance is provided when such observation reveals unmet needs. When changes such as unusual weight gains or losses or deterioration of mental ability or a physical health condition are observed, the licensee shall ensure that such changes are documented and brought to the attention of the resident's physician and the resident's responsible person, if any.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.2, 1569.31 and 1569.312, Health and Safety Code.

87467 RESIDENT PARTICIPATION IN DECISIONMAKING 87467

(a) Prior to, or within two weeks of the resident's admission, the licensee shall arrange a meeting with the resident, the resident's representative, if any, appropriate facility staff, and a representative of the resident's home health agency, if any, and any other appropriate parties, to prepare a written record of the care the resident will receive in the facility, and the resident's preferences regarding the services provided at the facility.

(1) At a minimum the written record shall include the date of the meeting, name of individuals who participated and their relationship to the resident, and the agreed-upon services to be provided to the resident.

(2) If the resident has a regular physician, the licensee shall send a copy of the record to the physician.

(3) The licensee shall arrange a meeting with the resident and appropriate individuals identified in Section 87467(a)(1) to review and revise the written record as specified, when there is a significant change in the residents condition, or once every 12 months, whichever occurs first. Significant changes shall include, but not be limited to occurrences specified in Section 87463, Reappraisals.

(4) The meeting and documentation described in this section may be used to satisfy the reappraisal requirements of Section 87463, Reappraisals.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.156 and 1569.80, Health and Safety Code.

87468 PERSONAL RIGHTS OF RESIDENTS 87468

(a) Residents in residential care facilities for the elderly shall have personal rights which include, but are not limited to, those listed in Sections 87468.1, Personal Rights of Residents in All Facilities, and 87468.2, Additional Personal Rights of Residents in Privately Operated Facilities, as applicable to the facility.

(1) "Privately operated facility" means a residential care facility for the elderly that is licensed to an individual, firm, partnership, association, or corporation.

(2) "Publicly operated facility" means a residential care facility for the elderly that is licensed to a city, county, or other government entity.

87468 PERSONAL RIGHTS OF RESIDENTS (Continued) **87468**

(b) At the time the admission agreement is signed, a resident and the resident's representative shall be personally advised of and given a copy of:

(1) The personal rights of residents specified in Sections 87468.1, Personal Rights of Residents in All Facilities or and 87468.2, Additional Personal Rights of Residents in Privately Operated Facilities, as applicable to the facility.

(A) The licensee shall have each resident and the resident's representative sign a copy of these rights, and the signed copy shall be included in the resident's record.

(2) A nondiscrimination notice.

(A) The notice shall read "[Name of facility] does not discriminate and does not permit discrimination, including, but not limited to, bullying, abuse, or harassment, on the basis of actual or perceived sexual orientation, gender identity, gender expression, or HIV status, or based on association with another individual on account of that individual's actual or perceived sexual orientation, gender identity, gender expression, or HIV status. You may file a complaint with the Office of the State Long-Term Care Ombudsman [provide contact information] if you believe that you have experienced this kind of discrimination."

(B) The licensee shall have each resident and the resident's representative sign a copy of this notice, and the signed copy shall be included in the resident's record.

(c) Licensees shall prominently post personal rights, nondiscrimination notice, and complaint information in areas accessible to residents, representatives, and the public.

(1) The personal rights of residents specified in Sections 87468.1, Personal Rights of Residents in All Facilities and 87468.2, Additional Personal Rights of Residents in Privately Operated Facilities shall be posted as applicable to the facility.

(2) Information on the appropriate reporting agency in case of a complaint or emergency, including procedures for filing confidential complaints, shall be posted as follows:

(A) Licensees may use the Residential Care Facility for the Elderly (RCFE) Complaint Poster (PUB 475) or may develop their own poster as provided in this section. A poster developed by the licensee shall contain the same content as the PUB 475. The poster that is posted shall be 20" x 26" in size and be posted in the main entryway of the facility. PUB 475 may be accessed, downloaded, and printed from the www.ccld.ca.gov website.

87468 PERSONAL RIGHTS OF RESIDENTS (Continued) **87468**

(d) Licensees shall post the personal rights, nondiscrimination notice, and complaint information specified above in English, and, in any other language in which at least five (5) percent of the residents can only read that other language.

(e) At the request of the Department, and immediately if the request is made during an inspection, a licensee shall provide the Department with a confidential list of residents that includes the language(s) read by each resident, which is to be kept confidential to the extent permitted by law. This list shall be maintained in an accurate and current status at all times.

NOTE: Authority cited: Section 1569.30 and 1569.318, Health and Safety Code. Reference: Sections 1439.51, 1569.1, 1569.265, 1569.267, 1569.269, 1569.31, 1569.312, 1569.33 and 1569.889, Health and Safety Code.

87468.1 PERSONAL RIGHTS OF RESIDENTS IN ALL FACILITIES 87468.1

(a) Residents in all residential care facilities for the elderly shall have all of the following personal rights:

(1) To be accorded dignity in their personal relationships with staff, residents, and other persons.

(2) To be accorded safe, healthful and comfortable accommodations, furnishings and equipment.

(3) To be free from punishment, humiliation, intimidation, abuse, or other actions of a punitive nature, such as withholding residents' money or interfering with daily living functions such as eating, sleeping, or elimination.

(4) To be informed by the licensee of the provisions of law regarding complaints and of procedures for confidentially registering complaints, including, but not limited to, the address and telephone number for the complaint receiving unit of the Department, and how to contact the Community Care Licensing Division of the California Department of Social Services, and the long-term care ombudsman regarding grievances in regard to the facility.

(5) To have the freedom to attend religious services or activities of their choice either in or outside the facility and to have visits from the spiritual advisor of their choice. Attendance at religious services, either in or outside the facility, shall be on a completely voluntary basis.

(6) To leave or depart the facility at any time and to not be locked into any room, building, or on facility premises by day or night. This does not prohibit a licensee from establishing house rules, such as locking doors at night to protect residents, or barring windows against intruders, with permission from the Department.

87468.1 PERSONAL RIGHTS OF RESIDENTS IN ALL FACILITIES (Continued) 87468.1

(7) To visit the facility prior to residence along with their representatives.

(8) To have their representatives regularly informed by the licensee of activities related to care or services, including ongoing evaluations, as appropriate to their needs.

(9) To have communications to the licensee from their representatives answered promptly and appropriately.

(10) To be informed of the licensee's policy concerning visits and other communications with residents, according to Health and Safety Code section 1569.313.

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Health and Safety Code section 1569.313 provides:

"Each residential care facility for the elderly shall state, on its client information form or admission agreement, and on its patient's rights form, the facility's policy concerning family visits and other communication with resident clients and shall promptly post notice of its visiting policy at a location in the facility that is accessible to residents and families.

The facility's policy concerning family visits and communication shall be designed to encourage regular family involvement with the resident client and shall provide ample opportunities for family participation in activities at the facility."

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(11) To have their visitors, including ombudspersons and advocacy representatives, permitted to visit privately during reasonable hours and without prior notice, provided that the rights of other residents are not infringed upon.

(12) To wear their own clothes; to keep and use their own personal possessions, including their toilet articles; and to keep and be allowed to spend their own money.

(13) To have access to individual storage space for private use.

(14) To have reasonable access to telephones, to both make and receive confidential calls. The licensee may require reimbursement for long distance calls.

(15) To send and receive unopened correspondence in a prompt manner.

(16) To receive or reject medical care or other services.

(17) To receive assistance in exercising the right to vote.

(18) To move from the facility.

87468.1 PERSONAL RIGHTS OF RESIDENTS IN ALL FACILITIES (Continued) **87468.1**

(b) All residents in all residential care facilities for the elderly shall be protected from all of the actions specified in this subsection. A licensee or facility staff may not take any of the following actions, which also includes taking these actions wholly or partially on the basis of the actual or perceived sexual orientation, gender identity, gender expression, or human immunodeficiency virus (HIV) status, of a resident:

(1) Deny admission to a facility, transfer or refuse to transfer a resident within the facility or to another facility, or discharge or evict a resident from a facility.

(2) Deny a request by residents to share a room.

(3) Where rooms are assigned by gender, assign, reassign, or refuse to assign, a room to a resident who is transgender other than according to the resident's gender identity, unless at the request of the resident who is transgender.

(4) Prohibit a resident from using, or harass a resident who seeks to use or uses, a restroom available to others of the same gender identity, regardless of whether the resident is making a gender transition or appears to be gender-nonconforming. Harassment includes, but is not limited to, requiring a resident to show identity documents to gain entrance to a restroom available to other persons of the same gender identity.

(5) Willfully and repeatedly fail to use a resident's preferred name or pronouns after being informed of the resident's preferred name or pronouns in a clear manner.

(6) Deny a resident the right to wear or be dressed in clothing, accessories, or cosmetics permitted for any other resident.

(7) Restrict a resident's right to associate with other residents or with visitors, including the right to consensual sexual relations.

(A) A licensee is not precluded from restricting or banning sexual relations as long as the restriction or ban is applied uniformly to all residents in a nondiscriminatory manner. All residents and their representatives, including potential residents prior to the time of signing the admission agreement, shall be notified in writing of any such facility restriction or ban.

(8) Deny or restrict medical or nonmedical care that is appropriate to a resident's organs and bodily needs, or provide medical or nonmedical care to the resident in a manner that, to a similarly situated reasonable person, unduly demeans the resident's dignity or causes avoidable discomfort.

87468.1 PERSONAL RIGHTS OF RESIDENTS IN ALL FACILITIES (Continued) **87468.1**

(c) The provisions of subsection (b) shall not apply to the extent that they are incompatible with the professionally reasonable clinical judgment of a medical professional.

(d) The Department does not have the authority to waive the personal rights specified in subsection (b).

NOTE: Authority cited: Section 1569.30 and 1569.318, Health and Safety Code. Reference: Sections 1439.51, 1569.1, 1569.31, 1569.312 and 1569.313, Health and Safety Code.

87468.2 ADDITIONAL PERSONAL RIGHTS OF RESIDENTS IN PRIVATELY OPERATED FACILITIES 87468.2

(a) In addition to the rights listed in Section 87468.1, Personal Rights of Residents in All Facilities, residents in privately operated residential care facilities for the elderly shall have all of the following personal rights:

(1) To have a reasonable level of personal privacy in accommodations, medical treatment, personal care and assistance, visits, communications, telephone conversations, use of the Internet, and meetings of resident and family groups.

(2) To have their records and personal information remain confidential and to approve their release, except as authorized by law.

(3) To be encouraged and assisted in exercising their rights as citizens and as residents of the facility. Residents shall be free from interference, coercion, discrimination, and retaliation in exercising their rights.

(4) To care, supervision, and services that meet their individual needs and are delivered by staff that are sufficient in numbers, qualifications, and competency to meet their needs.

(5) To be served food of the quality and quantity necessary to meet their nutritional needs.

(6) To make choices concerning their daily lives in the facility.

(7) To fully participate in planning their care, including the right to attend and participate in meetings or communications regarding care and services to be provided, according to Health and Safety Code section 1569.80 and involve persons of their choice in this planning. The licensee shall provide necessary information and support to ensure that residents direct the planning of their care to the maximum extent possible, and are enabled to make informed decisions and choices.

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Health and Safety Code section 1569.80 provides:

"(a) A resident of a residential care facility for the elderly, or the resident's representative, or both, shall have the right to participate in decisionmaking regarding the care and services to be provided to the resident. Accordingly, prior to, or within two weeks after, the resident's admission, the facility shall coordinate a meeting with the resident and the resident's representative, if any, an appropriate member or members of the facility's staff, if the resident is receiving home health services in the facility, a representative of the home health agency involved, and any other appropriate parties. The facility shall ensure that participants in the meeting prepare a written record of the care the resident will receive in the facility, and the resident's preferences regarding the services provided at the facility.

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87468.2 ADDITIONAL PERSONAL RIGHTS OF RESIDENTS IN PRIVATELY OPERATED FACILITIES (Continued) **87468.2**

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(b) Once prepared, the written record described in subdivision (a) shall be used by the facility, and, if applicable pursuant to Section 1569.725, the home health agency, to determine the care and services provided to the resident. If the resident has a regular physician, the written record shall be sent by the facility to that physician.

(c) The written record described in subdivision (a) shall be reviewed, and, if necessary, revised, at least once every 12 months, or upon a significant change in the resident's condition, as defined by regulations, whichever occurs first. The review shall take place at a meeting coordinated by the facility, and attended by the resident, the resident's representative, if any, an appropriate member or members of the facility's staff, and, if the resident is receiving home health services in the facility, a representative from the home health agency involved.

(d) This section shall not preclude a residential care facility for the elderly or home health agency from satisfying other state or federal obligations at a meeting required by subdivision (a) or (c).

(e) If the residential care facility for the elderly is a continuing care retirement community, as defined in paragraph (10) of subdivision (c) of Section 1771, this section shall apply only to residents who require care and supervision, as defined in subdivision (b) of Section 1569.2."

HANDBOOK ENDS HERE

(8) To be free from neglect, financial exploitation, involuntary seclusion, punishment, humiliation, intimidation, and verbal, mental, physical, or sexual abuse.

(9) To present grievances and recommend changes in policies, procedures, and services to the facility staff, management, and governing authority, and to any other person without restraint, coercion, discrimination, reprisal, or other retaliatory actions. The licensee shall respond to residents' grievances and recommendations promptly.

(10) To contact the State Department of Social Services, the long-term care ombudsman, or both, regarding grievances in regard to the licensee. The licensee shall post the telephone numbers and addresses for the local offices of the State Department of Social Services and ombudsman program, according to Section 9718 of the Welfare and Institutions Code, conspicuously in the facility foyer, lobby, residents' activity room, or other location easily accessible to residents and their representatives.

87468.2 ADDITIONAL PERSONAL RIGHTS OF RESIDENTS IN PRIVATELY OPERATED FACILITIES (Continued) **87468.2**

HANDBOOK BEGINS HERE

Welfare and Institutions Code section 9718 provides:

"Every long-term care facility, as defined in subdivision (b) of Section 9701, shall post in a conspicuous location a notice of the name, address, and phone number of the office and the nearest approved organization, and a brief description of the services provided by the office and the approved organization. The form of the notice shall be approved by the office."

HANDBOOK ENDS HERE

(11) To be fully informed, prior to or at the time of admission, of all rules that govern resident conduct and responsibilities while living at the facility, as evidenced by the resident's written acknowledgement. All rules established by a licensee shall be reasonable and not violate any rights in this section or other applicable laws or regulations, according to Health and Safety Code section 1569.885.

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Health and Safety Code section 1569.885 provides:

"(a) When referring to a resident's obligation to observe facility rules, the admission agreement shall indicate that the rules must be reasonable, and that there is a facility procedure for suggesting changes in the rules. A facility rule shall not violate any right set forth in this article or in other applicable laws and regulations.

(b) The admission agreement shall specify that a copy of the facility grievance procedure for resolution of resident complaints about facility practices shall be made available to the resident or his or her representative.

(c) The admission agreement shall inform a resident of the right to contact the State Department of Social Services, the long-term care ombudsman, or both, regarding grievances against the facility.

(d) A copy of any applicable resident's rights specified by law or regulation shall be an attachment to all admission agreements.

HANDBOOK CONTINUES

87468.2 ADDITIONAL PERSONAL RIGHTS OF RESIDENTS IN PRIVATELY OPERATED FACILITIES (Continued) **87468.2**

HANDBOOK CONTINUES

(e) The statement of resident's rights attached to admissions agreements by a residential care facility for the elderly shall include information on the reporting of suspected or known elder and dependent adult abuse, as set forth in Section 1569.889."

HANDBOOK ENDS HERE

(12) To receive in the admission agreement a comprehensive description of the method for evaluating residents' service needs and the fee schedule for the items and services, and to receive written notice of any rate increases according to Health and Safety Code sections 1569.655 and 1569.884.

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Health and Safety Code section 1569.655 provides:

"(a) If a licensee of a residential care facility for the elderly increases the rates of fees for residents or makes increases in any of its rate structures for services, the licensee shall provide no less than 60 days' prior written notice to the residents or the residents' representatives setting forth the amount of the increase, the reason for the increase, and a general description of the additional costs, except for an increase in the rate due to a change in the level of care of the resident. This subdivision shall not apply to optional services that are provided by individuals, professionals, or organizations under a separate fee-for-service arrangement with residents.

(b) No licensee shall charge nonrecurring lump-sum assessments. The notification requirements contained in subdivision (a) shall apply to increases specified in this subdivision. For purposes of this subdivision, "nonrecurring lump-sum assessments" mean rate increases due to unavoidable and unexpected costs that financially obligate the licensee. In lieu of the lump-sum payment, all increases in rates shall be to the monthly rate amortized over a 12-month period. The prohibition against a lump-sum assessment shall not apply to charges for specific goods or services provided to an individual resident.

(c) If a licensee increases rates for a recipient under the State Supplementary Program for the Aged, Blind and Disabled, described in Article 5 (Commencing with Section 12200) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code, the licensee shall meet the requirements for SSI/SSP rate increases, as prescribed by law.

(d) This section shall not apply to licensees of residential care facilities for the elderly that have obtained a certificate of authority to offer continuing care contracts, as defined in paragraph (5) of subdivision (c) of Section 1771."

HANDBOOK CONTINUES

87468.2 ADDITIONAL PERSONAL RIGHTS OF RESIDENTS IN PRIVATELY OPERATED FACILITIES (Continued) **87468.2**

HANDBOOK CONTINUES

Health and Safety Code section 1569.884 provides:

"The admission agreement shall include all of the following:

(a) A comprehensive description of any items and services provided under a single fee, such as a monthly fee for room, board, and other items and services.

(b) A comprehensive description of, and the fee schedule for, all items and services not included in a single fee. In addition, the agreement shall indicate that the resident shall receive a monthly statement itemizing all separate charges incurred by the resident.

(c) A facility may assess a separate charge for an item or service only if that separate charge is authorized by the admission agreement. If additional services are available through the facility to be purchased by the resident that were not available at the time the admission agreement was signed, a list of these services and charges shall be provided to the resident or the resident's representative. A statement acknowledging the acceptance or refusal to purchase the additional services shall be signed and dated by the resident or the resident's representative and attached to the admission agreement.

(d) An explanation of the use of third-party services within the facility that are related to the resident's service plan, including, but not limited to, ancillary, health, and medical services, how they may be arranged, accessed, and monitored, any restrictions on third-party services, and who is financially responsible for the third-party services.

(e) A comprehensive description of billing and payment policies and procedures.

(f) The conditions under which rates may be increased pursuant to Section 1569.655.

(g) The facility's policy concerning family visits and other communication with residents, pursuant to Section 1569.313.

(h) The facility's policy concerning refunds, including the conditions under which a refund for advanced monthly fees will be returned in the event of a resident's death, pursuant to Section 1569.652.

HANDBOOK CONTINUES

87468.2 ADDITIONAL PERSONAL RIGHTS OF RESIDENTS IN PRIVATELY OPERATED FACILITIES (Continued) **87468.2**

HANDBOOK CONTINUES

(i) Conditions under which the agreement may be terminated.

(j) An explanation of the facility's responsibility to prepare a relocation evaluation, for each resident and a closure plan and to provide notice in the case of an eviction pursuant to Section 1569.682."

HANDBOOK ENDS HERE

(13) To be informed in writing prior to or at the time of admission, of any resident retention limitations set by the state or licensee, including any limitations or restrictions on the licensee's ability to meet residents' needs.

(14) To reasonable accommodation of their individual needs and preferences in all aspects of life in the facility, except when accommodation would endanger the health or safety of the individual resident or other residents.

(15) To reasonable accommodation of their preferences concerning room and roommate choices.

(16) To written notice of any room changes at least 30 days in advance unless a room change is agreed to by the resident, required to fill a vacant bed, or necessary due to an emergency.

(17) To share a room with their spouse, domestic partner, or a person of their choice when both spouses, partners, or residents live in the facility and both consent to the arrangement.

(18) To select their own physicians, pharmacies, privately paid personal assistants, hospice agency, and health care providers in a manner that is consistent with the resident's admission agreement or other rules of the facility, and according to these personal rights.

(19) To have prompt access to review all of their records and to purchase photocopies of their records. Photocopied records shall be provided within two (2) business days and at a cost that does not exceed the community standard for photocopies.

(20) To be protected from involuntary transfers, discharges, and evictions. A licensee shall not involuntarily transfer or evict residents for reasons other than those permitted by state law or regulations and shall comply with all eviction and relocation protections for residents. For purposes of this paragraph, "involuntary" means a transfer, discharge, or eviction that is initiated by the licensee, not by the resident.

(21) To consent to have their relatives and other individuals of their choosing visit during reasonable hours, privately, and without prior notice.

87468.2 ADDITIONAL PERSONAL RIGHTS OF RESIDENTS IN PRIVATELY OPERATED FACILITIES (Continued) **87468.2**

(22) To receive written information on the right to establish an advance health care directive and the licensee's written policies on honoring an advance health care directive according to Health and Safety Code section 1569.156.

HANDBOOK BEGINS HERE

Health and Safety Code section 1569.156 provides:

"(a) A residential care facility for the elderly shall do all of the following:

(1) Not condition the provision of care or otherwise discriminate based on whether or not an individual has executed an advance directive, consistent with applicable laws and regulations.

(2) Provide education to staff on issues concerning advance directives.

(3) Provide written information, upon admission, about the right to make decisions concerning medical care, including the right to accept or refuse medical or surgical treatment and the right, under state law, to formulate advance directives.

(4) Provide written information about policies of the facility regarding the implementation of the rights described in paragraph (3).

(b) For purposes of this section, "advance directive" means an "advance health care directive," as defined in Section 4605 of the Probate Code, or some other form of instruction recognized under state law specifically addressing the provision of health care."

HANDBOOK ENDS HERE

(23) To be encouraged to develop and maintain their fullest potential for independent living through participation in activities designed and implemented for this purpose, according to Section 87219.

(24) To organize and participate in a resident council established according to Health and Safety Code section 1569.157.

HANDBOOK BEGINS HERE

Health and Safety Code section 1569.157 provides:

HANDBOOK CONTINUES

87468.2 ADDITIONAL PERSONAL RIGHTS OF RESIDENTS IN PRIVATELY OPERATED FACILITIES (Continued) **87468.2**

HANDBOOK CONTINUES

"(a) Every licensed residential care facility for the elderly, at the request of two or more residents, shall assist the residents in establishing and maintaining a single resident council at the facility. The resident council shall be composed of residents of the facility. Family members, resident representatives, advocates, long-term care ombudsman program representatives, facility staff, or others may participate in resident council meetings and activities at the invitation of the resident council.

(b) A resident council may, among other things, make recommendations to facility administrators to improve the quality of daily living and care in the facility and to promote and protect residents' rights.

(c) If a resident council submits written concerns or recommendations, the facility shall respond in writing regarding any action or inaction taken in response to those concerns or recommendations within 14 calendar days.

(d) Facility policies on resident councils shall not limit the right of residents to meet independently with outside persons or facility personnel.

(e) Each resident council member shall be informed by the facility of his or her right to be interviewed as part of the regulatory inspection process.

(f) Facilities shall promote resident councils as follows:

(1) If a facility has a resident council, the facility shall inform new residents of the existence of the resident council. The facility shall also provide information on the time, place, and dates of resident council meetings and the resident representative to contact regarding involvement in the resident council.

(2) If a facility has a resident council and a licensed capacity of 16 or more, the facility shall appoint a designated staff liaison to assist the resident council, make a room available for resident council meetings, and post meeting information in a central location readily accessible to residents, relatives, and resident representatives.

(3) If a facility does not have a resident council, upon admission, the facility shall provide written information on the resident's right to form a resident council to the resident and the resident representative, as indicated in the admissions agreement.

(4) Upon request, and with the permission of the resident council, the facility shall share the name and contact information of the designated representative of the resident council with the long-term care ombudsman program.

HANDBOOK CONTINUES

87468.2 ADDITIONAL PERSONAL RIGHTS OF RESIDENTS IN PRIVATELY OPERATED FACILITIES (Continued) **87468.2**

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(g) A facility shall not willfully interfere with the formation, maintenance, or promotion of a resident council, or its participation in the regulatory inspection process. For the purposes of this subdivision, willful interference shall include, but not be limited to, discrimination or retaliation in any way against an individual as a result of his or her participation in a resident council, refusal to publicize resident council meetings or provide appropriate space for either meetings or a bulletin board, or failure to respond to written requests by the resident council in a timely manner.

(h) The text of this section with the heading "Rights of Resident Councils" shall be posted in a prominent place at the facility accessible to residents, family members, and resident representatives.

(i) A violation of this section shall not be subject to the provisions of Section 1569.40. A violation of this section shall constitute a violation of resident rights. A facility that violates this section shall be subject to a daily civil penalty of two hundred fifty dollars ($250) until the violation is corrected. A violation shall be deemed to have been corrected on the date the facility submits documentation of the correction to the department if the correction is verified by the department."

HANDBOOK ENDS HERE

(25) To protection of their property from theft or loss according to Health and Safety Code sections 1569.152, 1569.153, and 1569.154.

HANDBOOK BEGINS HERE

Health and Safety Code section 1569.152 provides:

"(a) A residential care facility for the elderly, as defined in Section 1569.2, which fails to make reasonable efforts to safeguard resident property shall reimburse a resident for or replace stolen or lost resident property at its then current value. The facility shall be presumed to have made reasonable efforts to safeguard resident property if the facility has shown clear and convincing evidence of its efforts to meet each of the requirements specified in Section 1569.153. The presumption shall be a rebuttable presumption, and the resident or the resident's representative may pursue this matter in any court of competent jurisdiction.

HANDBOOK CONTINUES

87468.2 ADDITIONAL PERSONAL RIGHTS OF RESIDENTS IN PRIVATELY OPERATED FACILITIES (Continued) **87468.2**

HANDBOOK CONTINUES

(b) A civil penalty shall be levied if the residential care facility for the elderly has no program in place or if the facility has not shown clear and convincing evidence of its efforts to meet all of the requirements set forth in Section 1569.153. The State Department of Social Services shall issue a deficiency in the event that the manner in which the policies have been implemented is inadequate or the individual facility situation warrants additional theft and loss protections.

(c) The department shall not determine that a facility's program is inadequate based solely on the occasional occurrence of theft or loss in a facility."

Health and Safety Code section 1569.153 provides:

"A theft and loss program shall be implemented by the residential care facilities for the elderly within 90 days after January 1, 1989. The program shall include all of the following:

(a) Establishment and posting of the facility's policy regarding theft and investigative procedures.

(b) Orientation to the policies and procedures for all employees within 90 days of employment.

(c) Documentation of lost and stolen resident property with a value of twenty-five dollars ($25) or more within 72 hours of the discovery of the loss or theft and, upon request, the documented theft and loss record for the past 12 months shall be made available to the State Department of Social Services, law enforcement agencies and to the office of the State Long-Term Care Ombudsman in response to a specific complaint. The documentation shall include, but not be limited to, the following:

(1) A description of the article.

(2) Its estimated value.

(3) The date and time the theft or loss was discovered.

(4) If determinable, the date and time the loss or theft occurred.

(5) The action taken.

HANDBOOK CONTINUES

87468.2 ADDITIONAL PERSONAL RIGHTS OF RESIDENTS IN PRIVATELY OPERATED FACILITIES (Continued) **87468.2**

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(d) A written resident personal property inventory is established upon admission and retained during the resident's stay in the residential care facility for the elderly. Inventories shall be written in ink, witnessed by the facility and the resident or resident's representative, and dated. A copy of the written inventory shall be provided to the resident or the person acting on the resident's behalf. All additions to an inventory shall be made in ink, and shall be witnessed by the facility and the resident or resident's representative, and dated. Subsequent items brought into or removed from the facility shall be added to or deleted from the personal property inventory by the facility at the written request of the resident, the resident's family, a responsible party, or a person acting on behalf of a resident. The facility shall not be liable for items which have not been requested to be included in the inventory or for items which have been deleted from the inventory. A copy of a current inventory shall be made available upon request to the resident, responsible party, or other authorized representative. The resident, resident's family, or a responsible party may list those items which are not subject to addition or deletion from the inventory, such as personal clothing or laundry, which are subject to frequent removal from the facility.

(e) Inventory and surrender of the resident's personal effects and valuables upon discharge to the resident or authorized representative in exchange for a signed receipt.

(f) Inventory and surrender of personal effects and valuables following the death of a resident to the authorized representative in exchange for a signed receipt. Immediate written notice to the public administrator of the county upon the death of a resident whose heirs are unable or unwilling to claim the property as specified in Chapter 20 (commencing with Section 1140) of Division 3 of the Probate Code.

(g) Documentation, at least semiannually, of the facility's efforts to control theft and loss, including the review of theft and loss documentation and investigative procedures and results of the investigation by the administrator and, when feasible, the resident council.

(h) Establishment of a method of marking, to the extent feasible, personal property items for identification purposes upon admission and, as added to the property inventory list, including engraving of dentures and tagging of other prosthetic devices.

(i) Reports to the local law enforcement agency within 36 hours when the administrator of the facility has reason to believe resident property with a then current value of one hundred dollars ($100) or more has been stolen. Copies of those reports for the preceding 12 months shall be made available to the State Department of Social Services and law enforcement agencies.

HANDBOOK CONTINUES

87468.2 ADDITIONAL PERSONAL RIGHTS OF RESIDENTS IN PRIVATELY OPERATED FACILITIES (Continued) **87468.2**

HANDBOOK CONTINUES

(j) Maintenance of a secured area for residents' property which is available for safekeeping of resident property upon the request of the resident or the resident's responsible party. Provide a lock for the resident's bedside drawer or cabinet upon request of and at the expense of the resident, the resident's family, or authorized representative. The facility administrator shall have access to the locked areas upon request.

(k) A copy of this section and Sections 1569.152 and 1569.154 is provided by a facility to all of the residents and their responsible parties, and, available upon request, to all of the facility's prospective residents and their responsible parties.

(l) Notification to all current residents and all new residents, upon admission, of the facility's policies and procedures relating to the facility's theft and loss prevention program.

(m) Only those residential units in which there are no unrelated residents and where the unit can be secured by the resident or residents are exempt from the requirements of this section."

Health and Safety Code section 1569.154 provides:

"No provision of a contract of admission, which includes all documents which a resident or his or her representative is required to sign at the time of, or as a condition of, admission to a residential care facility for the elderly, shall require or imply a lesser standard of responsibility for the personal property of residents than is required by law."

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(26) To manage their financial affairs. A licensee shall not require residents to deposit their personal funds with the licensee. Except as provided for in approved continuing care agreements, a licensee, or a spouse, domestic partner, relative, or employee of a licensee, shall not do any of the following:

(A) Accept appointment as a guardian or conservator of the person or estate of a resident.

(B) Become or act as a representative payee for any payments made to a resident, without the written and documented consent of the resident or the resident's representative.

(C) Serve as an agent for a resident under any general or special power of attorney.

(D) Become or act as a joint tenant on any account with a resident.

87468.2 ADDITIONAL PERSONAL RIGHTS OF RESIDENTS IN PRIVATELY OPERATED FACILITIES (Continued) **87468.2**

(E) Enter into a loan or promissory agreement or otherwise borrow money from a resident without a notarized written agreement outlining the terms of the repayment being given to the resident.

(27) To keep, have access to, and use their own personal possessions, including toilet articles, and to keep and be allowed to spend their own money, unless limited by statute or regulation.

(b) A licensed residential care facility for the elderly shall not discriminate against a person seeking admission or a resident based on the person's or resident's sex, race, color, religion, national origin, marital status, registered domestic partner status, ancestry, actual or perceived sexual orientation, or actual or perceived gender identity.

(c) No provision of a contract of admission, including all documents that a resident or their representative is required to sign as part of the contract for, or as a condition of, admission to a residential care facility for the elderly, shall require that a resident waive benefits or rights to which they are entitled as specified in these regulations or as provided by federal or other state law or regulation.

(d) Residents' family members, friends, and representatives have the right to organize and participate in a family council that is established according to Health and Safety Code section 1569.158.

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Health and Safety Code section 1569.158 provides:

"(a) A residential care facility for the elderly shall not prohibit the formation of a family council. When requested by a member of the resident's family or the resident representative, a family council shall be allowed to meet in a common meeting room of the facility during mutually agreed upon hours.

(b) Facility policies on family councils shall in no way limit the right of residents and participants in a family council to meet independently with outside persons, including members of nonprofit or government organizations or with facility personnel during nonworking hours.

(c) "Family council" for the purpose of this section means a meeting of family members, friends, representatives, or agents as defined in Section 14110.8 of the Welfare and Institutions Code of two or more residents to confer in private without facility staff.

(d) Family councils shall be provided adequate space on a prominent bulletin board or other posting area for the display of meeting notices, minutes, information, and newsletters.

(e) Facility personnel or visitors may attend a family council meeting only at the family council's invitation.

HANDBOOK CONTINUES

87468.2 ADDITIONAL PERSONAL RIGHTS OF RESIDENTS IN PRIVATELY OPERATED FACILITIES (Continued) **87468.2**

HANDBOOK CONTINUES

(f) If a family council submits written concerns or recommendations, the facility shall respond in writing regarding any action or inaction taken in response to the concerns or recommendations within 14 calendar days.

(g) (1) If a facility has a family council, the facility shall include notice of the family council and its meetings to family members and resident representatives in routine mailings and shall inform family members and resident representatives of new and current residents who are identified on the admissions agreement during the admissions process or in the resident's records, of the existence of the family council, the time and place of meetings of the family council, and the name of the family council representative.

(2) If a facility does not have a family council, the facility shall provide, upon admission of a new resident, written information to the resident's family or resident representative of their right to form a family council.

(3) Upon request, and with the permission of the family council, the facility shall share the name and contact information of the designated representative of the family council with the long-term care ombudsman program.

(h) If a facility has a family council and a licensed capacity of 16 or more, the facility shall appoint a designated staff liaison who shall be responsible for providing assistance to the family council and responding to written requests that result from family council meetings.

(i) A facility shall not willfully interfere with the formation, maintenance, or promotion of a family council, or its participation in the regulatory inspection process. For the purposes of this subdivision, willful interference shall include, but shall not be limited to, discrimination or retaliation in any way against an individual as a result of his or her participation in a family council, refusal to publicize family council meetings or provide appropriate space for meetings or postings as required under this section, or failure to respond to written requests by a family council in a timely manner.

(j) A violation of this section shall not be subject to the provisions of Section 1569.40. A violation of this section shall constitute a violation of resident rights. A facility that violates this section shall be subject to a daily civil penalty of two hundred fifty dollars ($250) until the violation is corrected. A violation shall be deemed to have been corrected on the date the facility submits documentation of the correction to the department if the correction is verified by the department."

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87468.2 ADDITIONAL PERSONAL RIGHTS OF RESIDENTS IN PRIVATELY OPERATED FACILITIES (Continued) **87468.2**

(e) The rights specified in this section shall be in addition to any other rights provided by law.

(f) The Department does not have the authority to waive the personal rights specified in subsection (a).

NOTE: Authority cited:Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.152, 1569.153, 1569.154, 1569.156, 1569.157,1569.261, 1569.265, 1569.267, 1569.269, 1569.31, 1569.312, 1569.655, 1569.80,1569.884 and 1569.885, Health and Safety Code; and Section 9718, Welfare and Institutions Code.

87469 ADVANCE DIRECTIVES AND REQUESTS REGARDING RESUSCITATIVE MEASURES **87469**

(a) Upon admission, a facility shall provide each resident, and representative or responsible person of each resident, with written information about the right to make decisions concerning medical care. This information shall include, but not be limited to, the Department's approved brochure entitled "Your Right To Make Decisions About Medical Treatment," PUB 325, (3/12) and a copy of Sections 87469(b), (c) and (d) of the regulations.

(b) Residents shall be permitted to have a Request to Forego Resuscitative Measures, an Advance Health Care Directive and/or a Do-Not-Resuscitate (DNR) Form in their facility file.

87469 ADVANCE DIRECTIVES AND REQUESTS REGARDING RESUSCITATIVE MEASURES (Continued) **87469**

(c) If a resident who has an advance directive and/or request regarding resuscitative measures form on file experiences a medical emergency, facility staff shall do one of the following:

(1) Immediately telephone 9-1-1, present the advance directive and/or request regarding resuscitative measures form to the responding emergency medical personnel and identify the resident as the person to whom the order refers.

(2) Immediately give the advance directive and/or request regarding resuscitative measures form to a physician, registered nurse or licensed vocational nurse if the physician or nurse is in the resident's presence at the time of the emergency and assumes responsibility.

(3) Specifically for a terminally ill resident that is receiving hospice services and has completed an advance directive and/or request regarding resuscitative measures form pursuant to Health and Safety Code section 1569.73(c), and is experiencing a life-threatening emergency as displayed by symptoms of impending death that is directly related to the expected course of the resident's terminal illness, the facility may immediately notify the resident's hospice agency in lieu of calling emergency response (9-1-1). For emergencies not directly related to the expected course of the resident's terminal illness, the facility staff shall immediately telephone emergency response (9-1-1).

(4) Facilities that employ health care providers, other than Home Health Agencies or Hospice Agencies, may comply with Health and Safety Code section 1569.74.

(d) After following the procedure in Section 87469(c)(1), (2), (3), or (4), facility staff shall notify the resident's hospice agency and Health Care Surrogate Decision Maker, if applicable.

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Health and Safety Code section 1569.73(c) provides in relevant part:

"(c) A facility that has obtained a hospice waiver from the department pursuant to this section need not call emergency response services at the time of a life-threatening emergency if the hospice agency is notified instead and all of the following conditions are met:

(1) The resident is receiving hospice services from a licensed hospice agency.

(2) The resident has completed an advance directive, as defined in Section 4605 of the Probate Code, requesting to forego resuscitative measures.

HANDBOOK CONTINUES

87469 ADVANCE DIRECTIVES AND REQUESTS REGARDING RESUSCITATIVE MEASURES (Continued) **87469**

HANDBOOK CONTINUES

(3) The facility has documented that facility staff have received training from the hospice agency on the expected course of the resident's illness and the symptoms of impending death."

Health and Safety Code section 1569.74 states in relevant part:

"(a) Licensed residential care facilities for the elderly that employ health care providers may establish policies to honor a request to forego resuscitative measures as defined in Section 4780 of the Probate Code.

(b) Any policy established pursuant to subdivision (a) shall meet all of the following conditions:

(1) The policy shall be in writing and specify procedures to be followed in implementing the policy.

(2) The policy and procedures shall, at all times, be available in the facility for review by the department.

(3) The licensee shall ensure that all staff are aware of the policy as well as the procedures to be followed in implementing the policy.

(4) A copy of the policy shall be given to each resident who makes a request to forego resuscitative measures, and the resident's primary physician.

(5) A copy of the resident's request to forego resuscitative measures shall be maintained in the facility and shall be immediately available for review by facility staff, the licensed health care provider, and the department.

(6) Facility staff are prohibited, on behalf of any resident, from signing any directive document as a witness or from being the legally recognized surrogate decision maker.

(7) The facility shall provide the resident's physician with a copy of the resident's request to forego resuscitative measures form.

(c) Any action by a facility that has established policies pursuant to subdivision (a), to honor a resident's request to forego resuscitative measures as provided for in subdivision (a) may only be taken in either of the following ways:

(1) By a licensed health care provider who is employed by the facility and on the premises at the time of the life threatening emergency.

HANDBOOK CONTINUES

87469 ADVANCE DIRECTIVES AND REQUESTS REGARDING RESUSCITATIVE MEASURES (Continued)

(2) By notifying, under those conditions specified in subdivision (c) of Section 1569.73, the hospice agency that is caring for a resident receiving hospice services.

HANDBOOK CONTINUES

(d) Licensed residential care facilities for the elderly that have not established policies pursuant to subdivision (a) may keep an executed request to forego resuscitative measures form in the resident's file and present it to an emergency medical technician or paramedic when authorized to do so in writing by the resident or his or her legally recognized surrogate decisionmaker. The request may be honored by an emergency medical technician or by any health care provider as defined in Section 4621 of the Probate Code, who, in the course of professional or volunteer duties, responds to emergencies."

Probate Code section 4780 provides in relevant part:

(a) As used in this part:

(1) "Request regarding resuscitative measures" means a written document, signed by (A) an individual with capacity, or a legally recognized health care decisionmaker, and (B) the individual's physician, that directs a health care provider regarding resuscitative measures. A request regarding resuscitative measures is not an advance health care directive.

(2) "Request regarding resuscitative measures" includes one, or both of, the following:

(A) A prehospital "do not resuscitate" form as developed by the Emergency Medical Services Authority or other substantially similar form.

(B) A Physician Orders for Life Sustaining Treatment form, as approved by the Emergency Medical Services Authority.

(3) "Physician Orders for Life Sustaining Treatment form" means a request regarding resuscitative measures that directs a health care provider regarding resuscitative and life-sustaining measures.

HANDBOOK ENDS HERE

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.73, 1569.74, and 1569.156, Health and Safety Code; and Sections 4621 and 4780, Probate Code.

87440 INFECTION CONTROL REQUIREMENTS

(a) A licensee shall ensure that infection control practices are maintained as follows:

(1) All staff and volunteers shall perform hand hygiene.

(A) Hand hygiene shall include hand washing with soap and water or using an alcohol-based sanitizer or any other sanitizing method recommended by a medical professional, local health official, health department, or other research-based medical authority.

(B) Hand hygiene shall be conducted as follows:

1. Immediately before and after resident care.

2. Before and after handling, preparing or eating foods.

3. Before and after assisting with medications.

4. After contact with blood, body fluids or other potentially infectious material, or contaminated surfaces.

5. Immediately before putting gloves on and immediately after removing gloves.

6. When hands are visibly soiled.

(2) Environmental cleaning and disinfection activities shall be performed following the manufacturers' instructions for proper use of the cleaning and disinfecting products. These activities shall be completed, at a minimum, as follows:

(A) Surfaces such as floors, chairs, toilets, sinks, counters and tabletops shall be cleaned and disinfected on a regular basis to ensure they are safe and sanitary. These surfaces shall also be disinfected when these surfaces are contaminated and visibly soiled with blood or body fluids or other potentially infectious material.

(B) Walls and window coverings in resident care areas shall be dusted or cleaned on a regular schedule to ensure they are safe and sanitary or when they are visibly contaminated and soiled.

(C) Spills of blood and other potentially infectious materials and surfaces shall be promptly cleaned and disinfected.

(D) Facility items that cannot be disinfected shall be discarded immediately in an appropriate waste receptacle with a tight-fitting cover or otherwise made inaccessible to human contact or transmission.

87440 INFECTION CONTROL REQUIREMENTS (Continued)

(E) For a resident's personal item(s) that cannot be disinfected, the licensee shall work with the resident to mitigate human contact or transmission.

(3) In addition to Section 87629, Injections, all staff who are assigned to assist residents with the self-administration of injectable medication shall observe the following procedures:

(A) Medications administered by injection shall be drawn up in a clean area.

(B) A syringe and needle shall only be used once per injection on one resident and then properly disposed of in accordance with the California Code of Regulations, Title 8, Section 5193.

(C) The top of a medication vial shall always be cleaned with an alcohol swab before needle entry.

(4) All facility staff and volunteers shall use gloves as a protective barrier to prevent the spread of potential infection as specified below.

(A) Gloves shall always be worn when:

1. Coming into contact with blood or body fluids or other potentially infectious material such as saliva, stool, vomit or urine.

2. There is a cut or open wound on the hands of the staff or volunteer.

3. Assisting with direct resident care and coming into direct contact with residents, such as bathing, dressing, or assisting with incontinence when there is a risk of contact with blood, body fluids or other potentially infectious material.

4. Administering first aid.

(B) A pair of gloves may not be used on multiple residents and shall be properly discarded in between completing an interaction with one resident and prior to an interaction with another resident or after being used as described in subsection (a)(4) above.

(C) Gloves shall be removed and discarded in the nearest appropriate waste receptacle with a tight-fitting cover immediately following the glove use as required by subsection (a)(4)(A) with one resident and prior to an interaction with another resident.

(5) All staff and volunteers, regardless of having direct contact with residents, shall practice and maintain respiratory etiquette, such as covering the mouth and nose with a tissue or elbow rather than one's hand when coughing or sneezing, to minimize exposure to potential illness.

87440 INFECTION CONTROL REQUIREMENTS (Continued)

(A) A tissue shall be disposed of in the nearest waste receptacle with a tight-fitting cover immediately after use.

(6) All direct care staff assigned to assist residents with the self-administration of medication or assigned to the care of a resident shall clean and disinfect reusable medical equipment as follows:

(A) Reusable medical equipment shall be disinfected using an EPA (Environmental Protection Agency) approved disinfectant prior to use for the care of another resident.

1. Physical separation between clean and soiled equipment shall be maintained to prevent cross contamination.

(b) In addition to subsection (a), when one or more residents in the facility are diagnosed with a contagious disease, the following shall apply:

(1) In addition to the requirements of subsection (a)(2), assigned staff and volunteers, regardless of having direct contact with residents, shall be required to perform enhanced environmental cleaning and disinfection to maintain a safe and sanitary environment and to prevent, contain, and mitigate the transmission of the contagious disease.

(A) The licensee shall consult with a medical professional, local health official, health department, or other research-based medical authority to determine the type of enhanced environmental cleaning based on the contagious disease in the facility.

(B) The enhanced cleaning and disinfection shall occur in any impacted areas, and immediately after contact with a resident who has a contagious disease.

(2) All staff and volunteers providing direct care to a resident who has a contagious disease shall wear appropriate Personal Protective Equipment (PPE) to prevent exposure to infectious agents or chemicals through the respiratory system, skin, or mucous membranes of the eyes, nose, or mouth. PPE may include gloves, gowns, masks, respirators, shoe coverings and eye protection.

(A) The licensee shall consult with a medical professional, local health official, health department, or other research-based medical authority to determine the type of PPE to be used based on the contagious disease present in the facility.

(B) PPE shall be removed and discarded in the nearest appropriate waste receptacle with a tight-fitting cover immediately following the assisting with direct care for each resident.

(C) The licensee shall ensure all staff and volunteers are trained in the proper use of all required PPE prior to being around residents and annually thereafter.

87440 INFECTION CONTROL REQUIREMENTS (Continued)

(D) PPE shall be used when assisting with direct resident care, such as bathing, or assisting with incontinence.

(3) There shall be separation and care of residents whose illness requires separation, including quarantine or isolation, from others.

(c) An Infection Control Plan shall be developed by the licensee and shall be included in the Plan of Operation required by Section 87208.

(1) The Infection Control Plan shall include all of the following:

(A) Identification of a staff position to perform the duties of an Infection Control Lead for the facility.

1. Contact information for the designated Infection Control Lead shall be made available to the department upon request.

2. A description shall be included of how the Infection Control Lead shall be trained by a medical professional, local health official, health department, or other research-based medical authority that provides infection control training that will include enforcement of the Infection Control Plan.

(B) A description of how the licensee shall meet the specific infection control practice requirements of subsections (a), (b) and (d).

(C) An Infection Control Training Plan.

1. Initial training requirements for new facility staff shall be addressed in the plan, with training to be provided by the Infection Control Lead before staff works independently with residents.

2. Ongoing training requirements for all facility staff shall be addressed by the plan, with training to be provided by the Infection Control Lead.

3. The description of initial and ongoing training shall address the requirements of subsections (a), (b) and (d).

(D) The licensee shall review the use of infection control procedures in the facility at least annually, if local government public health determines an epidemic outbreak has occurred, or if the review is requested by the local licensing agency.

(E) The licensee shall ensure that staff encourage residents to follow infection control practices as necessary.

87470 INFECTION CONTROL REQUIREMENTS (Continued)

(d) When an emergency, as defined in Government Code section 8558, or federal emergency for a contagious disease is proclaimed or declared, the licensee shall develop an Emergency Infection Control Plan that includes infection control measures that are not already addressed in the Infection Control Plan as specified in subsection (c), to prevent, contain, and mitigate the associated contagious disease.

(1) The Emergency Infection Control Plan shall include the applicable infection control measures required by the federal, state, and local government public health authorities for the contagious disease, and shall be completed and sent to the Department within 15 calendar days from the date the state or federal emergency is proclaimed or declared. In the event there are differing standards between the government public health authorities, the licensee shall follow the strictest requirement.

(2) If there are no additional infection control measures to be taken to prevent, contain, and mitigate the associated contagious disease that are not already addressed in the Infection Control Plan, then the licensee shall notify the Department of this determination within 15 calendar days from the date on which the state or federal emergency is proclaimed or declared.

(A) The licensee shall complete and send to the Department within 15 calendar days any updates to the Emergency Infection Control Plan should additional infection control measures to prevent, contain, and mitigate the associated contagious disease be recommended by federal, state, and local government public health authorities or the Department that are not already addressed in the Infection Control Plan.

(3) The Emergency Infection Control Plan shall be submitted to the Department and used until the proclaimed or declared state of emergency is no longer in effect.

(4) The Emergency Infection Control Plan shall be made available to residents, facility staff and, if applicable, each residents' representative.

(5) All staff shall be trained on the Emergency Infection Control Plan immediately but no later than 10 calendar days after submission to the Department.

(6) The Emergency Infection Control Plan shall be reviewed and updated as necessary or whenever new infection control measures are recommended by the federal, state, and local government public health authorities, or as determined by the Department, until the proclaimed or declared state of emergency is no longer in effect. Any updates to the plan shall be made available to staff, residents and if applicable, each resident’s representative, and submitted to the Department.

NOTE: Authority cited: Sections 1569.30 and 1569.31, Health and Safety Code. Reference: Sections 1539.30 and 1569.31, Health and Safety Code.

Article 9. Resident Records

87505 DOCUMENTATION AND SUPPORT 87505

Each facility shall document in writing the findings of the pre-admission appraisal and any reappraisal or assessment which was necessary in accordance with Sections 87457, Pre-Admission Appraisal, and 87463, Reappraisals. If supporting documentation from a physician is required, this input shall also be obtained and may be the same assessment as required in Section 87458, Medical Assessment.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.156, 1569.2, 1569.31, 1569.312 and 1569.316, Health and Safety Code.

87506 RESIDENT RECORDS 87506

(a) The licensee shall ensure that a separate, complete, and current record is maintained for each resident in the facility or in a central administrative location readily available to facility staff and to licensing agency staff.

(b) Each resident's record shall contain at least the following information:

(1) Resident's legal name and preferred name, as indicated by the resident.

(2) Social Security number.

(3) Gender identity and preferred pronoun, as indicated by the resident.

(4) Dates of admission and discharge.

(5) Last known address.

(6) Birthdate.

(7) Religious preference, if any, and name and address of clergyman or religious advisor, if any.

(8) Name, address, and telephone number of the resident’s representative, as defined in Section 87101(r), to be notified in case of accident, death, or other emergency.

(9) Name, address and telephone number of physician and dentist to be called in an emergency.

(10) Reports of the medical assessment specified in Section 87458, Medical Assessment, and of any special problems or precautions.

(11) The documentation required by Section 87611 for residents with an allowable health condition.

87506 RESIDENT RECORDS (Continued) **87506**

(12) Ambulatory status.

(13) Continuing record of any illness, injury, or medical or dental care, when it impacts the resident's ability to function or needed services.

(14) Current centrally stored medications as specified in Section 87465, Incidental Medical and Dental Care Services.

(15) The admission agreement and pre-admission appraisal, specified in Sections 87507, Admission Agreements and 87457, Pre-admission Appraisal.

(16) Records of resident's cash resources as specified in Section 87217, Safeguards for Resident Cash, Personal Property, and Valuables.

(17) Documents and information required by the following:

(A) Section 87457, Pre-Admission Appraisal;

(B) Section 87459, Functional Capabilities;

(C) Section 87461, Mental Condition;

(D) Section 87462, Social Factors;

(E) Section 87463, Reappraisals; and

(F) Section 87505, Documentation and Support.

(c) All information and records obtained from or regarding residents shall be confidential.

(1) The licensee shall be responsible for storing active and inactive records and for safeguarding the confidentiality of their contents. The licensee and all employees shall reveal or make available confidential information only upon the resident's written consent or that of his designated representative.

(d) All resident records shall be available to the licensing agency to inspect, audit, and copy upon demand during normal business hours. Records may be removed if necessary for copying. Removal of records shall be subject to the following requirements:

87506 RESIDENT RECORDS

(1) Licensing representatives shall not remove the following current records for current residents unless the same information is otherwise readily available in another document or format:

(A) Religious preference, if any, and name and address of clergyman or religious advisor, if any, as specified in Section 87506(b)(5).

(B) Name, address, and telephone number of responsible person(s) as specified in Section 87506(b)(6).

(C) Name, address, and telephone number of the resident's physician and dentist as specified in Section 87506(b)(7).

(D) Information relating to the resident's medical assessment and any special problems or precautions as specified in Section 87506(b)(8).

(E) Documentation required for residents with an allowable health condition as specified in Section 87506(b)(9).

(F) Information on ambulatory status as specified in Section 87506(b)(10).

(G) Continuing record of any illness, injury, or medical or dental care when it affects the resident's ability to function, or services needed, as specified in Section 87506(b)(11).

(H) Records of current medications as specified in Section 87506(b)(12).

(I) Any other records containing current emergency or health-related information for current residents.

(2) Prior to removing any records, a licensing representative shall prepare a list of the records to be removed, sign and date the list upon removal of the records, and leave a copy of the list with the administrator or designee.

(3) Licensing representatives shall return the records undamaged and in good order within three business days following the date the records were removed.

(e) Original records or photographic reproductions shall be retained for a minimum of three (3) years following termination of service to the resident.

NOTE: Authority cited: Section 1569.30 and 1569.318, Health and Safety Code. Reference: Sections 1439.52, 1569.1, 1569.2, 1569.31, 1569.312 and 1569.315, Health and Safety Code; and Section 11006.9, Welfare and Institutions Code.

87507 ADMISSION AGREEMENTS

(a) The licensee shall complete an individual written admission agreement, as defined in Section 87101(a), with each resident or the resident's representative, if any.

(1) The text of the admission agreement, including any attachments and modifications, shall be:

(A) Printed in black type of not less than 12-point type size, on plain white paper. The print shall appear on one side of the paper only.

(B) Written in clear, understandable, coherent, and unambiguous language, using words with common and everyday meanings, and shall be appropriately divided with each section appropriately titled.

(b) The licensee shall complete and maintain in the resident's file a Telecommunications Device Notification form (LIC 9158, 11/04) for each resident whose pre-admission appraisal or medical assessment indicates he/she is deaf, hearing-impaired, or otherwise disabled in accordance with Public Utilities Code sections 2881(a) and (c).

(c) Admission agreements shall be signed and dated, acknowledging the contents of the document, by the resident or the resident's representative, if any, and the licensee or the licensee's designated representative no later than seven days following admission. Attachments to the agreement may be utilized as long as they are also signed and dated as prescribed above.

(d) The licensee shall retain in the resident's file the original signed and dated admission agreement and all subsequent signed and dated modifications. This does not apply to rate increases which have specific notification requirements as specified in Health and Safety Code section 1569.655.

(e) The licensee shall provide a copy of the signed and dated current admission agreement, and all subsequent signed and dated modifications, to the resident or the resident's representative, if any, immediately upon signing the admission agreement or modification. The licensee shall provide additional copies to the resident or resident's representative upon request.

(1) The licensee shall provide blank copies of the most current approved admission agreement, modifications and attachments immediately to the public upon request. The licensee may charge fees at cost for copying or mailing the admission agreement.

(2) The licensee shall conspicuously post in a location accessible to public view in the facility a complete copy of the approved admission agreement, modifications and attachments, or notice of their availability from the facility.

(f) The licensee shall comply with all applicable terms and conditions set forth in the admission agreement, including all modifications and attachments.

87507 ADMISSION AGREEMENTS (Continued)

(g) Admission agreements shall specify the following:

(1) Basic services, as defined in Section 87101(b), to be made available.

(2) Additional items and services which are available.

(3) Payment provisions, including the following:

(A) Rate for all basic services which the facility is required to provide in order to obtain and maintain a license. Basic services rate(s), including:

1. A comprehensive description of any items and services provided under a single fee, such as monthly fee for room, board and other items and services shall be listed.

2. A comprehensive description of and the corresponding fee schedule for all basic services not included in the single fee shall be listed.

3. Exempt-income-allowance may be included if the resident agrees to such charge.

(B) Rate for additional items and services, including:

1. A comprehensive description of and the corresponding fee schedule for all additional items and services not included in the fees for basic services shall be listed.

2. A separate charge for an item or service may be assessed only if that charge is included in and authorized by the admission agreement.

3. A statement acknowledging any additional items and/or services that the resident refused to purchase at the time the admission agreement was signed, which shall be signed and dated by the resident or the resident's representative, if any, and attached to the admission agreement.

87507 ADMISSION AGREEMENTS (Continued)

4. If the licensee offers additional items and/or services that were not available at the time the admission agreement was signed, a list of these services and charges shall be provided to the resident or the resident's representative.

5. A statement acknowledging the acceptance or refusal to purchase additional services that were not available at the time the admission agreement was signed, which shall be signed and dated by the resident or the resident's representative, if any, shall be attached to the admission agreement.

6. The use of third-party services within the facility shall be explained as they are related to the resident's service plan, including but not limited to, ancillary health, and medical services, how they may be arranged, accessed and monitored, any restrictions on third-party services, and who is financially responsible for the third-party services.

(C) Any fee that is charged prior to or after admission, shall be clearly specified.

1. If a licensee charges a preadmission fee, the licensee must provide the applicant or his or her representative with a written general statement describing all costs associated with the preadmission fee charges and stating that the preadmission fee is refundable, and describing conditions for the refund.

2. Only one preadmission fee, as defined in Section 87101(p), may be charged per resident admission.

3. A recipient under the State Supplementary Program for the Aged, Blind and Disabled Article 5 (commencing with Section 12200) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code shall not be required to pay any form of preadmission fee or deposit.

4. A licensee shall not require, request, or accept any funds from a resident or a resident's representative, if any, that constitutes a deposit against any possible damages by the resident.

(D) Payor of all items and services.

(E) Due Date.

(F) Funding source, provided that the resident may refuse to disclose such source.

(G) A comprehensive description of billing and payment procedures.

(H) A provision indicating that an itemized monthly statement that lists all separate charges incurred by the resident that are collected by the facility shall be provided to the resident or the resident's representative, if any.

87507 ADMISSION AGREEMENTS (Continued)

(4) Modification conditions, including the requirement for the provision of at least 60 days prior written notice to the resident of any rate or rate structure change, or as soon as the licensee is notified of SSI/SSP rate changes.

(A) Admission agreements involving persons whose care is funded at government-prescribed rates may specify that operative dates of government modifications shall be considered operative dates for basic service rate modifications.

(B) The conditions under which a licensee may increase or change rates shall be specified in the admission agreement, pursuant to Health and Safety Code sections 1569.655 and 1569.657.

HANDBOOK BEGINS HERE

Health and Safety Code section 1569.655 provides:

(a) If a licensee of a residential care facility for the elderly increases the rates of fees for residents or makes increases in any of its rate structures for services, the licensee shall provide no less than 60 days' prior written notice to the residents or the residents' representatives setting forth the amount of the increase, the reason for the increase, and a general description of the additional costs, except for an increase in the rate due to a change in the level of care of the resident. This subdivision shall not apply to optional services that are provided by individuals, professionals, or organizations under a separate fee-for-service arrangement with residents.

(b) No licensee shall charge nonrecurring lump-sum assessments. The notification requirements contained in subdivision (a) shall apply to increases specified in this subdivision. For purposes of this subdivision, "nonrecurring lump-sum assessments" mean rate increases due to unavoidable and unexpected costs that financially obligate the licensee. In lieu of the lump-sum payment, all increases in rates shall be to the monthly rate amortized over a 12-month period. The prohibition against a lump-sum assessment shall not apply to charges for specific goods or services provided to an individual resident.

(c) If a licensee increases rates for a recipient under the State Supplementary Program for the Aged, Blind and Disabled, described in Article 5 (Commencing with Section 12200) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code, the licensee shall meet the requirements for SSI/SSP rate increases, as prescribed by law.

(d) This section shall not apply to licensees of residential care facilities for the elderly that have obtained a certificate of authority to offer continuing care contracts, as defined in paragraph (5) of subdivision (c) of Section 1771.

HANDBOOK CONTINUES

87507 ADMISSION AGREEMENTS (Continued)

HANDBOOK CONTINUES

Health and Safety Code section 1569.657 provides:

(a) For any rate increase due to a change in the level of care of the resident, the licensee shall provide the resident and the resident's representative, if any, written notice of the rate increase within two business days after initially providing services at the new level of care. The notice shall include a detailed explanation of the additional services to be provided at the new level of care and an accompanying itemization of the charges.

(b) This section shall not apply to any resident of the facility who is a recipient of benefits pursuant to Article 5 (commencing with Section 12200) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code under the State Supplementary Program for Aged, Blind and Disabled.

(c) This section shall not apply to a provider who has entered into one or more continuing care contracts at a licensed residential care facility for the elderly pursuant to a certificate of authority, as defined in paragraph (5) of subdivision (c) of Section 1771.

HANDBOOK ENDS HERE

(5) Refund conditions.

(A) Facility policy concerning refunds, including the conditions under which a refund for advanced monthly fees will be returned in the event of a resident's death, pursuant to Health and Safety Code section 1569.652.

1. Written notice, required pursuant to Health and Safety Code section 1569.652(d), must be made to the individual or entity contractually responsible for the payment of the resident's fees, if that individual or entity is not also the resident's responsible person or other individual or individuals as identified in the admission agreement.

87507 ADMISSION AGREEMENTS (Continued)

HANDBOOK BEGINS HERE

Health and Safety Code section 1569.652 provides in part:

(a) A residential care facility for the elderly shall not require advance notice for terminating an admission agreement upon the death of a resident. No fees shall accrue once all personal property belonging to the deceased resident is removed from the living unit.

(b) Upon the death of a resident, a licensee shall not impede the removal of the resident's personal property from the facility during reasonable hours by an individual or individuals authorized by the resident or the resident's responsible person, as identified in the admission agreement or attachment, or by a court-appointed executor or administrator of the decedent's estate, if applicable.

(c) A refund of any fees paid in advance covering the time after the resident's personal property has been removed from the facility shall be issued to the individual, individuals, or entity contractually responsible for the fees or, if the deceased resident paid the fees, to the resident's estate, within 15 days after the personal property is removed.

(d) If fees are assessed while a resident's personal property remains in a unit after the resident is deceased, a licensee shall, within three days of becoming aware of the resident's death, provide to the resident's responsible person, or other individual or individuals as identified in the admission agreement or attachment, written notice of the facility's policies regarding contract termination upon death and refunds.

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(B) When the Department orders relocation of a resident under the provisions of Section 87223, the resident shall not be held responsible for meeting any advance notice requirement imposed by the licensee in the admission agreement. The licensee shall refund any money to which the resident would have been entitled had notice been given as required by the admission agreement.

(C) The licensee shall refund any prepaid monthly fees to a resident or the resident's representative, if any, as follows:

1. If a licensee forfeits the license upon the sale or transfer of the facility resulting in the resident's transfer, as specified in Health and Safety Code section 1569.682(a), the licensee surrenders the license or the licensee abandons the facility.

2. If there is a change of use of the facility pursuant to Section 87224(a)(5).

87507 ADMISSION AGREEMENTS (Continued)

(D) The refund of prepaid monthly fees for any condition listed in (C)1. and (C)2. above shall be given as specified below:

1. If the resident provides notice five days before the resident leaves the facility, the proportional daily amount of any prepaid monthly fee(s) shall be refunded at the time the resident leaves the facility and the unit is vacated.

2. If the resident does not provide the above 5-day notice the licensee shall refund a proportional daily amount of any prepaid monthly fee(s) within seven days from the date that the resident leaves the facility and the unit is vacated.

(E) Preadmission fees shall be refunded according to the following conditions:

1. A 100 percent refund of a preadmission fee shall be provided to an applicant or the applicant's representative if:

   a. The applicant decides not to enter the facility prior to the facility completing a preadmission appraisal as defined in Section 87457.

   b. The licensee fails to provide full written disclosure of preadmission fee charges and refund conditions.

2. Unless Section 87507(g)(5)(E)1. applies, paid preadmission fees that are greater than five hundred dollars ($500) shall be refunded to an applicant, resident, or the applicant/resident's representative in the following manner:

   a. A refund of at least 80 percent of the preadmission fee in excess of $500 shall be provided if the applicant does not enter the facility after a preadmission appraisal is conducted, or the resident leaves the facility for any reason during the first month of residency.

   b. A refund of at least 60 percent of the preadmission fee in excess of $500 shall be provided if the resident leaves the facility for any reason during the second month of residency.

   c. A refund of at least 40 percent of the preadmission fee in excess of $500 shall be provided if the resident leaves the facility for any reason during the third month of residency.

   d. If the resident has lived in the facility for four or more months, the licensee may, but is not required to, make a refund of the preadmission fee.

87507 ADMISSION AGREEMENTS (Continued)

3. Notwithstanding Section 87507(g)(5)(E)1., paid preadmission fees greater than five hundred dollars ($500) shall be refunded to a resident or the resident's representative as follows:

   a. If a licensee forfeits the license upon the sale or transfer of the facility resulting in the resident's transfer, as specified in Health and Safety Code section 1569.682(a), the licensee surrenders the license, the licensee abandons the facility, or if there is a change of use of the facility pursuant to Section 87224(a)(5):

      i. A 100 percent refund shall be provided if preadmission fees in excess of $500 were paid within six months of the eviction notice.

      ii. A 75 percent refund shall be provided if preadmission fees in excess of $500 were paid more than six but not more than 12 months before the eviction notice.

      iii. A 50 percent refund shall be provided if preadmission fees in excess of $500 were paid more than 12 but not more than 18 months before the eviction notice.

      iv. A 25 percent refund shall be provided if preadmission fees in excess of $500 were paid more than 18 but less than 25 months before the eviction notice.

      v. No preadmission refund is required if preadmission fees were paid 25 months or more before the eviction notice.

   b. If a resident transfers from the facility due to a notice of temporary suspension or revocation of a license, paid preadmission fees shall be refunded as specified in Health and Safety Code Section 1569.525(f).

87507 ADMISSION AGREEMENTS (Continued)

HANDBOOK BEGINS HERE

Health and Safety Code section 1569.525(f) provides:

(f)(1) Notwithstanding Section 1569.651 or any other law, for paid preadmission fees, a resident who transfers from the facility due to the notice of temporary suspension or revocation of a license pursuant to this section is entitled to a refund in accordance with all of the following:

(A) A 100-percent refund if preadmission fees were paid within six months of either notice of closure required by this section.

(B) A 75-percent refund if preadmission fees were paid more than six months, but not more than 12 months, before either notice required by this section.

(C) A 50-percent refund if preadmission fees were paid more than 12 months, but not more than 18 months, before either notice required by this section.

(D) A 25-percent refund if preadmission fees were paid more than 18 months, but not more than 25 months, before either notice required by this section.

(2) A preadmission fee refund is not required if preadmission fees were paid 25 months or more before either notice required by this section.

(3) The preadmission fee refund required by this paragraph shall be paid within 15 days of issuing either notice required by this section. In lieu of the refund, the resident may request that the licensee provide a credit toward the resident's monthly fee obligation in an amount equal to the preadmission fee refund due.

(4) If a resident transfers from the facility due to the revocation of a license, and the resident gives notice at least five days before leaving the facility, or if the transfer is due to a temporary suspension of the license order, the licensee shall refund to the resident or his or her legal representative a proportional per diem amount of any prepaid monthly fees at the time the resident leaves the facility and the unit is vacated. Otherwise the licensee shall pay the refund within seven days from the date that the resident leaves the facility and the unit is vacated.

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c. Refunds required by Section 87507(g)(5)(E)3. shall be paid within 15 days of issuing the notice. The resident may request that the licensee provide a credit towards the resident's monthly fees in lieu of the preadmission fee refund.

(6) The Department or licensing agency's authority to examine residents' records as a part of their evaluation of the facility.

87507 ADMISSION AGREEMENTS (Continued)

(7) The facility's policy concerning family visits and other communication with residents, pursuant to Health and Safety Code section 1569.313.

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Health and Safety Code section 1569.313 provides in part:

…"The facility's policy concerning family visits and communication shall be designed to encourage regular family involvement with the resident client and shall provide ample opportunities for family participation in activities at the facility."

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(8) General facility policies that are for the purpose of making it possible for residents to live together.

(A) All facility policies shall be reasonable, and shall not violate any applicable rights, laws or regulations.

(B) Procedures for residents to suggest changes to facility policies shall be specified.

(C) All policies concerning the retention or prohibition of firearms by residents of the facility.

1. If the licensee permits residents to retain firearms at the facility, such firearms shall be stored in compliance with Health and Safety Code section 1569.282.

(9) Notification of the availability of the facility grievance procedure(s) to address and resolve resident complaints regarding facility practices.

(10) The requirements pertaining to the involuntary transfer or eviction of residents, including:

(A) The actions, circumstances, or conditions listed in Section 87224, Eviction Procedures, that may result in the resident's eviction from the facility. Except for general facility policies developed pursuant to Section 87224(a)(3), the eviction provisions shall not be modified.

(B) Only those grounds specified under state law or regulation that allow for an involuntary transfer or eviction of a resident. Grounds not specified under state law or regulation shall not be included.

(C) The justification, worded exactly as shown in the applicable state law or regulation, that permits an eviction.

87507 ADMISSION AGREEMENTS (Continued)

(D) An explanation of the resident's right to notice prior to an involuntary transfer, discharge, or eviction as specified in Health and Safety Code sections 1569.682 and 1569.683.

(E) The process by which the resident may file a complaint with the department regarding the eviction as specified in Health and Safety Code sections 1569.682(a)(2)(E) and 1569.683(a)(3).

(F) The relocation assistance offered by the licensee.

(G) The rights of the resident and the responsibilities of the licensee regarding closure plans, relocation evaluations and assistance, and providing notice when a licensee evicts residents as specified in Health and Safety Code sections 1569.682 and 1569.683.

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Health and Safety Code section 1569.682 provides in part:

(a) A licensee of a licensed residential care facility for the elderly shall, prior to transferring a resident of the facility to another facility or to an independent living arrangement as a result of the forfeiture of a license, as described in subdivision (a), (b), or (f) of Section 1569.19, or a change of use of the facility pursuant to the department's regulations, take all reasonable steps to transfer affected residents safely and to minimize possible transfer trauma, and shall, at a minimum, do all of the following:

(1) Prepare, for each resident, a relocation evaluation of the needs of that resident, which shall include both of the following:

(A) Recommendations on the type of facility that would meet the needs of the resident based on the current service plan.

(B) A list of facilities, within a 60-mile radius of the resident's current facility, that meet the resident's present needs.

(2) Provide each resident or the resident's responsible person with a written notice no later than 60 days before the intended eviction. The notice shall include all of the following:

(A) The reason for the eviction, with specific facts to permit a determination of the date, place, witnesses, and circumstances concerning the reasons.

(B) A copy of the resident's current service plan.

HANDBOOK CONTINUES

87507 ADMISSION AGREEMENTS (Continued)

HANDBOOK CONTINUES

(C) The relocation evaluation.

(D) A list of referral agencies.

(E) The right of the resident or resident's legal representative to contact the department to investigate the reasons given for the eviction pursuant to Section 1569.35.

(F) The contact information for the local long-term care ombudsman, including address and telephone number.

(3) Discuss the relocation evaluation with the resident and his or her legal representative within 30 days of issuing the notice of eviction.

(4) Submit a written report of any eviction to the licensing agency within five days.

(5) Upon issuing the written notice of eviction, a licensee shall not accept new residents or enter into new admission agreements.

Health and Safety Code section 1569.683 provides:

(a) In addition to complying with other applicable regulations, a licensee of a residential care facility for the elderly who sends a notice of eviction to a resident shall set forth in the notice to quit the reasons relied upon for the eviction, with specific facts to permit determination of the date, place, witnesses, and circumstances concerning those reasons. In addition, the notice to quit shall include all of the following:

(1) The effective date of the eviction.

(2) Resources available to assist in identifying alternative housing and care options, including public and private referral services and case management organizations.

(3) Information about the resident's right to file a complaint with the department regarding the eviction, with the name, address, and telephone number of the nearest office of community care licensing and the State Ombudsman.

(4) The following statement: "In order to evict a resident who remains in the facility after the effective date of the eviction, the residential care facility for the elderly must file an unlawful detainer action in superior court and receive a written judgment signed by a judge. If the facility pursues the unlawful detainer action, you must be served with a summons and complaint. You have the right to contest the eviction in writing and through a hearing."

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87507 ADMISSION AGREEMENTS (Continued)

HANDBOOK CONTINUES

(b) The licensee, in addition to either serving a 30-day notice, or seeking approval from the department and serving three days notice, on the resident, shall notify, or mail a copy of the notice to quit to, the resident's responsible person.

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(11) Other conditions under which the agreement may be terminated.

(12) A resident's right to contact the State Department of Social Services, the long-term care ombudsman, or both, regarding grievances against the facility.

(h) The admission agreement shall not contain the following:

(1) Any provision that is prohibited from being included in the admission agreement.

(2) Written or oral agreements to waive facility responsibility or liability for the health, safety or the personal property of residents, or the provision of safe and healthful facilities, equipment and accommodations.

(3) Any provision that the facility knows or should know is deceptive or unlawful under applicable state or federal law.

(4) Any provision that violates the rights of any residents including but not limited to those specified in Section 87468 and in Health and Safety Code section 1569 et seq.

(i) The admission agreement shall not require advance notice for its termination upon the death of the resident.

(j) No licensee shall enter into any continuing care contract with any person without approval by the Department in accordance with Health and Safety Code, Chapter 10, Division 2.

87507 ADMISSION AGREEMENTS (Continued)

(k) The admission agreement shall be reviewed at the time of the compliance visit and in response to a complaint involving the admission agreement.

(l) The licensee shall attach a copy of applicable resident's rights specified by law or regulation to all admission agreements, and shall include information on the reporting of suspected or known elder and dependent abuse, as set forth in Health and Safety Code Section 1569.889.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.159, 1569.2, 1569.282, 1569.31, 1569.312, 1569.313, 1569.525, 1569.54, 1569.651, 1569.652, 1569.655, 1569.657, 1569.682, 1569.880, 1569.881, 1569.882, 1569.883, 1569.884, 1569.885, 1569.886, 1569.887, 1569.888, and 1569.889, Health and Safety Code.

87508 REGISTER OF RESIDENTS

(a) The licensee shall ensure that a current register of all residents in the facility is maintained and contains the following updated information:

(1) The resident's name and ambulatory status as specified in Sections 87506(b)(1) and (b)(10).

(2) Information on the resident's attending physician as specified in Section 87506(b)(7).

(3) Information on the resident's responsible person as specified in Section 87506(b)(6).

(b) Registers of residents shall be available to the licensing agency to inspect, audit, and copy upon demand during normal business hours. Registers may be removed if necessary for copying. Removal of registers shall be subject to the following requirements:

(1) Licensing representatives shall not remove current registers unless the same information is otherwise readily available in another document or format.

(2) Prior to removing any registers, a licensing representative shall prepare a list of the registers to be removed, sign and date the list upon removal of the records, and leave a copy of the list with the administrator or designee.

87508 REGISTER OF RESIDENTS (Continued) **87508**

(3) Licensing representatives shall return the registers undamaged and in good order within three business days following the date the records were removed.

(c) The register of current residents shall be kept in a central location at the facility.

(1) The register shall be treated as confidential information pursuant to Section 87506(c).

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Section 1569.315, Health and Safety Code.

Article 10. Food Services

87555 GENERAL FOOD SERVICE REQUIREMENTS 87555

(a) The total daily diet shall be of the quality and in the quantity necessary to meet the needs of the residents and shall meet the Recommended Dietary Allowances of the Food and Nutrition Board of the National Research Council. All food shall be selected, stored, prepared and served in a safe and healthful manner.

(b) The following food service requirements shall apply:

(1) Where all food is provided by the facility arrangements shall be made so that each resident has available at least three meals per day. Exceptions may be allowed on weekends and holidays providing the total daily food needs are met. Not more than fifteen (15) hours shall elapse between the third and first meal.

(2) Where meal service within a facility is elective, arrangements shall be made to assure availability of an adequate daily food intake for all residents who, in their admission agreement, elected meal service. If a resident's condition changes so that he is no longer able to cook or purchase his own meals, the admission agreement shall be modified and the resident provided full meal service.

(3) Between-meal nourishment or snacks shall be made available for all residents unless limited by dietary restrictions prescribed by a physician.

(4) Meals on the premises shall be served in a designated dining area suitable for the purpose and residents encouraged to have meals with other residents. Tray service shall be provided in case of temporary need.

(5) Meals shall consist of an appropriate variety of foods and shall be planned with consideration for cultural and religious background and food habits of residents.

(6) In facilities for sixteen (16) persons or more, menus shall be written at least one week in advance and copies of the menus as served shall be dated and kept on file for at least 30 days. Facilities licensed for less than sixteen (16) residents shall maintain a sample menu in their file. Menus shall be made available for review by the residents or their designated representatives and the licensing agency upon request.

(7) Modified diets prescribed by a resident's physician as a medical necessity shall be provided.

87555 GENERAL FOOD SERVICE REQUIREMENTS (Continued) **87555**

(8) All food shall be of good quality. Commercial foods shall be approved by appropriate federal, state and local authorities. Food in damaged containers shall not be accepted, used or retained.

(9) Procedures which protect the safety, acceptability and nutritive values of food shall be observed in food storage, preparation and service.

(10) Where indicated, food shall be cut, chopped or ground to meet individual needs.

(11) Powdered milk shall not be used as a beverage but may be used in cooking or baking. Raw milk shall not be used. Milk shall be pasteurized.

(12) Except upon written approval by the licensing agency, meat, poultry and meat food products shall be inspected by state or federal authorities. Written evidence of such inspection shall be available for all products not purchased from commercial markets.

(13) Home canned foods shall not be used.

(14) If food is prepared off the facility premises, the preparation source shall meet all applicable requirements for commercial services. The facility shall have adequate equipment and staff to receive and serve the food and for cleanup, and shall maintain adequate equipment for in-house preparation and service of food in emergencies.

(15) All persons engaged in food preparation and service shall observe personal hygiene and food services sanitation practices which protect the food from contamination.

(16) In facilities licensed for sixteen (16) to forty-nine (49) residents, one person shall be designated who has primary responsibility for food planning, preparation and service. This person shall be provided with appropriate training.

(17) In facilities licensed for fifty (50) or more, and providing three (3) meals per day, a full-time employee qualified by formal training or experience shall be responsible for the operation of the food service. If this person is not a nutritionist, a dietitian, or a home economist, provision shall be made for regular consultation from a person so qualified. The consultation services shall be provided at appropriate times, during at least one meal. A written record of the frequency, nature and duration of the consultant's visits shall be secured from the consultant and kept on file in the facility.

(18) Sufficient food service personnel shall be employed, trained and their working hours scheduled to meet the needs of residents.

87555 GENERAL FOOD SERVICE REQUIREMENTS (Continued) **87555**

(19) There shall be one or more dining rooms or similar areas suitable for serving residents at a meal service, in shifts where appropriate. The dining areas shall be convenient to the kitchen so that food may be served quickly and easily and shall be attractive and promote socialization among the diners.

(20) The ventilating systems in food preparation areas shall be maintained in working order and shall be operated when food is being prepared. Food preparation equipment shall be placed to provide aisles of sufficient width to permit easy movement of personnel, mobile equipment and supplies.

(21) Freezers of adequate size shall be maintained at a temperature of 0 degrees F (-17.7 degrees C), and refrigerators of adequate size shall maintain a maximum temperature of 40 degrees F (4 degrees C). They shall be kept clean and food stored to enable adequate air circulation to maintain the above temperatures.

(22) Adequate space shall be maintained to accommodate equipment, personnel and procedures necessary for proper cleaning and sanitizing dishes and other utensils.

(23) All readily perishable foods or beverages capable of supporting rapid and progressive growth of micro-organisms which can cause food infections or food intoxications shall be stored in covered containers at appropriate temperatures.

(24) Pesticides and other toxic substances shall not be stored in food storerooms, kitchen areas, or where kitchen equipment or utensils are stored.

(25) Soaps, detergents, cleaning compounds or similar substances shall be stored in areas separate from food supplies.

(26) Supplies of nonperishable foods for a minimum of one week and perishable foods for a minimum of two days shall be maintained on the premises.

(27) All kitchen areas shall be kept clean and free of litter, rodents, vermin and insects.

(28) All food shall be protected against contamination. Contaminated food shall be discarded immediately upon discovery.

(29) All equipment, fixed or mobile, and dishes, shall be kept clean and maintained in good repair and free of breaks, open seams, cracks or chips.

(30) All utensils used for eating and drinking and in preparation of food and drink, shall be cleaned and sanitized after each usage.

87555 GENERAL FOOD SERVICE REQUIREMENTS (Continued)

(31) Dishes and utensils shall be disinfected:

(A) In facilities using mechanical means, by either maintaining hot water at a minimum temperature of 170 degrees F (77 degrees C) at the final rinse cycle of dishwashing machines, or by disinfecting as specified in (B) below.

(B) In facilities not using mechanical means, by an alternative comparable method approved by the licensing agency or by the local health department, such as the addition of a sanitation agent to the final rinse water.

(32) Equipment or appropriate size and type shall be provided for the storage, preparation and service of food and for sanitizing utensils and tableware, and shall be well maintained.

(33) Tableware and tables, dishes, and utensils shall be sufficient in quantity to serve the residents.

(34) Adaptive devices shall be provided for self-help in eating as needed by residents.

(c) The licensing agency may require the facility to provide written information as to the foods purchased and used over a given period when, based upon documentation, there is reason to believe that the food service requirements are not being met.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.2, 1569.31 and 1569.312, Health and Safety Code.

Article 11. Health-Related Services and Conditions

87605 HEALTH AND SAFETY PROTECTION

(a) Acceptance by the licensee of residents with incidental medical needs shall be in accordance with the conditions specified in this article.

(b) The provisions of this Article 11 shall be applicable and in conjunction with Articles 1 through 10 and 12 through 13 of this chapter 8.

(c) Licensees who employ or permit health care practitioners to provide care to residents shall post a visible notice in a prominent location that states, "Section 680 of the Business and Professions Code requires health care practitioners to disclose their name and license status on a name tag in at least 18-point type while working in this facility."

NOTE: Authority cited: Sections 1569.30 and 1569.698(e), Health and Safety Code. Reference: Sections 1569.2, 1569.31 and 1569.312, Health and Safety Code; Section 680, Business and Professions Code.

87606 CARE OF BEDRIDDEN RESIDENTS

(a) Unless otherwise specified, this section applies to licensees who accept or retain residents who are bedridden. The licensee shall be permitted to accept and retain residents who are or shall become bedridden, if all the following conditions are met.

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Health and Safety Code Section 1569.72(b)(1) provides in part:

"(b)(1) …'bedridden' means either requiring assistance in turning and repositioning in bed, or being unable to independently transfer to and from bed…"

HANDBOOK ENDS HERE

(b) A licensee shall notify the fire authority having jurisdiction within 48 hours of accepting or retaining any person who is bedridden, as specified in Health and Safety Code section 1569.72.

87606 CARE OF BEDRIDDEN RESIDENTS (Continued)

HANDBOOK BEGINS HERE

Health and Safety Code Section 1569.72(f) provides:

"(f) Notwithstanding the length of stay of a bedridden resident, every facility admitting or retaining a bedridden resident, as defined in this section, shall, within 48 hours of the resident's admission or retention in the facility, notify the local fire authority with jurisdiction in the bedridden resident's location of the estimated length of time the resident will retain his or her bedridden status in the facility."

HANDBOOK ENDS HERE

(c) To accept or retain a person who is bedridden, other than for a temporary illness or recovery from surgery, a licensee shall obtain and maintain an appropriate fire clearance as specified in Section 87202, Fire Clearance.

(d) For the purposes of this section, "temporary illness" is defined in Health and Safety Code Section 1569.72(d)(1).

HANDBOOK BEGINS HERE

Health and Safety Code Section 1569.72(d)(1) provides:

"(d)(1) For purposes of this section, 'temporary illness' means any illness which persists for 14 days or less."

HANDBOOK ENDS HERE

(e) A licensee may retain a resident who is bedridden for more than 14 days if all of the requirements of Health and Safety Code section 1569.72 are met.

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Health and Safety Code Section 1569.72(e) provides:

"(e) A bedridden resident may be retained in a residential care facility for the elderly in excess of 14 days if all of the following requirements are satisfied:

"(1) The facility notifies the department in writing regarding the temporary illness or recovery from surgery.

HANDBOOK CONTINUES

87606 CARE OF BEDRIDDEN RESIDENTS (Continued)

HANDBOOK CONTINUES

"(2) The facility submits to the department, with the notification, a physician and surgeon's written statement to the effect that the resident's illness or recovery is of a temporary nature. The statement shall contain an estimated date upon which the illness or recovery will end or upon which the resident will no longer be confined to a bed.

"(3) The department determines that the health and safety of the resident is adequately protected in that facility and that transfer to a higher level of care is not necessary.

"(4) This section does not expand the scope of care and supervision of a residential care facility for the elderly."

HANDBOOK ENDS HERE

(1) If it is determined that a resident will be bedridden for more than 14 days, the licensee shall notify the fire authority having jurisdiction of the revised estimated length of time that the resident will be bedridden, as required in subsection (b).

(f) To accept or retain a person who is bedridden, a licensee shall ensure the following:

(1) The facility's Plan of Operation includes a statement of how the licensee intends to meet the overall health, safety and care needs of residents who are bedridden.

(A) The facility's Emergency and Disaster Plan addresses fire safety precautions specific to evacuation of residents who are bedridden in the event of an emergency or disaster.

(B) The needs of residents who are terminally ill and who are bedridden shall be met.

(2) Each record for a resident who is bedridden includes sufficient documentation to demonstrate that the licensee is meeting the needs of the individual resident as specified in Section 87506, Resident Records.

(3) Staff records include documentation of staff training specific to Care of Bedridden Residents.

(4) The facility's Register of Residents shall include:

(A) compliance with Section 87508, Register of Residents,

(B) information related to resident room locator,

87606 CARE OF BEDRIDDEN RESIDENTS (Continued)

(C) register of residents be made available, upon request, to emergency personnel, and

(D) facility staff have knowledge of the location of the register of residents at all times.

(g) Nothing contained in this section or in Chapter 8 precludes the licensing agency from requiring the relocation of a bedridden resident whose needs are not being met in a facility, or whose needs are beyond the scope of care of the facility.

NOTE: Authority Cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.2, 1569.31, 1569.312, 1569.54, 1569.62, 1569.625, 1569.72, and 1569.80, Health and Safety Code.

87607 AUTOMATED EXTERNAL DEFIBRILLATORS (AEDS)

(a) A licensee is permitted to maintain and operate an AED at the facility if all of the following requirements are met:

(1) The licensee shall notify the licensing agency in writing that an AED is in the facility and will be used in accordance with all applicable federal and other state requirements.

(2) The AED shall be used in accordance with all applicable federal and other state requirements.

(3) The licensee shall maintain at the facility the following:

(A) A copy of the required physician's prescription for the AED.

(B) A training manual from an American Heart Association- or American Red Cross-recognized AED training class.

(C) A log of checks of operation of the AED containing the dates checked and the name of person checking.

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87607 AUTOMATED EXTERNAL DEFIBRILLATORS (AEDS) (Continued) **87607**

(D) A copy of a valid AED operator's certificate for any employee(s) authorized by the licensee to operate the AED. The certificate shall indicate that the AED training course completed complies with the standards of the American Heart Association or the American Red Cross. If it does not, then other evidence indicating that the AED training course completed complies with the standards of the American Heart Association or the American Red Cross shall be available at the facility.

(E) A log of quarterly proficiency demonstrations for each holder of an AED operator's certificate who is authorized by the licensee to operate the AED. The log shall contain the dates of the demonstrations and the manner of demonstration.

(4) A supply kit shall be maintained at the facility and be readily available for use with the AED. The kit shall contain at least the following:

(A) A back-up battery set.

(B) An extra set of pads.

(C) A safety razor for shaving chest hair when necessary to apply the pads.

(D) A cardiovascular pulmonary resuscitation barrier (a face shield or mask) for protection from transmission of infectious disease.

(E) Two pairs of unused medical examination gloves (latex or non-latex).

(5) Use of an AED shall be reported as specified in Section 87211, Reporting Requirements.

(6) Requests to Forego Resuscitative Measures, Advance Directives and Do-Not-Resuscitate Orders shall be observed as specified in Section 87469, Advance Health Care Directives, Requests to Forego Resuscitative Measures, and Do-Not Resuscitate Forms.

NOTE: Authority Cited: Section 1569.30, Health and Safety Code. Reference: Sections 1250, 1569.1, 1569.2, 1569.31, 1569.312, 1569.73 and 1797.196, Health and Safety Code.

87608 POSTURAL SUPPORTS 87608

(a) Based on the individual's preadmission appraisal, and subsequent changes to that appraisal, the facility shall provide assistance and care for the resident in those activities of daily living which the resident is unable to do for himself/herself. Postural supports may be used under the following conditions.

(1) Postural supports shall be limited to appliances or devices such as braces, spring release trays, or soft ties, used to achieve proper body position and balance, to improve a resident's mobility and independent functioning, or to position rather than restrict movement including, but not limited to, preventing a resident from falling out of bed, a chair, etc.

(A) Physician-prescribed orthopedic devices such as braces or casts, used for support of a weakened body part or correction of body parts, are considered postural supports.

(2) Postural supports shall be fastened or tied in a manner that permits quick release by the resident.

(3) A written order from a physician indicating the need for the postural support shall be maintained in the resident's record. The licensing agency shall be authorized to require other additional documentation if needed to verify the order.

(4) Prior to the use of postural supports that change the ambulatory status of a resident to non-ambulatory, the licensee shall ensure that the appropriate fire clearance, as required by Section 87202, Fire Clearance has been secured.

(5) Under no circumstances shall postural supports include tying, depriving, or limiting the use of a resident's hands or feet.

(A) A bed rail that extends from the head half the length of the bed and used only for assistance with mobility shall be allowed.

(B) Bed rails that extend the entire length of the bed are prohibited except for residents who are currently receiving hospice care and have a hospice care plan that specifies the need for full bed rails.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.2, 1569.31, and 1569.312, Health and Safety Code.

87609 ALLOWABLE HEALTH CONDITIONS AND THE USE OF HOME HEALTH AGENCIES 87609

(a) A licensee shall be permitted to accept or retain persons who have a health condition(s) which requires incidental medical services including, but not limited to, the conditions specified in Section 87612, Restricted Health Conditions.

(b) Incidental medical care may be provided to residents through a licensed home health agency provided the following conditions are met:

(1) The licensee is in substantial compliance with the requirements of Health and Safety Code Sections 1569-1569.87, and of Chapter 8, Division 6, of Title 22, CCR, governing Residential Care Facilities for the Elderly.

(2) The licensee provides the supporting care and supervision needed to meet the needs of the resident receiving home health care.

(3) The licensee informs the home health agency of any duties the regulations prohibit facility staff from performing, and of any regulations that address the resident's specific condition(s).

(4) The licensee and home health agency agree in writing on the responsibilities of the home health agency, and those of the licensee in caring for the resident’s medical condition(s).

(A) The written agreement shall reflect the services, frequency and duration of care.

(B) The written agreement shall include day and evening contact information for the home health agency, and the method of communication between the agency and the facility, which may include verbal contact, electronic mail, or logbook.

(C) The written agreement shall be signed by the licensee or licensee representative, and representative of the home health agency, and placed in the resident’s file.

(c) The use of home health agencies to care for a resident's medical condition(s) does not expand the scope of care and supervision that the licensee is required to provide.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2, 1569.312 and 1569.725, Health and Safety Code.

87611 GENERAL REQUIREMENTS FOR ALLOWABLE HEALTH CONDITIONS 87611

(a) Prior to accepting or retaining a resident with an allowable health condition as specified in Section 87618, Oxygen Administration - Gas and Liquid; Section 87619, Intermittent Positive Pressure Breathing (IPPB) Machine; Section 87621, Colostomy/Ileostomy; Section 87626, Contractures; or Section 87631, Healing Wounds; licensees who have, or have had, any of the following within the last two years, shall obtain Department approval:

(1) Probationary license;

(2) Administrative action filed against them;

(3) A Non-Compliance Conference as defined in Section 87101(n) that resulted in a corrective plan of action; or

(4) A notice of deficiency concerning direct care and supervision of a resident with a health condition specified in Section 87612, Restricted Health Conditions, that required correction within 24 hours.

(b) The licensee shall complete and maintain a current, written record of care for each resident that includes, but is not limited to, the following:

(1) Documentation from the physician of the following:

(A) Stability of the medical condition(s);

(B) Medical condition(s) which require incidental medical services;

(C) Method of intervention;

(D) Resident's ability to perform the procedure; and

(E) An appropriately skilled professional shall be identified who will perform the procedure if the resident needs assistance.

(2) The names, address and telephone number of vendors, if any, and all appropriately skilled professionals providing services.

(3) Emergency contacts.

87611 GENERAL REQUIREMENTS FOR ALLOWABLE HEALTH CONDITIONS (Continued) **87611**

(c) In addition to Section 87411(d), facility staff shall have knowledge and the ability to recognize and respond to problems and shall contact the physician, appropriately skilled professional, and/or vendor as necessary.

(d) In addition to Section 87463, Reappraisals and Section 87466, Observation of the Resident, the licensee shall monitor the ability of the resident to provide self care for the allowable health condition and document any change in that ability.

(e) In addition to Sections 87465(a) and 87464(d), the licensee shall ensure that the resident is cared for in accordance with the physician's orders and that the resident's medical needs are met.

(f) The duty established by this section does not infringe on the right of a resident to receive or reject medical care or services as allowed in Section 87468(a)(16).

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2 and 1569.312, Health and Safety Code.

87612 RESTRICTED HEALTH CONDITIONS **87612**

(a) The licensee may provide care for residents who have any of the following restricted health conditions, or who require any of the following health services:

(1) Administration of oxygen as specified in Section 87618.

(2) Catheter care as specified in Section 87623.

(3) Colostomy/ileostomy care as specified in Section 87621.

(4) Contractures as specified in Section 87626.

(5) Diabetes as specified in Section 87628.

(6) Enemas, suppositories, and/or fecal impaction removal as specified in Section 87622.

(7) Incontinence of bowel and/or bladder as specified in Section 87625.

(8) Injections as specified in Section 87629.

(9) Intermittent Positive Pressure Breathing Machine use as specified in Section 87619.

87612 RESTRICTED HEALTH CONDITIONS (Continued) **87612**

(10) Stage 1 and 2 pressure injuries as specified in Section 87631(a)(3).

(11) Wound care as specified in Section 87631.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2, 1569.312 and 1569.72, Health and Safety Code.

87613 GENERAL REQUIREMENTS FOR RESTRICTED HEALTH CONDITIONS **87613**

(a) Prior to admission of a resident with a restricted health condition, the licensee shall:

(1) Communicate with all other persons who provide care to that resident to ensure consistency of care for the condition.

(2) Ensure that facility staff who will participate in meeting the resident's specialized care needs complete training provided by a licensed professional sufficient to meet those needs.

(A) Training shall include hands-on instruction in both general procedures and resident-specific procedures.

(B) Training shall be completed prior to the staff providing services to the resident.

(b) Should the condition of the resident change, all facility staff providing care to that resident shall complete any additional training required to meet the resident's new needs, as determined by the resident's physician or a licensed professional designated by the physician.

(c) The licensee shall document any significant occurrences that result in changes in the resident's physical, mental and/or functional capabilities and immediately report these changes to the resident's physician and authorized representative.

(d) A resident's right to receive or reject medical care or services, as specified in Section 87468, Personal Rights, shall not be affected by this section.

(1) If a resident refuses medical services the licensee shall immediately notify the resident's physician or licensed professional designated by the physician and the resident's authorized reprehensive, if any, and shall participate in developing a plan for meeting the resident's needs.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2, 1569.312 and 1569.72, Health and Safety Code.

87615 PROHIBITED HEALTH CONDITIONS 87615

(a) Persons who require health services or have a health condition including, but not limited to, those specified below shall not be admitted or retained in a residential care facility for the elderly:

(1) Stage 3 and 4 pressure injuries.

(2) Gastrostomy tubes.

(3) Naso-gastric tubes.

(4) Staphylococcus aureus ("staph") infection or other serious infection.

(5) Residents who depend on others to perform all activities of daily living for them as set forth in Section 87459, Functional Capabilities.

(6) Tracheotomies.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2, 1569.312 and 1569.72, Health and Safety Code.

87616 EXCEPTIONS FOR HEALTH CONDITIONS 87616

(a) As specified in Section 87209, Program Flexibility, the licensee may submit a written exception request if he/she agrees that the resident has a prohibited and/or restrictive health condition but believes that the intent of the law can be met through alternative means.

(b) Written requests shall include, but are not limited to, the following:

(1) Documentation of the resident's current health condition including updated medical reports, other documentation of the current health, prognosis, and expected duration of condition.

(2) The licensee's plan for ensuring that the resident's health related needs can be met by the facility.

(3) Plan for minimizing the impact on other residents.

(c) Facilities that have satisfied the requirements of Section 87632, Hospice Care Waiver, are not required to submit written exception requests under this section for residents or prospective residents with restricted health conditions under Section 87612 and/or prohibited health conditions under Section 87615 provided those residents have been diagnosed as terminally ill and are receiving hospice services in accordance with a hospice care plan as required under Section 87633, Hospice Care for Terminally Ill Residents, and the treatment of such restricted and/or prohibited health conditions is specifically addressed in the hospice care plan.

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87616 EXCEPTIONS FOR HEALTH CONDITIONS 87616
(Continued)

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Health and Safety Code section 1569.73(a) provides in relevant part:

"(a)(2) The terminally ill resident, or the terminally ill person to be accepted as a resident, has obtained the services of a hospice certified in accordance with federal medicare conditions of participation and licensed pursuant to Chapter 8 (commencing with Section 1725) or Chapter 8.5 (commencing with Section 1745).

(3) The facility, in the judgment of the department, has the ability to provide care and supervision appropriate to meet the needs of the terminally ill resident or the terminally ill person to be accepted as a resident, and is in substantial compliance with regulations governing the operation of residential care facilities for the elderly.

(4) The hospice has agreed to design and provide for care, services, and necessary medical intervention related to the terminal illness as necessary to supplement the care and supervision provided by the facility.

(5) An agreement has been executed between the facility and the hospice regarding the care plan for the terminally ill resident or terminally ill person to be accepted as a resident. The care plan shall designate the primary caregiver, identify other caregivers, and outline the tasks the facility is responsible for performing and the approximate frequency with which they shall be performed. The care plan shall specifically limit the facility's role for care and supervision to those tasks allowed under this chapter."

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NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1250, 1569.2(a), (e) and (j), 1569.31, 1569.312, 1569.72(a) and (a)(1) and 1569.73, Health and Safety Code.

87617 DEPARTMENTAL REVIEW OF HEALTH CONDITIONS 87617

(a) Certain health conditions as specified in Sections 87618, Oxygen Administration-Gas and Liquid, through 87631, Healing Wounds, may require review by Department staff to determine if the resident will be allowed to remain in the facility. The Department shall inform the licensee that the health condition of the resident requires review and shall specify documentation which the licensee shall submit to the Department.

(1) Documentation shall include, but not be limited to the following:

(A) Physician's assessment(s).

(B) Pre-admission appraisal.

(C) Copies of prescriptions for incidental medical services and/or medical equipment.

(2) The documentation shall be submitted to the Department within 10 days.

(b) If the Department determines that the resident has an allowable health condition, the licensee shall provide care and supervision to the resident in accordance with the conditions specified in Sections 87618, Oxygen Administration-Gas and Liquid, through 87631, Healing Wounds.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.2(a), (e), and (j) and 1569.312, Health and Safety Code.

87618 OXYGEN ADMINISTRATION - GAS AND LIQUID 87618

(a) Except as specified in Section 87611(a), the licensee shall be permitted to accept or retain a resident who requires the use of oxygen gas administration under the following circumstances:

(1) If the resident is mentally and physically capable of operating the equipment, is able to determine his/her need for oxygen, and is able to administer it him/herself.

OR

(2) If intermittent oxygen administration is performed by an appropriately skilled professional.

(b) In addition to Section 87611(b), the licensee shall be responsible for the following:

(1) Monitoring of the resident's ongoing ability to operate the equipment in accordance with the physician's orders.

87618 OXYGEN ADMINISTRATION - GAS AND LIQUID (Continued) **87618**

(2) Ensuring that oxygen administration is provided by an appropriately skilled professional should the resident require assistance.

(3) Ensuring that the use of oxygen equipment meets the following requirements:

(A) A report shall be made in writing to the local fire jurisdiction that oxygen is in use at the facility.

(B) "No Smoking-Oxygen in Use" signs shall be posted in the appropriate areas.

(C) Smoking shall be prohibited where oxygen is in use.

(D) All electrical equipment shall be checked for defects which may cause sparks.

(E) Oxygen tanks that are not portable shall be secured in a stand or to the wall.

(F) Plastic tubing from the nasal canula or mask to the oxygen source shall be long enough to allow the resident movement within his/her room but does not constitute a hazard to the resident or others.

(G) Oxygen from a portable source shall be used by residents when they are outside of their rooms.

(H) Equipment shall be operable.

(I) Equipment shall be removed from the facility when no longer in use by the resident.

(4) Determining that room size can accommodate equipment in accordance with Section 87307, Personal Accommodations and Services.

(5) Ensuring that facility staff have knowledge of, and ability in the operation of the oxygen equipment.

(c) The licensee shall be permitted to accept or retain a resident who requires the use of liquid oxygen under the following circumstances:

(1) The licensee obtains prior approval from the licensing agency.

(2) If the resident is mentally and physically capable of operating the equipment, is able to determine his/her need for oxygen, and is able to administer it him/herself.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2 and 1569.312, Health and Safety Code.

87619 INTERMITTENT POSITIVE PRESSURE BREATHING (IPPB) MACHINE 87619

(a) Except as specified in Section 87611(a), the licensee shall be permitted to accept or retain a resident who requires the use of an IPPB machine under the following circumstances:

(1) If the resident is mentally and physically capable of operating his/her own equipment and is able to determine his/her own need.

OR

(2) If the device is operated and cared for by an appropriately skilled professional.

(b) In addition to Section 87611(b), the licensee shall be responsible for the following:

(1) Monitoring of the resident's ongoing ability to operate the equipment in accordance with the physician's orders.

(2) Ensuring that the procedure is administered by an appropriately skilled professional should the resident require assistance.

(3) Ensuring that the use of the equipment meets the following requirements:

(A) Equipment shall be operable.

(B) Equipment shall be removed from the facility when no longer in use by the resident.

(4) Determining that room size can accommodate equipment in accordance with Section 87307(a)(2)(A).

(5) Ensuring that facility staff have knowledge of and ability in the operation of the equipment.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2 and 1569.312, Health and Safety Code.

87621 COLOSTOMY/ILEOSTOMY 87621

(a) Except as specified in Section 87611(a), the licensee shall be permitted to accept or retain a resident who has a colostomy or ileostomy under the following circumstances:

(1) If the resident is mentally and physically capable of providing all routine care for his/her ostomy, and the physician has documented that the ostomy is completely healed.

OR

(2) If assistance in the care of the ostomy is provided by an appropriately skilled professional.

(b) In addition to Section 87611(b), the licensees shall be responsible for the following:

(1) Ensuring that ostomy care is provided by an appropriately skilled professional.

(A) The ostomy bag and adhesive may be changed by facility staff who have been instructed by the professional.

(B) There shall be written documentation by an appropriately skilled professional outlining the instruction of the procedures delegated and the names of the facility staff who have been instructed.

(C) The professional shall review the procedures and techniques no less than twice a month.

(2) Ensuring that used bags are discarded as specified in Section 87303(f)(1).

(3) Privacy shall be afforded when ostomy care is provided.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2 and 1569.312, Health and Safety Code.

87622 FECAL IMPACTION REMOVAL, ENEMAS, AND/OR SUPPOSITORIES 87622

(a) The licensee shall be permitted to accept or retain a resident who requires manual fecal impaction removal, enemas, or use of suppositories under the following circumstances:

(1) Self care by the resident.

(2) Manual fecal impaction removal, enemas, and/or suppositories shall be permitted if administered according to physician's orders by either the resident or an appropriately skilled professional.

(b) In addition to Section 87611, General Requirements for Allowable Health Conditions, the licensee shall be responsible for the following:

(1) Ensuring that the administration of enemas or suppositories or manual fecal impaction removal is performed by an appropriately skilled professional should the resident require assistance.

(2) Privacy shall be afforded when care is being provided.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2(a), (e), and (j) and 1569.312, Health and Safety Code.

87623 INDWELLING URINARY CATHETER 87623

(a) The licensee shall be permitted to accept or retain a resident who requires the use of an indwelling catheter under the following circumstances:

(1) If the resident is physically and mentally capable of caring for all aspects of the condition except insertion and irrigation.

(A) Irrigation shall only be performed by an appropriately skilled professional in accordance with the physician's orders.

(B) A catheter shall only be inserted and removed by an appropriately skilled professional under physician's orders.

(b) In addition to Section 87611, General Requirements for Allowable Health Conditions, the licensee shall be responsible for the following:

(1) Ensuring that insertion and irrigation of the catheter shall be performed by an appropriately skilled professional.

87623 INDWELLING URINARY CATHETER (Continued) **87623**

(2) Ensuring that the bag and tubing are changed by an appropriately skilled professional should the resident require assistance.

(A) The bag may be emptied by facility staff who receive instruction from an appropriately skilled professional.

(B) There shall be written documentation by an appropriately skilled professional outlining the instruction of the procedures delegated and the names of the facility staff who have been instructed.

(C) The licensee shall ensure that the professional reviews staff performance as often as necessary, but at least annually.

(3) Ensuring that waste materials shall be disposed of as specified in Section 87303(f)(1).

(4) Privacy shall be maintained when care is provided.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2 and 1569.312, Health and Safety Code.

87625 MANAGED INCONTINENCE **87625**

(a) The licensee shall be permitted to accept or retain a resident who has a manageable bowel and/or bladder incontinence condition under the following circumstances:

(1) The condition can be managed with any of the following:

(A) Self care by the resident.

(B) A structured bowel and/or bladder retraining program to assist the resident in restoring a normal pattern of continence.

(C) A program of scheduled toileting at regular intervals.

(D) The use of incontinent care products.

(b) In addition to Section 87611, General Requirements for Allowable Health Conditions, the licensee shall be responsible for the following:

(1) Ensuring that residents who can benefit from scheduled toileting are assisted or reminded to go to the bathroom at regular intervals rather than being diapered.

87625 MANAGED INCONTINENCE (Continued) **87625**

(2) Ensuring that incontinent residents are checked during those periods of time when they are known to be incontinent, including during the night.

(3) Ensuring that incontinent residents are kept clean and dry and that the facility remains free of odors from incontinence.

(4) Ensuring that bowel and/or bladder programs are designed by an appropriately skilled professional with training and experience in care of elderly persons with bowel and/or bladder dysfunction and development of retraining programs for restoration of normal patterns of continence.

(5) Ensuring that the appropriately skilled professional developing the bowel and/or bladder program provide training to facility staff responsible for implementation of the program.

(6) Ensuring that re-assessment of the resident's condition and the evaluation of the effectiveness of the bowel and/or bladder program be performed by an appropriately skilled professional.

(7) Ensuring that the condition of the skin exposed to urine and stool is evaluated regularly to ensure that skin breakdown is not occurring.

(8) Privacy shall be afforded when care is provided.

(9) Ensuring that fluids are not withheld to control incontinence.

(10) Ensuring that an incontinent resident is not catheterized to control incontinence for the convenience of the licensee.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2 and 1569.312, Health and Safety Code.

87626 CONTRACTURES **87626**

(a) Except as specified in Section 87611(a), the licensee shall be permitted to accept or retain a resident who has contractures under the following circumstances:

(1) If the contractures do not severely affect functional ability and the resident is able to care for the contractures by him/herself.

OR

(2) If the contractures do not severely affect functional ability and care and/or supervision is provided by an appropriately skilled professional.

87626 CONTRACTURES (Continued)

(b) In addition to Section 87611(b), the licensee shall be responsible for the following:

(1) Ensuring that range of motion or other exercise(s), if prescribed by the physician or physical therapist, are performed by an appropriately skilled professional or by facility staff who receive instruction from an appropriately skilled professional.

(2) Ensuring that prior to facility staff performing range of motion or other prescribed exercises, there shall be written documentation by the appropriately skilled professional, outlining instruction on the procedures and the names of the facility staff receiving instruction.

(3) Ensuring that the professional reviews staff performance as often as necessary, but at least annually.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2 and 1569.312, Health and Safety Code.

87628 DIABETES

(a) The licensee shall be permitted to accept or retain a resident who has diabetes if the resident is able to perform his/her own glucose testing with blood or urine specimens, and is able to administer his/her own medication including medication administered orally or through injection, or has it administered by an appropriately skilled professional.

(b) In addition to Section 87611, General Requirements for Allowable Health Conditions, the licensee shall be responsible for the following:

(1) Assisting residents with self-administered medication as specified in Section 87465, Incidental Medical and Dental Care Services.

(2) Ensuring that sufficient amounts of medicines, testing equipment, syringes, needles and other supplies are maintained and stored in the facility as specified in Section 87465(c).

(3) Ensuring that syringes and needles are disposed of as specified in Section 87303(f)(2).

(4) Providing modified diets as prescribed by a resident's physician as specified in Section 87555(b)(7).

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2 and 1569.312, Health and Safety Code.

87629 INJECTIONS

(a) The licensee shall be permitted to accept or retain a resident who requires intramuscular, subcutaneous, or intradermal injections if the injections are administered by the resident or by an appropriately skilled professional.

(b) In addition to Section 87611, General Requirements for Allowable Health Conditions, the licensees who admit or retain residents who require injections shall be responsible for the following:

(1) Ensuring that injections are administered by an appropriately skilled professional should the resident require assistance.

(2) Ensuring that sufficient amounts of medicines, test equipment, syringes, needles and other supplies are maintained in the facility and are stored as specified in Section 87465(c).

(3) Ensuring that the requirements of this section are met using the infection control practices to be maintained in the facility as specified in Section 87470, Infection Control Requirements.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2 and 1569.312, Health and Safety Code.

87631 HEALING WOUNDS

(a) Except as specified in Section 87611(a), the licensee shall be permitted to accept or retain a resident who has a healing wound under the following circumstances:

(1) When care is performed by or under the supervision of an appropriately skilled professional.

(2) When the wound is the result of surgical intervention and care is performed as directed by the surgeon.

(3) Residents with a stage one or two pressure injury must have the condition diagnosed by a physician or an appropriately skilled professional.

(A) The resident shall receive care for the pressure injury from a physician or an appropriately skilled professional.

(B) All aspects of care performed by the medical professional and facility staff shall be documented in the resident's file.

(b) A skin tear is not a healing wound.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2 and 1569.312, Health and Safety Code.

87632 HOSPICE CARE WAIVER 87632

(a) In order to accept or retain terminally ill residents and permit them to receive care from a hospice agency, the licensee shall have obtained a facility hospice care waiver from the Department. To obtain this waiver the licensee shall submit a written request for a waiver to the Department on behalf of any residents who may request retention, and any future residents who may request acceptance, along with the provision of hospice services in the facility. The request shall include, but not be limited to the following:

(1) Specification of the maximum number of terminally ill residents which the facility wants to have at any one time.

(2) A statement by the licensee that they have read, Section 87633, Hospice Care for Terminally Ill Residents, this section, and all other requirements within Chapter 8 of Title 22 of the California Code of Regulations governing Residential Care Facilities for the Elderly and that they will comply with these requirements.

(3) A statement by the licensee that the terms and conditions of all hospice care plans which are designated as the responsibility of the licensee, or under the control of the licensee, shall be adhered to by the licensee.

(4) A statement by the licensee that an agreement with the hospice agency will be entered into regarding the care plan for the terminally ill resident to be accepted and/or retained in the facility. The agreement with hospice shall design and provide for the care, services, and necessary medical intervention related to the terminal illness as necessary to supplement the care and supervision provided by the licensee.

(b) The Department shall deny a waiver request if the licensee is not in substantial compliance with the provisions of the Residential Care Facilities for the Elderly Act (Health and Safety Code Section 1569 et seq.) and the requirements of Chapter 8 of Title 22 of the California Code of Regulations governing Residential Care Facilities for the Elderly.

(c) No waiver request will be approved unless the facility demonstrates the ability to meet the care and supervision needs of terminally ill residents, and states a willingness to provide additional care staff if required by the hospice care plan.

(d) If the Department grants a hospice care waiver it shall stipulate terms and conditions of the waiver as necessary to ensure the well-being of terminally ill residents and of all other facility residents, which shall include, but not be limited to, the following requirements:

(1) A written request shall be signed by each terminally ill resident or prospective resident upon admission, or by the resident's or prospective resident's health care surrogate decision maker to allow for his or her acceptance or retention in the facility while receiving hospice services.

(A) The request shall be maintained in the resident's record at the facility, as specified in Section 87633(h)(1).

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87632 HOSPICE CARE WAIVER (Continued) **87632**

(2) The licensee shall notify the Department in writing within five working days of the initiation of hospice care services for any terminally ill resident in the facility or within five working days of admitting a resident already receiving hospice care services. The notice shall include the resident's name and date of admission to the facility and the name and address of the hospice.

(e) Within 30 days of receipt of an acceptable request for a hospice care waiver, the Department shall notify the applicant or licensee, in writing of one of the following:

(1) The request has been approved or denied.

(2) The request is deficient, describing additional information required for the request to be acceptable and a time frame for submitting this information.

(A) Failure of the applicant or licensee to comply within the time specified in (2) above shall result in denial of the request.

HANDBOOK BEGINS HERE

Health and Safety Code section 1569.73 provided in relevant part:

"(a)(2) The terminally ill resident, or the terminally ill person to be accepted as a resident, has obtained the services of a hospice certified in accordance with federal medicare conditions of participation and licensed pursuant to Chapter 8 (commencing with Section 1725) or Chapter 8.5 (commencing with Section 1745).

(3) The facility, in the judgment of the department, has the ability to provide care and supervision appropriate to meet the needs of the terminally ill resident or the terminally ill person to be accepted as a resident, and is in substantial compliance with regulations governing the operation of residential care facilities for the elderly.

(4) The hospice has agreed to design and provide for care, services, and necessary medical intervention related to the terminal illness as necessary to supplement the care and supervision provided by the facility.

(5) An agreement has been executed between the facility and the hospice regarding the care plan for the terminally ill resident or terminally ill person to be accepted as a resident. The care plan shall designate the primary caregiver, identify other caregivers, and outline the tasks the facility is responsible for performing and the approximate frequency with which they shall be performed. The care plan shall specifically limit the facility's role for care and supervision to those tasks allowed under this chapter…

87632 HOSPICE CARE WAIVER (Continued) **87632**

HANDBOOK CONTINUES

(d) Nothing in this section is intended to expand the scope of care and supervision for a residential care facility for the elderly as defined in this act, nor shall a facility be required to alter or extend its license in order to retain a terminally ill resident or allow a terminally ill person to become a resident of the facility as authorized by this section.

(e) Nothing in this section shall require any care or supervision to be provided by the residential care facility for the elderly beyond that which is permitted in this chapter…

(g) The department shall not be responsible for the evaluation of medical services provided to the resident by the hospice and shall have no liability for the independent acts of the hospice..."

HANDBOOK ENDS HERE

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.2, 1569.10, 1569.11, 1569.15, 1569.31, 1569.312, 1569.54 and 1569.73, Health and Safety Code.

87633 HOSPICE CARE FOR TERMINALLY ILL RESIDENTS 87633

(a) The licensee shall be permitted to accept or retain residents who have been diagnosed as terminally ill by his or her physician and surgeon and who may or may not have restrictive and/or prohibited health conditions, to reside in the facility and receive hospice services from a hospice agency in the facility, when all of the following conditions are met:

(1) The licensee has received a hospice care waiver from the department.

(2) The licensee remains in substantial compliance with the requirements of this section, with the provisions of the Residential Care Facilities for the Elderly Act (Health and Safety Code Section 1569 et seq.), all other requirements of Chapter 8 of Title 22 of the California Code of Regulations governing Residential Care Facilities for the Elderly, and with all terms and conditions of the waiver.

(3) Hospice agency services are contracted for by each terminally ill resident or prospective resident individually, or the resident's or prospective resident's Health Care Surrogate Decision Maker if the resident or prospective resident is incapacitated, not by the licensee on behalf of a resident or prospective resident. These hospice agency services must be provided by a hospice agency both licensed by the state and certified by the federal Medicare program.

87633 HOSPICE CARE FOR TERMINALLY ILL RESIDENTS (Continued) **87633**

(4) A written hospice care plan which specifies the care, services, and necessary medical intervention related to the terminal illness as necessary to supplement the care and supervision provided by the facility is developed for each terminally ill resident or prospective resident by that resident's hospice agency, and agreed to by the licensee and the resident, or prospective resident, or the resident's or prospective resident's Health Care Surrogate Decision Maker, if any, prior to the initiation of hospice services in the facility for that resident, and all hospice care plans are fully implemented by the licensee and by the hospice(s).

(5) The acceptance or retention of any terminally ill resident or prospective resident in the facility does not represent a threat to the health and safety of any facility resident, or result in a violation of the personal rights of any facility resident.

(6) The hospice agency and the resident or prospective resident agree to provide the licensee with all information necessary to allow the licensee to comply with all regulations and to assure that the resident's or prospective resident's needs will be met.

(b) A current and complete hospice care plan shall be maintained in the facility for each hospice resident and include the following:

(1) The name, office address, business telephone number, and 24-hour emergency telephone number of the hospice agency and the resident's physician.

(2) A description of the services to be provided in the facility by the hospice agency including but not limited to the type and frequency of services to be provided.

(3) Designation of the resident's primary contact person at the hospice agency, and resident's primary and alternate care giver at the facility.

(4) A description of the area of licensee's responsibility for implementing the plan including, but not limited to, facility staff duties; record keeping; and communication with the hospice agency, resident's physician, and the resident's responsible person(s), if any. This description shall include the type and frequency of the tasks to be performed by the facility.

(A) The plan shall specify all procedures to be implemented by the licensee regarding the storage and handling of medications or other substances, and the maintenance and use of medical supplies, equipment, or appliances.

(B) The plan shall specify, by name or job function, the licensed health care professional on the hospice agency staff who will control and supervise the storage and administration of all controlled drugs (Schedule II - V) for the hospice client. Facility staff can assist hospice residents with self-medications without hospice personnel being present.

87633 HOSPICE CARE FOR TERMINALLY ILL RESIDENTS 87633
(Continued)

(C) The plan shall neither require nor recommend that the licensee or any facility personnel other than a physician or appropriately skilled professional implement any health care procedure which may legally be provided only by a physician or appropriately skilled professional.

(5) A description of all hospice services to be provided or arranged in the facility by persons other than the licensee, facility personnel, or the hospice agency including, but not limited to, clergy and the resident's family members and friends.

(6) Identification of the training needed, which staff members need this training, and who will provide the training relating to the licensee's responsibilities for implementation of the hospice care plan.

(A) The training shall include but not be limited to typical needs of hospice patients, such as turning and incontinence care to prevent skin breakdown, hydration, and infection control.

(B) The hospice agency will provide training specific to the current and ongoing needs of the individual resident receiving hospice care and that training must be completed before hospice care to the resident begins.

(7) Any other information deemed necessary by the Department to ensure that the terminally ill resident's needs for health care, personal care, and supervision are met.

(c) The licensee shall ensure that the hospice care plan complies with the requirements of this section, with the provisions of the Residential Care Facilities for the Elderly Act (Health and Safety Code Section 1569 et seq.), and all other requirements of Chapter 8 of Title 22 of the California Code of Regulations governing Residential Care Facilities for the Elderly.

(d) The licensee shall ensure that the hospice care plan is current, accurately matches the services actually being provided, and that the client's care needs are being met at all times.

(e) The Department may require that the licensee obtain a revision of the hospice care plan if the plan is not fully implemented, or if the Department has determined that revision of the plan is necessary to protect the health and safety of any facility resident.

(f) The licensee shall maintain a record of all hospice-related training provided to the licensee or facility personnel for a period of three years. This record shall be available for review by the Department.

(1) The record of each training session shall specify the names and credentials of the trainer, the persons in attendance, the subject matter covered, and the date and duration of the training session.

87633 HOSPICE CARE FOR TERMINALLY ILL RESIDENTS 87633
(Continued)

(g) In addition to the reporting requirements specified in Section 87211, Reporting Requirements, the licensee shall submit a report to the Department when a terminally ill resident's hospice services are interrupted or discontinued for any reason other than the death of the resident, including refusal of hospice care or discharge from hospice. The licensee shall also report any deviation from the resident's hospice care plan, or other incident, which threatens the health and safety of any resident.

(1) Such reports shall be made by telephone within one working day, and in writing within five working days, and shall specify all of the following:

(A) The name, age, sex of each affected resident.

(B) The date and nature of the event and explanatory background information leading up to the event.

(C) The name and business telephone number of the hospice agency.

(D) Actions taken by the licensee and any other parties to resolve the reportable event and to prevent similar occurrences in the future.

(h) For each terminally ill resident receiving hospice services in the facility, the licensee shall maintain the following in the resident's record:

(1) A written request for acceptance or admittance to or retention in the facility while receiving hospice services, along with any advance directive and/or request regarding resuscitative measures form executed by the resident or (in certain instances) the resident's Health Care Surrogate Decision Maker.

(2) The name, address, telephone number, and 24-hour emergency telephone number of the hospice agency and the resident's Health Care Surrogate Decision Maker, if any, in a manner that is readily available to the resident, the licensee, and facility staff.

(3) A copy of the written certification statement of the resident's terminal illness from the medical director of the hospice or the physician member of the hospice interdisciplinary group and the individual's attending physician, if the individual has an attending physician.

(4) A copy of the resident's current hospice care plan approved by the licensee, the hospice agency, and the resident, or the resident's Health Care Surrogate Decision Maker if the resident is incapacitated.

87633 HOSPICE CARE FOR TERMINALLY ILL RESIDENTS 87633
(Continued)

(5) A statement signed by the resident's roommate, if any, or any resident who will share a room with a person who is terminally ill to be accepted or retained as a resident, indicating his or her acknowledgment that the resident intends to receive hospice care in the facility for the remainder of the resident's life, and the roommate's voluntary agreement to grant access to the shared living space to hospice caregivers, and the resident's support network of family members, friends, clergy, and others.

(A) If the roommate withdraws the agreement verbally or in writing, the licensee shall make alternative arrangements which fully meet the needs of the hospice resident.

(i) Prescription medications no longer needed shall be disposed of in accordance with Section 87465(i).

(j) A written health condition exception request and approval from the Department in accordance with Section 87616, is not needed for any restricted health conditions listed in Section 87612, Restricted Health Conditions, or for any prohibited health conditions listed in Section 87615, Prohibited Health Conditions, provided the resident or prospective resident has been diagnosed as terminally ill and is currently receiving hospice care in compliance with Section 87633, Hospice Care for Terminally Ill Residents, and the treatment of the restricted and/or prohibited health conditions is addressed in the hospice care plan.

(1) In caring for a resident's health condition, facility staff, other than appropriately skilled health professionals, shall not perform any health care procedure that under law may only be performed by an appropriately skilled professional.

(k) The licensee shall maintain a record of dosages of medications that are centrally stored for each resident receiving hospice services in the facility.

(l) Residents receiving hospice care or prospective residents already receiving hospice care when accepted as residents who are bedridden may reside in the facility provided the facility meets the requirements of Section 87606, Care of Bedridden Residents.

87633 HOSPICE CARE FOR TERMINALLY ILL RESIDENTS (Continued) **87633**

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Health and Safety Code section 1569.73(h) provides in summary:

"Nothing in this section [which deals with terminally ill residents and hospice care] shall be construed to relieve a licensed residential care facility for the elderly of its responsibility to notify the appropriate fire authority of the presence of a bedridden resident in the facility as required under subdivision (f) of Section 1569.72 and to obtain and maintain a fire clearance as required under Section 1569.149."

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(m) Nothing contained in this section or in Chapter 8 precludes the Department from requiring the relocation of a terminally ill resident whose needs for personal care and supervision or health care are not being met in the facility.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.2, 1569.31, 1569.312, 1569.54, 1569.72, and 1569.73, Health and Safety Code.

87637 HEALTH CONDITION RELOCATION ORDER 87637

(a) If a resident has a health condition which cannot be cared for within the limits of the license, requires inpatient care in a health facility, or has a health condition prohibited by Section 87455(c) or Section 87615, Prohibited Health Conditions, the Department shall order the licensee to relocate the resident.

(b) When the Department orders the relocation of a resident, the following shall apply:

(1) The Department shall give written notice to the licensee ordering the relocation of the resident and informing the licensee of the resident's right to an interdisciplinary team review of the relocation order as specified in Section 87638, Resident Request for Review of Health Condition Relocation Order. Notice of the health condition relocation order and information about the right to request an interdisciplinary team review of the relocation order shall be given to the resident, by the Department, and sent to the resident's responsible person, if any.

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87637 HEALTH CONDITION RELOCATION ORDER (Continued) **87637**

(A) If the resident has no responsible person, as defined in Section 87101, the relocation order shall be sent to the representative payee, if any. In such cases, the Department shall also notify the State Long-Term Care Ombudsman of the relocation order by telephone.

(B) The notice shall advise that the licensee may request an administrative review of the health condition relocation order, and may request that an exception or waiver be granted or reinstated by the Department to allow retention of the resident in the facility.

(2) The licensee shall prepare a written relocation plan in any instance where the Department does not suspend the facility license. The plan shall contain all necessary steps to be taken to reduce stress to the resident which may result in transfer trauma, and shall include but not be limited to:

(A) A specific date for beginning and a specific date for completion of the process of safely relocating the resident. The time frame for relocation may provide for immediate relocation but shall not exceed 30 days.

(B) A specific date when the resident and the resident's responsible person, if any, shall be notified of the need for relocation.

(C) A specific date when consultation with the resident's physician, and hospice agency, if any, shall occur to obtain a current medical assessment of the resident's health needs, to determine the appropriate facility type for relocation and to ensure that the resident's health care needs continue to be met at all times during the relocation process.

(D) The method by which the licensee shall participate in the identification of an acceptable relocation site with the resident and the responsible person, if any. The licensee shall advise the resident and/or the responsible person that if the resident is to be moved to another residential care facility for the elderly, a determination must be made that the resident's needs can be legally met in the new facility before the move is made. If the resident's needs cannot be legally met in the new facility, the resident must be moved to a facility licensed to provide the necessary care.

(E) A list of contacts made or to be made by the licensee with community resources, including but not limited to, social workers, family members, Long Term Care Ombudsman, clergy, Multipurpose Senior Services Programs and others as appropriate to ensure that services are provided to the resident before, during and after the move. The need for the move shall be discussed with the resident and the resident assured that support systems will remain in place.

87637 HEALTH CONDITION RELOCATION ORDER (Continued) **87637**

(F) Measures to be taken until relocation to protect the resident and/or meet the resident's health and safety needs.

(G) An agreement to notify the Department when the relocation has occurred, including the resident's new address, if known.

(3) The relocation plan shall be submitted in writing to the Department within the time set forth in the LIC 809 (Rev. 5/88) Licensing Report by the Department that the resident requires health services that the facility cannot legally provide.

(4) Any changes in the relocation plan shall be submitted in writing to the Department. The Department shall have the authority to approve, disapprove or modify the plan.

(5) If relocation of more than one (1) resident is required, a separate plan shall be prepared and submitted in writing for each resident.

(6) The licensee shall comply with all terms and conditions of the approved plan. No written or oral contract with any other person shall release the licensee from the responsibility specified in this section or Section 87223, Relocation of Residents, for relocating a resident who has a health condition(s) which cannot be cared for in the facility and/or which requires inpatient care in a licensed health facility, nor from taking all necessary actions to reduce stress to the resident.

(7) In cases where the Department determines that the resident is in imminent danger because of a health condition(s) which cannot be cared for in the facility or which requires inpatient care in a licensed health facility, the Department shall order the licensee to immediately relocate the resident.

(A) No written relocation plan is necessary in cases of immediate relocation.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1250, 1569.1, 1569.2, 1569.31, 1569.312, 1569.54 and 1569.73, Health and Safety Code.

87638 RESIDENT REQUEST FOR REVIEW OF HEALTH CONDITION RELOCATION ORDER 87638

(a) A resident, or the resident's responsible person, if any, shall be permitted to request a review and determination of the Department's health condition relocation order by the interdisciplinary team.

(1) If the resident has no responsible person, as defined in Section 87101, the Long-Term Care Ombudsman and/or the resident's representative payee, if any, shall be permitted to submit a request for review and determination on behalf of the resident.

(b) The resident, or the resident's responsible person, if any, shall have three (3) working days, from receipt of the relocation order, to submit to the licensee a written, signed and dated request for a review and determination by the interdisciplinary team.

(1) For purposes of this section, a working day is any day except Saturday, Sunday or an official state holiday.

(c) The licensee shall mail or deliver such a request to the Department within two (2) working days of receipt.

(1) Failure or refusal to do so may result in civil penalties, as provided in Section 87761, Penalties.

(d) The Department shall give written notification to the resident, or the resident's responsible person, if any, acknowledging receipt of the resident's request for review of the relocation order. Notification shall occur within three (3) working days of receipt by the Department of the request for review.

(e) Within ten (10) working days from the date of the resident's review request, the licensee shall submit to the Department the documentation specified in Section 87638(g) to complete the resident's review request.

(f) The licensee shall cooperate with the resident, or the resident's responsible person, if any, in gathering the documentation to complete the resident's review request.

(g) The documentation to complete the resident's review request shall include, but not be limited to, the following:

(1) The reason(s) for disagreeing that the resident has the health condition identified in the relocation order and why the resident believes he/she may legally continue to reside in a residential care facility for the elderly.

(2) A current medical assessment signed by the resident's physician.

(A) For purposes of this section, this assessment shall include the information specified in Sections 87611(a)(1)(A) through (E).

87638 RESIDENT REQUEST FOR REVIEW OF HEALTH CONDITION RELOCATION ORDER (Continued) **87638**

(B) For purposes of this section, "current" shall mean a medical assessment completed on or after the date of the relocation order.

(3) An appraisal or reappraisal of the resident as specified in Sections 87457(c)(1) and 87463, Reappraisals.

(A) The licensee shall be permitted to use the form LIC 603 (Rev. 6/87), Preplacement Appraisal Information, to document the appraisal or reappraisal.

(4) A written statement from a placement agency, if any, currently involved with the resident, addressing the relocation order.

(h) The Department shall inform the resident and/or the resident's responsible person, if any, in writing, of the interdisciplinary team's determination and the reason for that determination not more than 30 days after the resident or his/her responsible person, if any, is notified of the need to relocate.

(i) The resident's right to a review of a health condition relocation order issued by the Department shall not:

(1) Nullify a determination by the Department that the resident must be relocated in order to protect the resident's health and safety as specified in Section 87612(a).

(2) Apply to eviction under Section 87224, Eviction Procedures.

(3) Imply a right to a state hearing or any other administrative review beyond that set forth in this section.

(4) Apply if the facility license has been temporarily suspended as specified in Section 87775(c).

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Section 1569.54, Health and Safety Code.

87639 ADMINISTRATIVE REVIEW - HEALTH CONDITIONS

(a) For purposes of this article, any request for administrative review of a notice of deficiency, notice of penalty, or health condition relocation order shall be submitted by the licensee or his/her designated representative in writing to the Department and, in addition to the requirements of Section 87763, Appeal Process, shall include the following:

(1) The reason(s) the licensee disagrees with the notice or order.

(2) Information about the resident as specified in Section 87611(a).

(3) A current appraisal or reappraisal of the resident as specified in Sections 87457(c)(1) and 87463, Reappraisals.

(4) A written statement from the resident's placement agency, if any, addressing the notice or order.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2(a), (e), and (j), 1569.312 and 1569.54, Health and Safety Code.

Article 12. Dementia

87705 CARE OF PERSONS WITH DEMENTIA

(a) This section applies to the care of residents diagnosed with dementia. Mild cognitive impairment, as defined in Section 87101, Definitions, is not considered to be dementia.

(b) Licensees shall be responsible for the following:

(1) Ensuring staff receive the following training as part of the training requirements specified in Section 87208 Plan of Operation:

(A) Dementia care, including, but not limited to, knowledge about hydration, nutrition, skin care, communication, therapeutic activities, behavioral challenges, the environment, and assisting with activities of daily living;

(B) Recognizing symptoms that may create or aggravate behavioral expression, as defined in Section 87101, Definitions, including, but not limited to, dehydration, urinary tract infections, and problems with swallowing; and

(C) Recognizing the effects of medications commonly used to reduce behavioral expression.

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Health and Safety Code section 1569.625(c) specifies in pertinent part:

"The training shall include, but not be limited to, all of the following:

(7) Dementia care, including the use and misuse of antipsychotics, the interaction of drugs commonly used by the elderly, and the adverse effects of psychotropic drugs for use in controlling the behavior of persons with dementia.

(8) The special needs of persons with Alzheimer's disease and dementia, including nonpharmacologic, person-centered approaches to dementia care."

Health and Safety Code section 1569.626(a) specifies in pertinent part:

"All residential care facilities for the elderly shall meet the following training requirements, as described in Section 1569.625, for all direct care staff:

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87705 CARE OF PERSONS WITH DEMENTIA (Continued)

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(1) Twelve hours of dementia care training, six of which shall be completed before a staff member begins working independently with residents, and the remaining six hours of which shall be completed within the first four weeks of employment. All 12 hours shall be devoted to the care of persons with dementia.

(2) Eight hours of in-service training per year on the subject of serving residents with dementia."

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(2) For facilities with fewer than 16 residents, ensuring there is at least one night staff person awake and on duty if any resident with dementia is determined through a pre-admission appraisal, reappraisal, or observation, to require awake night supervision. This requirement is in addition to requirements specified in Section 87415, Night Supervision.

(c) With the prior written approval of the resident or conservator and provided such devices do not violate the resident's rights as specified in Section 87468.1 Personal Rights of Residents in All Facilities, the licensee may use egress alert and location tracking devices as needed to ensure resident safety.

(d) The licensee shall ensure that the facility has an auditory device or other staff alert feature to monitor exits on exterior doors and perimeter fence gates accessible to those residents who may be at risk for elopement, as defined in Section 87101, Definitions.

(e) Licensees that use delayed egress devices on exterior doors and perimeter fence gates shall meet the following initial and continuing requirements:

(1) The licensee shall notify the licensing agency immediately after determining the date that the device will be installed.

(2) The licensee shall ensure that the fire clearance includes approval of delayed egress devices.

(3) Facility staff shall attempt to redirect a resident at risk for elopement who may be attempting to leave the facility without violating Section 87468.1, Personal Rights of Residents in All Facilities.

(4) Residents who continue to indicate a desire to leave the facility following redirection shall be permitted to do so with staff supervision.

87705 CARE OF PERSONS WITH DEMENTIA (Continued)

(5) Facility staff shall ensure the continued safety of residents if they wander away from the facility without violating Sections 87468.1, Personal Rights of Residents in All Facilities and Section 87468.2, Additional Personal Rights of Residents in Privately Operated Facilities.

(6) For each incident of elopement, as defined in Section 87101, Definitions, the licensee shall report the incident to:

(A) The resident's representative, if applicable, immediately upon becoming aware of the incident. A written report shall also be provided to the resident's representative as specified in Section 87211, Reporting Requirements. Documentation of the report shall be added to the resident's record.

(B) The licensing agency Officer of the Day, by telephone, e-mail, fax, or hand-delivery no later than the next working day following the incident. If reported by telephone, a written report shall also be submitted to the licensing agency as specified in Section 87211, Reporting Requirements. The report shall be added to the resident's record.

(7) Delayed egress devices shall not substitute for trained staff in sufficient numbers to meet the care and supervision needs of all residents, including staff needed to escort residents who need supervision to leave the facility.

(f) Licensees that lock exterior doors or perimeter fence gates shall meet the following initial and continuing requirements:

(1) Licensees shall notify the licensing agency of their intention to lock exterior doors and/or perimeter fence gates.

(2) The licensee shall ensure that the fire clearance includes approval of locked exterior doors or perimeter fence gates and that facility staff on all shifts have access to, and know how to use, equipment needed to unlock exterior doors or perimeter fence gates.

(3) Facility staff shall attempt to redirect a resident at risk for elopement who may be attempting to leave the facility without violating Section 87468.1, Personal Rights of Residents in All Facilities.

(4) The licensee shall maintain either of the following documents in the resident's record, depending on the resident's conservatorship status:

(A) Court order showing the conservator's legal authority to place the conservatee in a facility with locked exterior doors or perimeter fence gates, for each resident who has been conserved under the Probate Code or the Lanterman-Petris-Short Act; or

(B) A written statement signed by each non-conserved resident that states the resident understands that the facility has locked exterior doors or perimeter fence gates and that the resident voluntarily consents to such upon admission.

87705 CARE OF PERSONS WITH DEMENTIA (Continued)

(5) Interior and exterior space shall be available on the facility premises to permit residents with dementia to wander freely and safely.

(6) Locked exterior doors or perimeter fences with locked gates shall not substitute for trained staff in sufficient numbers to meet the care and supervision needs of all residents.

NOTE: Authority cited: Sections 1569.30 and 1569.698, Health and Safety Code. Reference: Sections 1569.2, 1569.31, 1569.312, 1569.698, 1569.699 and 13131, Health and Safety Code.

87706 ADVERTISING DEMENTIA SPECIAL CARE, PROGRAMMING, AND ENVIRONMENTS

(a) In addition to the requirements in Section 87705, Care of Persons with Dementia, licensees who advertise, promote, or otherwise hold themselves out as providing special care, programming, and/or environments for residents with dementia or related disorders shall meet the following requirements:

(1) In addition to the requirements specified in Sections 87208, Plan of Operation, the licensee shall include in the plan of operation a brief narrative description addressing the following additional information:

(A) Philosophy, including, but not limited to, program goals/objectives in relation to meeting the needs of residents with dementia.

(B) Admission, including the following items that must be addressed when admitting a resident who requires dementia special care:

1. Specification of the designated areas in the facility where dementia special care is provided, which may be the entire facility or only parts of it.

2. Services available specific to residents with dementia.

3. Procedures in place to ensure that the plan of operation is available for review upon request.

(C) Staff training describing the required training for direct care staff who provide dementia special care. At a minimum, the description shall include information on training to be provided, as specified in Health and Safety Code sections 1569.625 and 1569.626.

(D) Activity program for residents with dementia.

1. Types of activities include, but are not limited to, activities that support cognitive/mental stimulation, physical activities and reminiscence activities, as specified in Section 87219, Planned Activities.

(E) Physical environment, including environmental factors that ensure a safe, secure, familiar and consistent environment for residents with dementia.

1. Environmental factors that may be considered include: bedroom decor; architectural and safety features (e. g., wide hallways, handrails, delayed egress, secured perimeters); lighting; colors and visual contrasts; types of furniture; signs; noise factors; memory boxes; nourishment and hydration stations; and functional outdoor space and exercise pathways.

87706 ADVERTISING DEMENTIA SPECIAL CARE, PROGRAMMING, AND ENVIRONMENTS (Continued)

(F) Changes in condition, including procedures to be followed when a resident's condition changes, including, but not limited to, an explanation of:

1. When a reappraisal, as specified in Section 87463, Reappraisals, is required;

2. At what point, if any, a licensed medical professional is involved in developing a reappraisal;

3. Special techniques/programs (if any) used for managing specific types of behavior; and

4. The conditions that would require a resident to be relocated.

(G) Success indicators, including procedures to:

1. Ensure an ongoing review of facility programs pertaining to care of residents with dementia;

2. Make necessary adjustments to better meet residents' needs; and

3. Assess the program's overall effectiveness/success.

a. Examples of areas that may be reviewed include incident reports, staffing levels, input from others, and resident participation in program activities.

(2) The licensee shall maintain copies of all facility advertisements and marketing/promotional material that indicate the licensee provides special care, programming, and/or environments for residents with dementia, and shall maintain the information for a minimum of three years.

(3) The licensee shall provide a description of the program and services, as specified in Health and Safety Code section 1569.628.

(A) This material shall be available to the public upon request.

(B) This material shall also be available to the licensing agency to inspect, audit, copy, and remove (if necessary for copying) upon demand during normal business hours as specified in Section 87755, Inspection Authority of the Licensing Agency.

87706 ADVERTISING DEMENTIA SPECIAL CARE, PROGRAMMING, AND ENVIRONMENTS (Continued)

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Health and Safety Code section 1569.628 provides in part:

"A licensee of a residential care facility for the elderly that advertises or promotes special care, programming, or environments for persons with a health-related condition, except as specified in Section 1569.72, shall provide to each prospective resident an accurate narrative description of these programs and services. The description shall be provided in writing prior to admission."

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(b) The licensee who discontinues advertising, promoting, or otherwise holding themselves out as providing special care, programming, and/or environments for residents with dementia shall:

(1) Provide written notification to the licensing agency, residents and, as applicable, the residents' representative, as defined in Section 87101, Definitions, at least 30 calendar days prior to discontinuing advertising or promoting dementia special care, programming, and/or environments.

(A) The notification shall specify the date that the licensee will cease advertising or promoting dementia special care, programming, and/or environments; and, therefore, will no longer be required to meet the requirements specified in Section 87706.

(B) The licensee shall maintain a copy of the written notification in each resident's records.

(2) On the date specified in the notification, cease all advertisements, publications, and/or announcements that pertain to dementia special care including, but not limited to, those in magazines, newspapers, consumer reports, professional or service directories, Internet, radio and/or television commercials.

(A) Long-term advertisements shall be removed at the next renewal date.

(3) On the date specified in the notification, remove all written references that indicate that the licensee provides dementia special care, programming, and/or environments from all promotional material, advertisements, and/or printed material, including admission agreements and the plan of operation.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.15, 1569.22, 1569.31, 1569.312, 1569.33, 1569.355, 1569.62, 1569.625, 1569.626, 1569.627 and 1569.628, Health and Safety Code.

87707 TRAINING REQUIREMENTS IF ADVERTISING DEMENTIA SPECIAL CARE, PROGRAMMING, AND ENVIRONMENTS

Repealed by Manual Letter No. CCL-25-01, effective 1/1/25.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.31, 1569.33, 1569.62, 1569.625 and 1569.626, Health and Safety Code.

87725.2 ADVERTISING DEMENTIA SPECIAL CARE, PROGRAMMING, AND/OR ENVIRONMENTS AS OF JULY 3, 2004

Repealed by Manual Letter No. CCL-08-01, effective 3/5/08.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.31, 1569.33, 1569.62, 1569.625, 1569.626 and 1569.627, Health and Safety Code.

Article 13. Enforcement

87755 INSPECTION AUTHORITY OF THE LICENSING AGENCY

(a) Any duly authorized officer, employee or agent of the licensing agency may, upon proper identification and upon stating the purpose of his/her visit, enter and inspect the entire premises of any place providing services at any time, with or without advance notice.

(b) The licensee shall ensure that provisions are made for private interviews with any resident or any staff member; and for the examination of all records relating to the operation of the facility.

(c) The licensing agency shall have the authority to inspect, audit, and copy resident or facility records upon demand during normal business hours. Records may be removed if necessary for copying. Removal of records shall be subject to the requirements in Sections 87412(f), 87506(d), and 87508(b).

(d) The licensing agency shall have the inspection authority specified in Health and Safety Code Sections 1569.24, 1569.32, 1569.33 and 1569.35.

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Health and Safety Code section 1569.24 provides in part:

Within 90 days ...after a facility accepts its first resident for placement following its initial licensure, the department shall inspect the facility to evaluate compliance with rules and regulations and to assess the facility's continuing ability to meet regulatory requirements. The licensee shall notify the department, within five business days after accepting its first resident for placement, that the facility has commenced operating.

Health and Safety Code section 1569.32 provides:

"Any duly authorized officer, employee, or agent of the department may, upon presentation of proper identification, enter and inspect any place providing personal care, supervision, and services at any time, with or without advance notice, to secure compliance with, or to prevent a violation of, this chapter."

Health and Safety Code section 1569.33 provides in part:

"(a) Every licensed residential care facility for the elderly shall be subject to unannounced visits by the department. The department shall visit these facilities as often as necessary to ensure the quality of care provided.

(b) The department shall conduct an annual unannounced visit of a facility under any of the following circumstances:

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87755 INSPECTION AUTHORITY OF THE LICENSING AGENCY 87755
(Continued)

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(1) When a license is on probation.

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

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

(4) When a facility requires an annual visit as a condition of receiving federal financial participation.

(5) In order to verify that a person who has been ordered out of the facility for the elderly by the department is no longer at the facility.

(c) The department shall conduct annual unannounced visits to no less than 20 percent of facilities not subject to an evaluation under subdivision (b)...

...

(d) Under no circumstance shall the department visit a residential care facility for the elderly less often than once every five years."

Health and Safety Code section 1569.35(c) provides in part:

"(c) Upon receipt of a complaint, ...the department shall make a preliminary review and...an onsite inspection within 10 days after receiving the complaint except where the visit would adversely affect the licensing investigation or the investigation of other agencies, including, but not limited to, law enforcement agencies..."

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NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.24, 1569.33, 1569.34 and 1569.35, Health and Safety Code.

87756 EVALUATION VISIT 87756

(a) Every residential care facility for the elderly shall be evaluated as specified in Health and Safety Code section 1569.33.

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Health and Safety Code section 1569.33 provides in part:

"(a) Every licensed residential care facility for the elderly shall be subject to unannounced visits by the department. The department shall visit these facilities as often as necessary to ensure the quality of care provided.

(b) The department shall conduct an annual unannounced visit of a facility under any of the following circumstances:

(1) When a license is on probation.

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

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

(4) When a facility requires an annual visit as a condition of receiving federal financial participation.

(5) In order to verify that a person who has been ordered out of the facility for the elderly by the department is no longer at the facility.

(c) The department shall conduct annual unannounced visits to no less than 20 percent of facilities not subject to an evaluation under subdivision (b)...

(d) Under no circumstance shall the department visit a residential care facility for the elderly less often than once every five years."

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(b) Any number of other visits may be made to a facility for various purposes as determined to be necessary by the licensing agency to determine compliance with applicable laws and regulations.

(c) When a routine visit, evaluation or investigation of a complaint is conducted and the evaluator determines that a deficiency exists, the evaluator shall issue a notice of deficiency, unless the deficiency is minor and corrected during the visit.

87756 EVALUATION VISIT (Continued) **87756**

(d) Prior to completion of a visit, evaluation or investigation, the evaluator shall meet with the licensee, administrator, operator, or other person in charge of the facility to discuss any deficiencies noted. At the meeting, a plan for correcting each deficiency shall be developed and included in the notice of deficiency. Prior to completion of the visit, the evaluator shall serve the notice of deficiency on the licensee by either:

(1) Personal delivery to the licensee, or

(2) If the licensee is not at the facility site, leaving the notice with the person in charge of the facility and also mailing a copy to the licensee.

(3) If the licensee or the person in charge of the facility refuses to accept the notice, a notation of the refusal shall be written on the notice and a copy left at the facility.

(A) Under such circumstances, a copy of the notice shall also be mailed to the licensee.

(e) The notice of deficiency shall be in writing and shall include:

(1) A reference to the statute or regulation upon which the deficiency is premised.

(2) A factual description of the nature of the deficiency fully stating the manner in which the licensee failed to comply with specified statute or regulation, and the particular place or area of the facility in which it occurred.

(3) The plan developed, as specified in (d) above, for correcting each deficiency.

(4) A date by which each deficiency shall be corrected.

(A) In prescribing the date for correcting a deficiency, the evaluator shall consider the following factors:

1. The seriousness of the deficiency.

2. The number of residents affected.

3. The availability of equipment or personnel necessary to correct the deficiency.

4. The estimated time necessary for delivery and any installation of necessary equipment.

87756 EVALUATION VISIT (Continued) **87756**

(B) The evaluator shall require correction of the deficiency within 24 hours and shall specify on the notice the date by which the correction must be made whenever penalties are assessed pursuant to Sections 87761(c), (d) and (e).

(C) The date for correcting a deficiency shall not be more than 30 calendar days following service of the notice of deficiency, unless the evaluator determines that the deficiency cannot be completely corrected in 30 calendar days. If the date for correcting the deficiency is more than 30 days following service of the notice of deficiency the notice shall specify action which must be taken within 30 calendar days to begin correction.

(5) The amount of penalty which shall be assessed and the date the penalty shall begin if the deficiency is not corrected by the specific due date.

(6) The address and telephone number of the licensing office responsible for reviewing notices of deficiencies for the area in which the facility is located.

NOTE: Authority cited: Sections 1569.30 and 1569.49, Health and Safety Code. Reference: Sections 1569.11, 1569.24, 1569.31, 1569.315, 1569.32, 1569.33, 1569.335, 1569.34, 1569.35 and 1569.485, Health and Safety Code.

87757 LICENSE COMPLAINTS **87757**

(a) Each licensee shall have the right, without prejudice, to bring to the attention of the Department or the licensing agency, or both, any alleged misapplication or capricious enforcement of regulations by any licensing representative, or any substantial differences in opinion as may occur between the licensee and any licensing representative concerning the proper application of the Residential Care Facilities for the Elderly Act or of these regulations.

(b) Where applicable, a review of the complaint shall be conducted in accordance with Section 87763, Appeal Process.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Section 1569.335, Health and Safety Code.

87758 SERIOUS DEFICIENCIES - EXAMPLES **87758**

(a) Regulations including, but not limited to, the following may result in serious deficiencies when a failure to comply presents an immediate or substantial threat to the physical health, mental health, or safety of the residents:

(1) Section 87355 relating to criminal record clearance.

87758 SERIOUS DEFICIENCIES - EXAMPLES (Continued) **87758**

(2) Section 87202 relating to fire clearance.

(3) Section 87204 relating to limitations on the number or types of facility residents.

(4) Section 87311 relating to telephone service.

(5) Sections 87455(c)(1) or (2), or (4), or Section 87615 relating to persons with communicable diseases, persons requiring inpatient health care, persons who are bedridden, or persons with a prohibited health condition.

(6) Section 87204(b) relating to nonambulatory residents.

(7) Section 87468(a)(3) relating to resident rights.

(8) Section 87608(a) relating to restraints.

(9) Sections 87307(d)(3) through (7) or (e) relating to safety of resident accommodations.

(10) Section 87555(b)(24), (25), or (27) relating to storage, preparation and service of food.

(11) Section 87465(b)(3) relating to medical and dental care of residents.

(12) Section 87465(c) relating to storing and dispensing medications.

(13) Section 87303(e)(2) relating to hot water temperature.

(14) Section 87303(e)(4), (5), or (6) relating to toilet, handwashing and bathing accommodations.

(15) Section 87303(f)(1) or (2) relating to storage and disposal of solid wastes, syringes and needles.

(16) Section 87415 relating to night supervision.

(17) Section 87638 relating to licensees forwarding to the Department a resident's request for review by an interdisciplinary team of a health condition relocation order.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.2, 1569.31, 1569.312, 1569.315, 1569.335, 1569.485, 1569.49 and 1569.54, Health and Safety Code.

87759 FOLLOW-UP VISITS TO DETERMINE COMPLIANCE 87759

(a) A follow-up visit shall be conducted within 10 working days following the latest date of correction specified in the notice of deficiency, unless the licensee has demonstrated that the deficiency was corrected as required in the notice of deficiency. No penalty shall be assessed unless a follow-up visit is conducted.

(b) If a follow-up visit indicates that a deficiency was not corrected on or before the date specified in the notice of deficiency, the evaluator shall issue a notice of penalty.

(c) A notice of penalty shall be in writing and shall include:

(1) The amount of penalty assessed, and the date the payment is due.

(2) The name and address of the agency responsible for collection of the penalty.

(d) When an immediate penalty has been assessed pursuant to Sections 87761(c), (d), (e) and (f) and correction is made when the evaluator is present, a follow-up visit is not required.

NOTE: Authority cited: Sections 1569.30 and 1569.49, Health and Safety Code. Reference: Sections 1569.33, 1569.335, 1569.35, 1569.485 and 1569.49, Health and Safety Code.

87761 PENALTIES 87761

(a) A penalty of $50 per day, per cited violation, shall be assessed for all serious deficiencies that are not corrected by the date specified in the notice of deficiency, up to a maximum of $150 per day.

(b) Notwithstanding Section 87761(a) above, an immediate penalty of $100 per cited violation per day for a maximum of five (5) days shall be assessed if any individual required to be fingerprinted under Health and Safety Code Section 1569.17(b) has not obtained a California clearance or a criminal record exemption, requested a transfer of a criminal record clearance or requested and be approved for a transfer of an exemption as specified in Section 87355(e) prior to working, residing or volunteering in the facility.

(1) Subsequent violations within a twelve (12) month period will result in a civil penalty of one hundred dollars ($100) per violation per day for a maximum of thirty (30) days.

(2) The Department may assess civil penalties for continued violations as permitted by Health and Safety Code Section 1569.49.

(3) Progressive civil penalties specified in Sections 87761(d) and (e) shall not apply.

87761 PENALTIES (Continued) **87761**

(c) Notwithstanding Section 87761(a) above, an immediate penalty of $150 per day shall be assessed for any of the following:

(1) Sickness, injury of death of a client has occurred as a result of the deficiency.

(d) When a facility is cited for a deficiency and violates the same regulation subsection within a 12-month period, the facility shall be cited and an immediate penalty of $150 per cited violation shall be assessed for one day only. Thereafter a penalty of $50 per day, per cited violation, shall be assessed until the deficiency is corrected.

(e) When a facility that was cited for a deficiency subject to the immediate penalty assessment specified in Section 87761(d) above violates the same regulation subsection within a 12-month period of the last violation the facility shall be cited and an immediate penalty of $1,000 per cited violation shall be assessed for one day only. Thereafter, a penalty of $100 per day, per cited violation, shall be assessed until the deficiency is corrected.

(1) For purposes of Sections 87761(d) and (e) above, a regulation subsection is the regulation denoted by a lower-case letter after the main regulation number.

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An example of the same regulation subsection are Sections 87155(a)(2) and 87155(a)(5). Sections 87155(a) and 87155(b) are not the same regulation subsection.

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(f) If any deficiency is not corrected by the date specified in the notice of deficiency, a penalty shall be assessed for each day following that date until compliance has been demonstrated.

(1) Immediate penalty assessments as specified in (c), (d) and (e) above shall begin on the day the deficiency is cited.

(g) If a licensee or his/her representative reports to the licensing agency that a deficiency has been corrected, the penalty shall cease as of the day the licensing agency receives notification that the correction was made.

(1) If the deficiency has not been corrected, civil penalties shall continue to accrue.

(2) If it can be verified that the correction was made prior to the date of notification, the penalty shall cease as of that earlier date.

87761 PENALTIES (Continued) **87761**

(h) If necessary, a site visit shall be made immediately or within five working days to confirm that the deficiency has been corrected.

(i) If an immediate civil penalty is assessed and the deficiency is corrected on the same day, the penalty shall still be assessed for that day.

(j) Unless otherwise ordered by the Department all penalties are due and payable upon receipt of notice for payment, and shall be paid only by check or money order made payable to the agency indicated in the notice.

(k) The licensing agency shall have the authority to file a claim in a court of competent jurisdiction or to take other appropriate action for failure to pay penalties as specified in (j) above.

NOTE: Authority cited: Sections 1569.30 and 1569.49(a), Health and Safety Code. Reference: Sections 1569.17, 1569.33, 1569.335, 1569.35, 1569.485 and 1569.49, Health and Safety Code.

87763 APPEAL PROCESS **87763**

(a) A licensee or his/her representative may request in writing a review of a notice of deficiency, notice of penalty and/or health condition relocation order within 10 working days of receipt of the notice or order. This review shall be conducted by a higher level staff person other than the evaluator who issued the notice of deficiency, notice of penalty, and/or health condition relocation order.

(1) Additional review requirements pertaining to Incidental Medical Services are specified in Section 87639, Administrative Review - Health Conditions.

(b) If the reviewer determines that a notice of deficiency or notice of penalty was not issued in accordance with applicable statutes and regulations of the Department, he/she shall amend or dismiss the notice. In addition, the reviewer may extend the date specified for correction of a deficiency if warranted by the facts or circumstances presented to support a request for extension.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.33, 1569.335, 1569.35, 1569.485, 1569.49 and 1569.54, Health and Safety Code.

87764 SUSPENSION OF NEW ADMISSIONS 87764

(a) The Department may order a suspension of new admissions for a facility, as specified in Health and Safety Code Section 1569.545, in either of the following circumstances:

(1) When a facility is cited for a deficiency that presents a direct and immediate risk to the health, safety, or personal rights of a resident or residents of the facility and the licensee fails to correct the deficiency immediately.

(2) When a facility has failed to pay a civil penalty (or penalties) assessed by the Department after the facility has exhausted the administrative review process specified in Health and Safety Code Section 1569.49.

(b) The Department shall serve written notice to the licensee of the order of suspension of new admissions according to the following:

(1) Personal delivery to the licensee at the facility site.

(2) If the licensee is not at the facility site, the notice shall be left with a person designated in the facility file to accept licensing reports. Under such circumstances, a copy of the notice shall also be mailed to the licensee.

(3) If the licensee or designated person refuses to accept the notice, a notation of the refusal shall be written on the notice and the notice shall be left at the facility. Under such circumstances, a copy of the notice, which includes a notation of the refusal, shall also be mailed to the licensee.

(c) The notice of the order of suspension of new admissions shall include the following:

(1) Citation of statutes and regulations alleged to be violated.

(2) The date the order is effective.

(3) Terms of the order, including plans of correction for any deficiency cited.

(4) (A) In the case of a suspension pursuant to subsection (a)(1), a factual description of the nature of the deficiency fully stating the manner in which the deficiency presents a direct and immediate risk to the health, safety, or personal rights of a resident or residents of the facility.

(B) In the case of a suspension pursuant to subsection (a)(2), a factual description of the failure to pay the assessed fine and exhaustion of the administrative review process specified in Health and Safety Code Section 1569.49.

(5) Signature of the Program Administrator.

(6) Full text of the appeal process specified in Section 87765.

87764 SUSPENSION OF NEW ADMISSIONS (Continued) **87764**

(d) Upon service of the notice as described in subsection (b), the licensed facility shall post a copy of the notice in a conspicuous location in the facility.

(e) The order of the Department imposing the suspension of new admissions is effective immediately upon notice. The facility shall not admit new residents while the suspension is in effect.

(1) For purposes of this section, any admission agreement signed prior to the effective date of the order of suspension of new admissions is not considered a new admission.

(f) The suspension of new admissions for a facility shall remain in effect until the Department determines:

(1) In the case of a suspension pursuant to subsection (a)(1), the facility has demonstrated to the Department the correction of all deficiencies identified in the notice. If the facility does not demonstrate to the Department the correction of all deficiencies identified in the notice, the Department shall conduct a follow–up visit to determine compliance within ten (10) business days following the latest date of correction specified in the notice.

(2) In the case of a suspension pursuant to subsection (a)(2), the facility has paid the applicable civil penalty (or penalties) assessed by the Department. In the case where formal payment arrangements have been made with the Department, the suspension may be lifted during the period of payment compliance but otherwise reinstated for failure to comply with payment arrangements.

(g) Once the Department has determined that the violation (or violations) has been corrected or fine (or fines) has been paid, as specified in subsection (f), the Department shall notify the licensee immediately, but no later than two (2) business days following the determination, of the order to remove the suspension of new admissions.

(h) The Department may impose a Temporary Suspension Order, pursuant to Health and Safety Code Section 1569.50, if the licensee violates the order of suspension of new admissions by admitting any new resident while the order is in effect.

NOTE: Authority Cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.50 and 1569.545, Health and Safety Code.

87765 APPEAL OF SUSPENSION OF NEW ADMISSIONS 87765

(a) A licensee or their representative may appeal the decision of the Department to suspend new admissions by requesting, in writing, a review of the order of suspension of new admissions within ten (10) business days of receipt of the order. This review shall be conducted by the Deputy Director of the Community Care Licensing Division or their designee.

(b) The licensee shall include with the request for appeal the basis upon which the appeal is requested and all available supporting documentation.

(c) Once the Department orders a suspension of new admissions for a facility, the order shall not be stayed and shall remain in effect throughout the appeal process.

(d) The Deputy Director or their designee shall conduct the review and render a final decision within three (3) business days of receipt of the written appeal. If the Deputy Director or their designee determines that the order of suspension of new admissions was not issued in accordance with applicable statutes and regulations of the Department, or that other mitigating circumstances exist, they may amend or dismiss the order.

(e) The Department shall notify the licensee immediately, but no later than two (2) business days following the close of the review period, of the final determination of the appeal.

NOTE: Authority Cited: Section 1569.30, Health and Safety Code. Reference: Section 1569.545, Health and Safety Code.

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87766 DENIAL OR REVOCATION OF LICENSE FOR FAILURE TO PAY CIVIL PENALTIES 87766

(a) The licensee shall be responsible for paying civil penalties.

(1) Unless otherwise provided, the transfer, surrender, forfeiture or revocation of a license shall not affect the licensee's responsibility for paying any civil penalties accrued while the license was in effect.

(b) The Department shall have the authority to deny or revoke any license for failure to pay civil penalty assessments.

(1) The Department shall have the authority to approve payment arrangements acceptable to the Department.

(2) The Department shall have the authority to approve the form of payment.

(3) The licensee's failure to pay civil penalty assessments pursuant to a payment plan approved by the Department may result in the denial or revocation of any license, and/or any other appropriate action.

(c) Any denial or revocation of the license for failure to pay civil penalties may be appealed as provided by Health and Safety Code Section 1569.51.

NOTE: Authority cited: Sections 1569.30 and 1569.49, Health and Safety Code. Reference: Sections 1569.17, 1569.33, 1569.335, 1569.35, 1569.485, 1569.49 and 1569.51, Health and Safety Code.

87768 UNLICENSED FACILITY PENALTIES 87768

(a) A penalty of $100 per day per resident shall be assessed for the operation of an unlicensed facility under either of the following conditions:

(1) The operator has not submitted a completed application for licensure within 15 calendar days of issuance of the Notice of Operation in Violation of Law pursuant to Section 87106.

(A) For purposes of this section, an application shall be deemed completed if it includes the information required in Section 87155, Application for License.

(B) The completed application shall be deemed to be submitted when received by the licensing agency.

87768 UNLICENSED FACILITY PENALTIES (Continued) **87768**

(2) Unlicensed operation continued after denial of the initial application.

(A) Notwithstanding any appeal action, facility operation must cease within 10 calendar days of the mailing of the notice of denial or upon receipt of the denial notice by the operator, whichever occurs first.

(b) A $200 per day per resident penalty shall be assessed for the continued operation of an unlicensed facility as follows:

(1) On the 16th calendar day after the operator has been issued the Notice of Operation in Violation of Law, and has not submitted a completed application as required.

(A) The $200 per day per resident penalty shall continue until the operator ceases operation, or submits a completed application pursuant to Sections 87768(a)(1)(A) and (B).

(2) Within 10 calendar days of the mailing of the notice of denial or upon receipt of the denial notice by the operator, whichever occurs first.

(A) The $200 per day per resident penalty shall continue until the operator ceases operation.

(c) If the unlicensed operator or his/her representative reports to the licensing agency that unlicensed operation, as defined in Section 1569.44 of the Health and Safety Code, has ceased, the penalty shall cease as of the day the licensing agency receives the notification.

(1) A site visit shall be made immediately or within five working days to verify that the unlicensed facility operation has ceased.

(2) Notwithstanding (c) above, if the unlicensed facility operation has not ceased, penalties shall continue to accrue without interruption from the date of initial penalty assessment.

(d) All penalties shall be due and payable upon receipt of the Notice of Payment from the licensing agency, and shall be paid by check or money order made payable to the agency indicated in the notice.

(e) The licensing agency shall have the authority to file a claim in a court of competent jurisdiction or to take other appropriate action for failure to pay penalties as specified in (d) above.

87768 UNLICENSED FACILITY PENALTIES (Continued) **87768**

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(f) Payment of civil penalties or application for licensure in response to a citation under this section do not permit the operation of a residential facility for the elderly without a license.

Health and Safety Code section 1569.10 provides:

"No person, firm, partnership, association, or corporation within the state and no state or local public agency shall operate, establish, manage, conduct, or maintain a residential facility for the elderly in this state, without a current valid license or current valid special permit therefor, as provided in this Chapter."

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NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.3, 1569.10, 1569.11, 1569.14, 1569.145, 1569.15, 1569.19, 1569.20, 1569.21, 1569.22, 1569.312, 1569.35, 1569.44, 1569.45, 1569.485 and 1569.495, Health and Safety Code.

87769 UNLICENSED FACILITY ADMINISTRATIVE APPEAL 87769

(a) An unlicensed operator or his/her representative shall have the right to appeal the penalty assessment within 10 working days after service of the penalty assessment.

(1) If the unlicensed facility operation has not ceased, the $200 per day penalty shall continue to accrue during the appeal process.

(b) The appeal review shall be conducted by a higher level staff person than the evaluator who issued the penalty.

(c) If the reviewer of the appeal determines that the penalty assessment was not issued in accordance with applicable statutes and regulations of the Department, he/she shall have the authority to amend or dismiss the penalty assessment.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.10, 1569.44, 1569.45 and 1569.485, Health and Safety Code.

Article 14. Administrative Actions - General

87775 REVOCATION OR SUSPENSION OF LICENSE 87775

(a) Pursuant to the provisions of Chapter 5, (commencing with Section 11500), Part 1, Division 3, Title 2, of the Government Code, the Department may suspend or revoke any license on any of the grounds stipulated in Health and Safety Code Sections 1569.1515(c), 1569.50 and 1569.686(c).

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Health and Safety Code section 1569.1515(c) provides:

"(c) The department may revoke the license of any corporate licensee that has a member of the board of directors, the executive director, or an officer who is not eligible for licensure pursuant to Sections 1569.16 and 1569.59."

Health and Safety Code section 1569.50 provides in part:

"(a) The department may deny an application for a license or may suspend or revoke a license issued under this chapter upon any of the following grounds and in the manner provided in this chapter:

(1) Violation by the licensee of this chapter, or of the rules and regulations adopted under this chapter.

(2) Aiding, abetting or permitting the violation of this chapter or of the rules and regulations adopted under this chapter.

(3) Conduct that is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility or the people of the State of California.

(4) The conviction of a licensee, or the other person mentioned in Section 1569.17 at any time before or during licensure, of a crime as defined in Section 1569.17.

(5) Engaging in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services for the care of clients."

Health and Safety Code section 1569.686(c) provides in pertinent part:

"(c) . . . If a resident is relocated without the notification required by this section, and suffers transfer trauma or other harm to his or her health or safety, the department may also suspend or revoke the licensee's license and issue a permanent revocation of the licensee's ability to operate or act as an administrator of a facility anywhere in the state. Suspension or revocation proceedings pursuant to this subdivision shall be conducted in compliance with Section 1569.51."

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87775 REVOCATION OR SUSPENSION OF LICENSE (Continued) **87775**

(b) When the Director intends to seek revocation of a license, the Director shall notify the licensee of the proposed action and at the same time shall serve such person with an accusation. The licensee has a right to a hearing prior to the revocation or suspension of a license, except as provided in (c) below.

(c) The Director may temporarily suspend any license prior to any hearing when in the Director's opinion such action is necessary to protect the residents in the facility from any physical or mental abuse or any other substantial threat to health and safety. When the Director intends to temporarily suspend a license prior to a hearing, the Director shall notify the licensee of the temporary suspension and the effective date thereof and at the same time serve the licensee with an accusation.

(d) For either a revocation action or a revocation and temporary suspension action, the Director shall within fifteen (15) days of receipt of notice of defense ask the Office of Administrative Hearings to set the matter for hearing.

(e) For a revocation and temporary suspension action, the Director shall ask the Office of Administrative Hearings to hold the hearing as soon as possible but not later than thirty (30) days after receipt of the Notice of Defense.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1515, 1569.50, 1569.51, 1569.52, 1569.53 and 1569.686, Health and Safety Code.

87777 EXCLUSIONS **87777**

(a) The Department may prohibit an individual from serving as a board of directors, executive director, or officer; being employed or allowed in a licensed facility as specified in Health and Safety Code Sections 1569.58 and 1569.59.

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Health and Safety Code section 1569.58 reads in part:

"(a) The department may prohibit any person from being a member of the board of directors, an executive director, a board member, or an officer of a licensee, or a licensee from employing, or continuing the employment of, or allowing in a licensed facility, or allowing contact with clients of a licensed facility by, any employee, prospective employee, or person who is not a client who has:

(1) Violated, or aided or permitted the violation by any other person of, any provisions of this chapter or of any rules or regulations promulgated under this chapter.

(2) Engaged in conduct which is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility, or the people of the State of California.

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87777 EXCLUSIONS (Continued) **87777**

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(3) Been denied an exemption to work or to be present in a facility, when that person has been convicted of a crime as defined in Section 1569.17.

(4) Engaged in any other conduct which would constitute a basis for disciplining a licensee.

(5) Engaging in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services for the care of clients.

(b) The excluded person, the facility, and the licensee shall be given written notice of the basis of the department's action and of the excluded person's right to an appeal. The notice shall be served either by personal service or by registered mail. Within 15 days after the department serves the notice, the excluded person may file with the department a written appeal of the exclusion order. If the excluded person fails to file a written appeal within the prescribed time, the department's action shall be final.

(c)(1) The department may require the immediate removal of a member of the board of directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility pending a final decision of the matter, when, in the opinion of the director, the action is necessary to protect residents or clients from physical or mental abuse, abandonment, or any other substantial threat to their health or safety.

(2) If the department requires the immediate removal of a member of the board of directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility the department shall serve an order of immediate exclusion upon the excluded person that shall notify the excluded person of the basis of the department's action and of the excluded person's right to a hearing.

(3) Within 15 days after the department serves an order of immediate exclusion, the excluded person may file a written appeal of the exclusion with the department. The department's action shall be final if the excluded person does not appeal the exclusion within the prescribed time. The department shall do the following upon receipt of a written appeal:

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87777 EXCLUSIONS (Continued) **87777**

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(A) Within 30 days of receipt of the appeal, serve an accusation upon the excluded person.

(B) Within 60 days of receipt of a notice of defense by the excluded person pursuant to Section 11506 of the Government Code, conduct a hearing on the accusation.

(4) An order of immediate exclusion of the excluded person from the facility shall remain in effect until the hearing is completed and the director has made a final determination on the merits. However, the order of immediate exclusion shall be deemed vacated if the director fails to make a final determination on the merits within 60 days after the original hearing has been completed.

(d) An excluded person who files a written appeal of the exclusion order with the department pursuant to this section shall, as part of the written request, provide his or her current mailing address. The excluded person shall subsequently notify the department in writing of any change in mailing address, until the hearing process has been completed or terminated.

(e) Hearings held pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code. The standard of proof shall be the preponderance of the evidence and the burden of proof shall be on the department.

(f) The department may institute or continue a disciplinary proceeding against a member of the board of directors, an executive director, or an officer of a licensee or an employee, prospective employee, or person who is not a client upon any ground provided by this section. The Department may enter an order prohibiting any person from being a member of the board of directors, an executive director, or an officer of a licensee, or prohibiting the excluded person's employment or presence in the facility, or otherwise take disciplinary action against the excluded person, notwithstanding any resignation, withdrawal of employment application, or change of duties by the excluded person, or any discharge, failure to hire, or reassignment of the excluded person by the licensee or that the excluded person no longer has contact with clients at the facility.

(g) A licensee's failure to comply with the department's exclusion order after being notified of the order shall be grounds for disciplining the licensee pursuant to Section 1569.50.

(h)(1)(A) In cases where the excluded person appealed the exclusion order and there is a decision and order of the department upholding the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or from being a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

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87777 EXCLUSIONS (Continued) **87777**

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(B) The excluded individual may petition for reinstatement one year after the effective date of the decision and order of the department upholding the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the decision and order."

(2)(A) In cases where the department informed the excluded person of his or her right to appeal the exclusion order and the excluded person did not appeal the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

(B) The excluded individual may petition for reinstatement after one year has elapsed from the date of the notification of the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the exclusion order."

Health and Safety Code section 1569.59 reads:

"(a)(1) If the department determines that a person was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.2 (commencing with Section 1569), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) and the prior license was revoked within the preceding two years, the department shall exclude the person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to the chapter.

(2) If the department determines that a person previously was issued a certificate of approval by a foster family agency which was revoked by the department pursuant to subdivision (b) of Section 1534 within the preceding two years, the department shall exclude the person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter.

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87777 EXCLUSIONS (Continued) **87777**

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(b) If the department determines that the person had previously applied for a license under any of the chapters listed in paragraph (1) of subdivision (a) and the application was denied within the last year, the department shall exclude the person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter and as follows:

(1) In cases where the applicant petitioned for a hearing, the department shall exclude the person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall exclude the person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(c) If the department determines that the person had previously applied for a certificate of approval with a foster family agency and the department ordered the foster family agency to deny the application pursuant to subdivision (b) of Section 1534, the department shall exclude the person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter and as follows:

(1) In cases where the applicant petitioned for a hearing, the department shall exclude the person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall exclude the person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(d) Exclusion or removal of an individual pursuant to this section shall not be considered an order of exclusion for purposes of Section 1569.58 or any other law.

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87777 EXCLUSIONS (Continued) **87777**

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(e) The department may determine not to exclude a person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter if it has been determined that the reasons for the denial of the application or revocation of the facility license or certificate of approval were due to circumstances or conditions that either have been corrected or are no longer in existence."

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NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.58 and 1569.59, Health and Safety Code.

Article 15. Administrator Certification Training Programs - Vendor Information

87785 INITIAL CERTIFICATION TRAINING PROGRAM VENDOR AND PROGRAM APPROVAL REQUIREMENTS 87785

(a) Initial Certification Training Programs shall be approved by the Department prior to being offered to applicants for licensure or administrator certification.

(b) Any vendor applicant seeking approval of an Initial Certification Training Program shall submit a written request to the Department's Administrator Certification Section using the Request for Course Approval form LIC 9140 and the Vendor Application/Renewal form LIC 9141. The request shall be signed by an authorized representative of the vendor applicant certifying that the information submitted is true and correct, and contain the following:

(1) Name, type of entity, physical address, e-mail address and phone number of the vendor applicant requesting approval and the name of the person in charge of the program.

(2) Subject title, classroom hours, proposed dates, duration, time, location and proposed instructor of each component.

(3) Written description and educational objectives for each subject matter component, hourly topical outline, teaching method, and description of course and participant evaluation methods.

(A) The use of videos, videotapes, video clips, or other visual recordings are permitted as media teaching aids in an Initial Certification Training Program but shall not, in themselves, constitute the Program or any subject matter component thereof.

(4) Qualifications of each proposed instructor as specified in Section 87785(i)(7).

(5) Locality(ies) areas in which the Training Program will be offered.

(6) A list and the locations of records to be maintained, pursuant to Section 87785(i)(5).

(7) A statement of whether or not the vendor applicant and each proposed instructor held or currently holds a license, certification or other approval as a professional in a specified field and the certificate or license number(s).

(8) A statement of whether or not the vendor applicant and each proposed instructor held or currently holds a State-issued care facility license or was or is employed by a State-licensed care facility and the license number.

(9) A statement of whether or not the vendor applicant and each proposed instructor was the subject of any legal, administrative, or other action involving licensure, certification or other approvals as specified in Sections 87785(b)(7) and (8).

(10) A non-refundable processing fee of one hundred-fifty dollars ($150).

87785 INITIAL CERTIFICATION TRAINING PROGRAM VENDOR AND PROGRAM APPROVAL REQUIREMENTS (Continued) **87785**

(c) Initial Certification Training Program approval shall expire two (2) years from the date the Initial Certification Training Program vendorship is approved by the Department.

(d) A written request for renewal of the Initial Certification Training Program shall be submitted to the Department's Administrator Certification Section using the Request for Course Approval form LIC 9140 and the Vendor Application/Renewal form LIC 9141, and shall contain the information and processing fee specified in Section 87785(b).

(1) A vendor must have a current approved Residential Care Facilities for the Elderly Initial Certification Training Program in order to renew its Residential Care Facilities for the Elderly Initial Certification Training Program vendorship.

(e) If a request for approval or renewal of an Initial Certification Training Program is incomplete, the Department shall, within thirty (30) days of receipt, give written notice to the vendor applicant that:

(1) The request is deficient, describing which documents or information are outstanding and/or inadequate, and informing the vendor applicant that the information must be submitted within thirty (30) days of the date of the notice.

(f) If the vendor applicant does not submit the requested information within thirty (30) days, the request for approval or renewal shall be deemed withdrawn provided that the Department has not denied or taken action to deny the request.

(g) Within thirty (30) days of receipt of a complete request for an approval, the Department shall notify the vendor applicant in writing whether the request has been approved or denied.

(h) The Residential Care Facilities for the Elderly Initial Certification Training Program shall consist of the following components:

(1) A minimum of eighty (80) hours of coursework, including at least sixty (60) classroom hours of in-person instruction in a classroom setting, as defined in Sections 87101(c)(6) and (7),with the following uniform Core of Knowledge curriculum:

(A) Eight (8) hours of instruction in laws, including regulations, policies, and procedural standards that impact the operations of residential care facilities for the elderly.

(B) Six (6) hours of instruction in business operations.

(C) Six (6) hours of instruction in management and supervision of staff.

(D) Seven (7) hours of instruction in the psychosocial needs of the elderly.

(E) Eight (8) hours of instruction in the physical needs of the elderly.

87785 INITIAL CERTIFICATION TRAINING PROGRAM VENDOR AND PROGRAM APPROVAL REQUIREMENTS (Continued) **87785**

(F) Two (2) hours of instruction in the use of community and support services to meet residents' needs.

(G) Eight (8) hours of instruction in medication management, including the use, misuse and interaction of drugs commonly used by the elderly, including antipsychotics, and the adverse effects of psychotropic drugs for use in controlling the behavior of persons with dementia.

(H) Ten (10) hours of instruction on in resident admission, retention, and assessment procedures.

(I) Eight (8) hours of instruction in the care of residents with Alzheimer's Disease and other dementias, including nonpharmacologic, person-centered approaches to dementia care.

(J) One (1) hour of instruction in cultural competency and sensitivity in issues relating to the underserved aging lesbian, gay, bisexual, and transgender community.

(K) Four (4) hours in managing the physical environment, including maintenance and housekeeping.

(L) Four (4) hours in residents' rights, and the importance of initial and ongoing training for all staff to ensure residents' rights are fully respected and implemented.

(M) Eight (8) hours in postural supports, restricted health conditions, and hospice care.

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Topics within the basic curriculum must include, but are not limited to, topics as specified in the Department's Core of Knowledge Standards chart for each of the Core of Knowledge components specified in Sections 87785(h)(l). The chart is incorporated in Section 87102(k) and available from the Department.

Core of Knowledge information is derived from a variety of sources governing the operation of licensed residential care facilities for the elderly, including but not limited to, pertinent statutory provisions of the Health and Safety Code, Welfare and Institutions Code, Education Code, Business and Professions Code, Government Code, Penal Code, and applicable provisions of Title 22 of the California Code of Regulations, Sections 87100 et. seq.

HANDBOOK ENDS HERE

(2) A standardized exam developed and administered by the Department.

(A) Individuals completing an Initial Certification Training Program must pass the exam with a minimum score of seventy percent (70%).

87785 INITIAL CERTIFICATION TRAINING PROGRAM VENDOR AND PROGRAM APPROVAL REQUIREMENTS (Continued) **87785**

(B) The exam questions shall reflect the hour value of the Core of Knowledge areas specified in Sections 87785(h)(1) and further detailed in the Core of Knowledge Standards chart incorporated in Section 87102(k).

(i) Initial Certification Training Program vendors shall:

(1) Offer all eighty (80) of the hours required for certification, as described in Section 87785(h)(1).

(2) Establish a procedure to allow participants to make up any component necessary to complete the total program hours and content.

(3) Issue certificates of completion to participants who successfully complete the program.

(A) The certificate of completion shall be signed by the vendor or its authorized representative and include the approved vendor's name and vendor number, approved course number, and the date(s), time(s) and location(s) of program classes.

(4) Submit to the Department upon request a Roster of Participants (LIC 9142A or other document which includes the same information) who completed the program.

(5) Maintain and ensure that records are available for review by Department representatives. Records shall be maintained for three (3) years from the date of vendorship approval, course approval, or course offering, whichever is applicable and most recent. These records shall include the following information:

(A) Course schedules, dates, descriptions and course outlines.

(B) A list of instructors and documentation of qualifications of each, as specified in Section 87785(i)(7).

(C) A Roster of Participants (LIC 9142A or other document which includes the same information) and documentation of who completed the program.

(D) Evaluations by participants of courses and instructors.

(E) Audio-visual recordings of all Initial Certification Training Programs and program components offered outside of California.

(6) Upon request, submit to the Department's Administrator Certification Section a schedule for at least the next calendar quarter specifying the subject title, approved course number, classroom hours, proposed dates, time, duration, location and proposed instructor(s) for each future program /component.

87785 INITIAL CERTIFICATION TRAINING PROGRAM VENDOR AND PROGRAM APPROVAL REQUIREMENTS (Continued) **87785**

(7) Have persons as instructors who have verifiable knowledge and/or experience in the subject matter and content to be taught and who meet at least one of the following criteria:

(A) Hold a bachelor's or higher degree from an accredited institution in a discipline or field related to the subject(s) to be taught, and have at least two (2) years of experience relevant to the subject(s) to be taught, or

(B) Four (4) years of experience relevant to the course(s) to be taught, or

(C) Be a professional, in a field related to the subject(s) to be taught, with a valid license or certification to practice in California and at least two (2) years of related field experience, or

(D) Have at least four (4) years of experience in California as an administrator of a residential care facility for the elderly, within the last six (6) years, with a record of administering the facility(ies) in substantial compliance, as defined in Section 87101(s)(9), and have verifiable training in the subject(s) to be taught.

(8) A minimum of twenty (20) hours of instruction must be provided by an instructor(s) who meet(s) the criteria specified in Section 87785(i)(7)(D).

(A) Where good faith efforts to employ an instructor who meets the criteria specified in Section 87785(i)(7)(D) are unsuccessful, vendors may apply to the Department's Administrator Certification Section for a waiver of this requirement.

(9) Before adding or replacing an approved instructor, obtain the Department’s approval by submitting a completed Request to Add or Replace Instructor form LIC 9140A and supporting documentation to the Department’s Administrator Certification Section.

(10) Encourage course instructors to elicit and respond appropriately to participants’ questions.

(11) Develop and provide to each course participant an end-of-course evaluation requesting feedback on, at minimum, instructor(s) knowledge of the subject(s), quality of instruction provided, attainment of learning objectives, and opportunity of participants to ask questions.

(12) Report any changes of the information in 87785(b)(1) within thirty (30) days to the Department's Administrator Certification Section.

(j) Initial Certification Training Program Vendors shall allow Department representatives to monitor and inspect Training Programs.

(1) Any duly authorized Department representative may, upon proper identification and upon stating the purpose of his/her visit, enter, inspect, and monitor Initial Certification Training Programs with or without advance notice. Such representatives may also request information and copies of records in advance of such visits and/or for desk monitoring.

87785 INITIAL CERTIFICATION TRAINING PROGRAM VENDOR AND PROGRAM APPROVAL REQUIREMENTS (Continued) **87785**

(2) The vendor shall ensure that provisions are made for the private interview of any participant or instructor, and for the examination of any records relating to the program.

(3) The Department shall have the authority to inspect, audit, and copy all program records upon demand. Records may be removed if necessary for copying.

(4) Department representatives shall not remove any current emergency or health related personnel records unless the same information is otherwise readily available in another document or format. Department representatives shall return the records undamaged and in good order within three business days following the date the records were removed.

(k) If, as a result of an investigation or inspection, the Department determines that a deficiency exists, the Department shall issue a notice of deficiency, unless the deficiency is minor and corrected immediately, and shall provide the Initial Certification Training Program Vendor with the notice of deficiency in person or by registered mail.

(1) The notice of deficiency shall be in writing and shall include:

(A) A reference to the statute or regulation upon which the deficiency is premised.

(B) A factual description of the nature of the deficiency fully stating the manner in which the Initial Certification Training Program Vendor failed to comply with the specified statute or regulation.

(C) The amount of penalty pursuant to Section 87794 which shall be assessed if the deficiency is not corrected and the date the penalty begins.

(D) The appeal process as specified in Section 87795.

(2) The Department and the Initial Certification Training Program Vendor shall develop a plan for correcting each deficiency which shall be added to the notice of deficiency.

(3) Absent prior Department approval, all Program deficiencies shall be corrected prior to the next offering of the Initial Certification Training Program, and all other deficiencies (e.g., recordkeeping) shall be corrected within the number of days agreed to in the corrective action plan.

(l) Initial Certification Training Program Vendors shall not instruct or "co-locate" more than one program type (Adult Residential Facility, Group Home, Residential Care Facility for the Elderly) at one time.

(m) Initial Certification Training Program Vendors and their instructors who are also seeking administrator certification shall not be permitted to receive credit for attending the vendor's own Initial Certification Training Program.

87785 INITIAL CERTIFICATION TRAINING PROGRAM VENDOR AND PROGRAM APPROVAL REQUIREMENTS (Continued) **87785**

NOTE: Authority cited: Sections 1569.23, 1569.30, 1569.616, and 1569.62, Health and Safety Code. Reference: Sections 1569.16, 1569.23, 1569.50 and 1569.616, Health and Safety Code.

87786 DENIAL OF REQUEST FOR APPROVAL OF AN INITIAL CERTIFICATION TRAINING PROGRAM 87786

(a) The Department may deny a request for approval of an Initial Certification Training Program in accordance with Section 1569.616(i)(1) of the Health and Safety Code. The Department shall provide the applicant with a written notice of denial.

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Health and Safety Code section 1569.616(i)(1) provides in part:

"The department may deny vendor approval to any agency or person that has not provided satisfactory evidence of their ability to meet the requirements of vendorization set out in the regulations adopted pursuant to subdivision (j)."

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(b) The applicant may appeal the denial of the application in accordance with Section 1569.51 of the Health and Safety Code.

(c) Any request for approval submitted by a vendor applicant whose application has been previously denied shall be processed by the Department in accordance with the provisions of Health and Safety Code section 1569.16(b).

HANDBOOK BEGINS HERE

Health and Safety Code section 1569.16(b) provides:

"(b) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant had previously applied for a license under any of the chapters listed in paragraph (1) of subdivision (a) and the application was denied within the last year, the department shall, except as provided in Section 1569.22, cease further review of the application until one year has elapsed from the date of the denial letter. In those circumstances where denials are appealed and upheld at an administrative hearing, review of the application shall cease for one year from the date of the decision and order being rendered by the department. The cessation of review shall not constitute a denial of the application."

HANDBOOK ENDS HERE

NOTE: Authority cited: Sections 1569.23(d), 1569.30, and 1569.616(j), Health and Safety Code. Reference: Sections 1569.16, 1569.23 and 1569.616, Health and Safety Code.

87787 REVOCATION OF AN INITIAL CERTIFICATION TRAINING PROGRAM 87787

(a) The Department may revoke an Initial Certification Training Program approval and remove the vendor from the list of approved vendors if the vendor does not provide training consistent with Section 87785, Initial Certification Training Program Approval Requirements, or

(1) Is unable to provide training due to lack of staff, funds or resources, or

(2) Misrepresents or makes false claims regarding the training provided, or

(3) Demonstrates conduct in the administration or instruction of the program that is illegal, inappropriate, or inconsistent with the intent or requirements of the program, or

(4) Misrepresents or knowingly makes false statements in the vendor application or during program instruction, or

(5) Fails to correct deficiencies and/or to pay civil penalties due.

(b) The vendor may appeal the revocation in accordance with Health and Safety Code section 1569.51.

(c) Any application for approval of an Initial Certification Training Program submitted by a vendor applicant whose approval has been previously revoked shall be processed by the Department in accordance with the provisions of Health and Safety Code section 1569.16.

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Health and Safety Code section 1569.16 in pertinent part provides:

"(a)(1) If an application for a license indicates, or the department determines during the application review process, that the applicant previously was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3 (commencing with Section 1500), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) and the prior license was revoked within the preceding two years, the department shall cease any further review of the application until two years have elapsed from the date of the revocation.

HANDBOOK CONTINUES

87787 REVOCATION OF AN INITIAL CERTIFICATION TRAINING PROGRAM (Continued) **87787**

HANDBOOK CONTINUES

(a)(3) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant was excluded from a facility licensed by the department pursuant to Section 1558, 1568.092, 1569.58, or 1596.8897, the department shall cease any further review of the application unless the excluded individual has been reinstated pursuant to Section 11522 of the Government Code by the department."

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NOTE: Authority cited: Sections 1569.23(d), 1569.30 and 1569.616(j), Health and Safety Code. Reference: Sections 1569.16, 1569.51 and 1569.616, Health and Safety Code.

87788 CONTINUING EDUCATION TRAINING PROGRAM VENDOR REQUIREMENTS **87788**

(a) Any vendor applicant seeking approval as a vendor of a Continuing Education Training Program shall obtain vendor approval by the Department prior to offering any course to certificate holders.

(b) Any vendor applicant seeking approval to become a vendor of a Continuing Education Training Program shall submit a written request to the Department's Administrator Certification Section using the Vendor Application/Renewal form LIC 9141. The request shall be signed by an authorized representative of the vendor applicant certifying that the information submitted is true and correct, and contain the following:

(1) Name, type of entity, physical address, e-mail address, and phone number of the vendor applicant requesting approval and the name of the person in charge of the Program.

(2) A statement of whether or not the vendor applicant held or currently holds a license, certification or other approval as a professional in a specified field and the license or certificate number.

(3) A statement of whether or not the vendor applicant held or currently holds a State-issued care facility license or was or is employed by a State-licensed care facility and the license number.

(4) A statement of whether or not the vendor applicant was the subject of any legal, administrative or other action involving licensure, certification or other approvals as specified in Sections 87788(b)(2) and (3).

(5) A non-refundable processing fee of one hundred dollars ($100).

87788 CONTINUING EDUCATION TRAINING PROGRAM VENDOR REQUIREMENTS (Continued) **87788**

(c) Continuing Education Training Program vendor approval shall expire two (2) years from the date the vendorship is approved by the Department.

(d) A written request for renewal of the Continuing Education Training Program vendorship shall be submitted to the Department's Administrator Certification Section using the Vendor Application/Renewal form LIC 9141, and shall contain the information and processing fee specified in Section 87788(b).

(1) A continuing education vendor must have one or more current approved Residential Care Facilities for the Elderly continuing education courses in order to renew its Residential Care Facilities for the Elderly continuing education program vendorship.

(e) If a request for approval or renewal of a Continuing Education Training Program vendorship is incomplete, the Department shall, within thirty (30) days of receipt, give written notice to the vendor applicant that:

(1) The request is deficient, describing which documents or information are outstanding and/or inadequate and informing the vendor applicant that the information must be submitted within thirty (30) days of the date of the notice.

(f) If the vendor applicant does not submit the requested information within thirty (30) days, the request for approval or renewal shall be deemed withdrawn, provided that the Department has not denied or taken action to deny the request.

(g) Within thirty (30) days of receipt of a complete request for an approval or renewal, the Department shall notify the vendor applicant in writing whether the request has been approved or denied.

(h) Continuing Education Training Program vendors shall:

(1) Issue certificates of completion to participants who successfully complete the program.

(A) The certificate of completion shall be signed by the vendor or its authorized representative and include the approved vendor's name and vendor number, the approved course name and course number, the approved course hours, and the date(s), time(s) and location(s) of the course(s).

(2) Maintain and ensure that records are available for review by Department representatives. Records shall be maintained for three (3) years from the date of vendorship approval, course approval, or course offering, whichever is applicable and most recent. The records shall include the following:

(A) Course schedules, dates, descriptions and course outlines.

(B) Lists of instructors and documentation of qualifications of each as specified in Section 87788(h)(3).

87788 CONTINUING EDUCATION TRAINING PROGRAM VENDOR REQUIREMENTS (Continued) **87788**

(C) Rosters of Participants (LIC 9142A or other document which includes the same information) and documentation of who completed the courses.

(D) Evaluations by participants of courses and instructors.

(E) Audio-visual recordings of all Continuing Education Training courses offered outside of California.

(3) Have instructors who have verifiable knowledge and/or experience in the subject matter and content to be taught and who meet at least one of the following criteria:

(A) Hold a bachelor's or higher degree from an accredited institution in a discipline or field related to the subject(s) to be taught, and have at least two (2) years of experience relevant to the subject(s) to be taught, or

(B) Four (4) years of experience relevant to the course to be taught, or

(C) Be a professional, in a field related to the subject(s) to be taught, with a valid license or certification to practice in California and at least two (2) years of related field experience, or

(D) Have at least four (4) years of experience in California as an administrator of a residential care facility for the elderly, within the last six (6) years, with a record of administering the facility(ies) in substantial compliance as defined in Section 87101(s)(9), and have verifiable training in the subject(s) to be taught.

(4) Upon request, submit to the Department's Administrator Certification Section a schedule for at least the next calendar quarter specifying the subject title, approved course number, classroom hours, proposed dates, time, duration, location and proposed instructor for each future course.

(5) Before adding or replacing an approved instructor, obtain the Department's approval by submitting a completed Request to Add or Replace Instructor form LIC 9140A and supporting documentation to the Department's Administrator Certification Section.

(6) Encourage course instructors to elicit and respond appropriately to participants' questions.

(7) Develop and provide to each course participant an end-of-course evaluation requesting feedback on, at minimum, instructor(s) knowledge of the subject(s), quality of instruction provided, attainment of learning objectives, and opportunity of participants to ask questions.

(8) Report any changes of the information in 87788(b)(1) within thirty (30) days to the Department's Administrator Certification Section.

87788 CONTINUING EDUCATION TRAINING PROGRAM VENDOR REQUIREMENTS (Continued) **87788**

(i) Courses approved for continuing education credit shall require the physical presence of the certificate holder in a classroom setting as defined in Section 87701(c)(7), except that:

(1) The Department may approve online courses pursuant to Health and Safety Code section 1569.616(i)(2) where the technology permits the interactive participation of the certificate holder and such participation is verifiable. Interactive online training courses require the participant to respond to prompts and receive feedback at various intervals throughout the course in order to progress through the training and to successfully pass a test at the conclusion of the course in order to receive a certificate of completion for the course.

(A) A Webinar or similar type of live broadcast of a training course may be approved by the Department for online continuing education hours pursuant to Health and Safety Code section 1569.616(i)(2)(B) where the technology permits interactive participation of the certificate holder and such participation is verifiable, and where it can be verified that the certificate holder was logged on and interacting throughout the entire length of the Webinar.

(B) All online training courses shall be designed to ensure participation for the actual number of hours approved and to ensure that participants cannot print a certificate of completion until the approved course hours have been completed.

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Health and Safety Code section 1569.616(i)(2) provides that:

"(A) A vendor of online programs for continuing education shall ensure that each online course contains all of the following:
(i) An interactive portion where the participant receives feedback, through online communication, based on input from the participant.
(ii) Required use of a personal identification number of personal identification information to confirm the identity of the participant.
(iii) A final screen displaying a printable statement, to be signed by the participant, certifying that the identified participant completed the course. The vendor shall obtain a copy of the final screen statement with the original signature of the participant prior to the issuance of a certificate of completion. The signed statement of completion shall be maintained by the vendor for a period of three years and be available to the department upon demand. Any person who certifies as true any material matter pursuant to this section that he or she knows to be false is guilty of a misdemeanor.
(B) Nothing in this subdivision shall prohibit the department from approving online programs for continuing education that do not meet the requirements of subparagraph (A) if the vendor demonstrates to the department's satisfaction that, through advanced technology, the course and the course delivery meet the requirements of this section."

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87788 CONTINUING EDUCATION TRAINING PROGRAM VENDOR REQUIREMENTS (Continued) **87788**

(j) Any changes to courses previously approved by the Department must be submitted and approved by the Department prior to being offered.

(k) Continuing Education Training Program vendors shall allow Department representatives to monitor and inspect Training Courses and Programs.

(1) Any duly authorized Department representative may, upon proper identification and upon stating the purpose of his/her visit, enter, inspect, and monitor continuing education training courses with or without advance notice. Such representatives may also request information and copies of records in advance of such visits and/or for desk monitoring.

(2) The vendor shall ensure that provisions are made for the private interview of any participant or instructor, and for the examination of any records relating to the program.

(3) The Department shall have the authority to inspect, audit, and copy all program records upon demand. Records may be removed if necessary for copying.

(4) Department representatives shall not remove any current emergency or health related personnel records unless the same information is otherwise readily available in another document or format. Department representatives shall return the records undamaged and in good order within three business days following the date the records were removed.

(l) If, as a result of an investigation or inspection, the Department determines that a deficiency exists, the Department shall issue a notice of deficiency, unless the deficiency is minor and corrected immediately, and shall provide Continuing Education Training Program Vendor with the notice of deficiency in person or by registered mail.

(1) The notice of deficiency shall be in writing and shall include:

(A) A reference to the statute or regulation upon which the deficiency is premised.

(B) A factual description of the nature of the deficiency fully stating the manner in which the Vendor failed to comply with the specified statute or regulation.

(C) The amount of penalty pursuant to Section 87794 which shall be assessed if the deficiency is not corrected and the date the penalty begins.

(D) The appeal process as specified in Section 87795.

(2) The Department and the Vendor shall develop a plan for correcting each deficiency which shall be added to the notice of deficiency.

(3) Absent prior Department approval, all course deficiencies shall be corrected prior to the next offering of the deficient course(s), and all other deficiencies (e.g., recordkeeping) shall be corrected within the number of days agreed to in the corrective action plan.

87788 CONTINUING EDUCATION TRAINING PROGRAM VENDOR REQUIREMENTS (Continued) **87788**

(m) Continuing Education Training Program vendors who teach courses that the Department has approved for more than one program type (Adult Residential Facility, Group Home, Residential Care for the Elderly), may provide "multiple crediting," that is, more than one certification for the course, to participants who complete the course satisfactorily.

(n) Continuing Education Training Program vendors that the Department has approved for more than one program type (Adult Residential Facility, Group Home, Residential Care for the Elderly), may "co-locate" or instruct specified courses for more than one program type.

(1) The approved hours for co-located courses may differ depending on the content pertinent to each program type.

(o) Continuing Education Training Program vendors and their instructors who are also certificate holders shall not be permitted to receive credit for attending the vendor's own Continuing Education Training Program courses.

NOTE: Authority cited: Sections 1569.23(d), 1569.30 and 1569.616(j), Health and Safety Code. Reference: Sections 1569.16 and 1569.616, Health and Safety Code.

87789 CONTINUING EDUCATION TRAINING PROGRAM COURSE APPROVAL REQUIREMENTS **87789**

(a) Any Continuing Education Training Program course shall be approved by the Department prior to being offered to certificate holders.

(1) At the sole discretion of the Department, continuing education credit may be granted for training provided by the Department's licensing staff.

(b) Any vendor applicant seeking approval of a Continuing Education Training Program course shall submit a written request to the Department using the Request for Course Approval form LIC 9140 for each course. The request shall be signed by an authorized representative of the vendor certifying that the information submitted is true and correct, and contain the following:

(1) Subject title, classroom hours, scheduled dates, duration, time, location, and proposed instructor(s).

(2) Written description and educational objectives, teaching methods, hourly topical content outline, and a description of course and participant evaluation methods.

(A) The use of videos, videotapes, video clips, or other visual recordings, are permitted as media teaching aids in a continuing education course but shall not, in themselves, constitute the course.

87789 CONTINUING EDUCATION TRAINING PROGRAM COURSE APPROVAL REQUIREMENTS (Continued) **87789**

(3) Qualifications of each proposed instructor, as specified in Section 87788(h)(3).

(4) A list and the location(s) of records to be maintained, pursuant to Section 87788(h)(2).

(5) A statement of whether or not the proposed instructor held or currently holds a license, certification or other approval as a professional in a specified field and the license or certificate number.

(6) A statement of whether or not the proposed instructor held or currently holds a State-issued care facility license or was, or is, employed by a State-licensed care facility and the license number.

(7) A statement of whether or not the proposed instructor was the subject of any legal, administrative or other action involving licensure, certification or other approvals as specified in Sections 87789(b)(5) and (6).

(c) Course approval shall expire on the expiration date of the vendor's Continuing Education Training Program vendorship approval, as provided in Section 87788(c).

(1) To renew a course, the vendor applicant shall submit a written request to the Department's Administrative Certification Section using the Renewal of Continuing Education Course Approval forms LIC 9139 and the Vendor Application/Renewal form LIC 9141, at least thirty (30) days prior to the course expiration.

(2) Course renewal requests received by the Department after the course expiration date shall be denied, and the vendor required to resubmit the courses for approval pursuant to Section 87789(b).

(3) Course renewal requests received for courses where the content is known to have changed, or needs to be updated, shall be denied. The vendor will need to submit the revised course for approval pursuant to Section 87789(b).

(d) If a request for approval or renewal of a Continuing Education Training Program course is incomplete, the Department shall, within thirty (30) days of receipt, give written notice to the vendor applicant that:

(1) The request is deficient, describing which documents or information are outstanding and/or inadequate and informing the vendor applicant that the information must be submitted within thirty (30) days of the date of the notice.

(e) If the vendor applicant does not submit the requested information within thirty (30) days, the request for approval or renewal shall be deemed withdrawn, provided that the Department has not denied or taken action to deny the request.

87789 CONTINUING EDUCATION TRAINING PROGRAM COURSE APPROVAL REQUIREMENTS (Continued) **87789**

(f) Within thirty (30) days of receipt of a complete request for an approval or renewal, the Department shall notify the vendor applicant in writing whether the course has been approved or denied.

(g) Any changes to previously approved courses must be submitted to the Department for approval prior to being offered, as specified in Section 87789(b).

NOTE: Authority cited: Sections 1569.23(d), 1569.30 and 1569.616(j), Health and Safety Code. Reference: Sections 1522.08 and 1569.616, Health and Safety Code.

87791 ADMINISTRATIVE REVIEW OF DENIAL OR REVOCATION OF A CONTINUING EDUCATION COURSE **87791**

(a) A vendor may seek administrative review of the denial or revocation of course approval as follows:

(1) The vendor must request administrative review in writing to the Department's Administrative Certification Section Manager within ten (10) days of the receipt of the Department's notice denying or revoking course approval.

(2) The administrative review shall be conducted by a higher-level staff person than the person who denied or revoked course approval.

(3) If the reviewer determines that the denial or revocation of course approval was not issued in accordance with applicable statutes and regulations of the Department, or that other circumstances existed that would have led to a different decision, he/she shall have the authority to amend the denial or revocation of course approval.

(4) The reviewer shall send a written response to the vendor within thirty (30) days of the Section's receiving the request per Section 87791(a)(1).

(5) The decision of the higher-level staff person shall be final.

NOTE: Authority cited: Sections 1569.23(d), 1569.30 and 1569.616(j), Health and Safety Code. Reference: Section 1569.616, Health and Safety Code.

87792 DENIAL OF A REQUEST FOR AN APPROVAL OF A CONTINUING EDUCATION TRAINING PROGRAM **87792**

(a) The Department may deny a request for approval of a Continuing Education Training Program in accordance with Health and Safety Code section 1569.616(i)(l). The Department shall provide the applicant with a written notice of the denial.

87792 DENIAL OF A REQUEST FOR AN APPROVAL OF A CONTINUING EDUCATION TRAINING PROGRAM (Continued) **87792**

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Section 1569.616(i)(l) of the Health and Safety Code provides in part:

"The department may deny vendor approval to any agency or person that has not provided satisfactory evidence of their ability to meet the requirements of vendorization set out in the regulations adopted pursuant to subdivision (j)."

HANDBOOK ENDS HERE

(b) The vendor applicant may appeal the denial of the application in accordance with Health and Safety Code section 1569.51.

(c) Any request for approval submitted by a vendor applicant whose application has been previously denied shall be processed by the Department in accordance with the provisions of Health and Safety Code section 1569.16(b).

HANDBOOK BEGINS HERE

Health and Safety Code section 1569.16(b) provides:

"(b) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant had previously applied for a license under any of the chapters listed in paragraph (1) of subdivision (a) and the application was denied within the last year, the department shall, except as provided in Section 1569.22, cease further review of the application until one year has elapsed from the date of the denial letter. In those circumstances where denials are appealed and upheld at an administrative hearing, review of the application shall cease for one year from the date of the decision and order being rendered by the department. The cessation of review shall not constitute a denial of the application."

HANDBOOK ENDS HERE

NOTE: Authority cited: Sections 1569.23(d), 1569.30 and 1569.616(j), Health and Safety Code. Reference: Sections 1569.16, 1569.51 and 1569.616, Health and Safety Code.

87793 REVOCATION OF A CONTINUING EDUCATION TRAINING PROGRAM **87793**

(a) The Department may revoke a Continuing Education Training Program approval and remove the vendor from the list of approved vendors if the vendor does not provide training consistent with Sections 87788, Continuing Education Training Program Vendor Requirements, and 87789, Continuing Education Training Program Course Approval Requirements, or:

87793 REVOCATION OF A CONTINUING EDUCATION TRAINING PROGRAM (Continued) **87793**

(1) Is unable to provide training due to lack of staff, funds or resources; or

(2) Misrepresents or makes false claims regarding the training provided; or

(3) Demonstrates conduct in the administration or instruction of the program that is illegal, inappropriate, or inconsistent with the intent or requirements of the program; or

(4) Misrepresents or knowingly makes false statements in the vendor application or during program instruction; or

(5) Fails to correct deficiencies and/or to pay civil penalties due.

(b) The vendor may appeal the revocation in accordance with Health and Safety Code section 1569.51.

(c) Any application for approval of a Continuing Education Training Program submitted by a vendor applicant whose approval has been previously revoked shall be processed by the Department in accordance with the provisions of Health and Safety Code section 1569.16.

HANDBOOK BEGINS HERE

Health and Safety Code section 1569.16 in pertinent part provides:

"(a)(1) If an application for a license indicates, or the department determines during the application review process, that the applicant previously was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3 (commencing with Section 1500), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) and the prior license was revoked within the preceding two years, the department shall cease any further review of the application until two years have elapsed from the date of the revocation.

(a)(3) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant was excluded from a facility licensed by the department pursuant to Section 1558, 1568.092, 1569.58, or 1596.8897, the department shall cease any further review of the application unless the excluded individual has been reinstated pursuant to Section 11522 of the Government Code by the department."

HANDBOOK ENDS HERE

NOTE: Authority cited: Sections 1569.23(d), 1569.30 and 1569.616(j), Health and Safety Code. Reference: Sections 1569.16, 1569.23, 1569.51 and 1569.616, Health and Safety Code.

87794 PENALTIES 87794

(a) A penalty of $50 per day, per cited violation, shall be assessed for all deficiencies that are not corrected as specified in the notice of deficiency.

(b) Unless otherwise ordered by the Department, all penalties are due and payable upon receipt of notice of payment, and shall be paid only by money order or cashier's check made payable to the Department.

(c) The Department shall have authority to file a claim in a court of competent jurisdiction or to take other appropriate action for failure to pay penalties as specified in (b) above.

NOTE: Authority cited: Sections 1569.30 and 1569.616(i), Health and Safety Code. Reference: Sections 1569.185, 1569.49 and 1569.495, Health and Safety Code.

87795 APPEAL PROCESS 87795

(a) A vendor may request in writing to the Department's Administrator Certification Section Manager a review of a notice of deficiency or notice of penalty within ten (10) working days of receipt of the notice. This review shall be conducted by a higher level staff person other than the evaluator who issued the notice.

(b) If the reviewer determines that a notice of deficiency or notice of penalty was not issued in accordance with applicable statutes and regulations, the reviewer shall amend or dismiss the notice. In addition, the reviewer may extend the date specified for correction of a deficiency if warranted by the facts or circumstances to support a request for extension.

(c) The reviewer will send a written response to the vendor within thirty (30) days of the Section's receiving a request as described in (a) above.

NOTE: Authority cited: Sections 1569.30 and 1569.616(i), Health and Safety Code. Reference: Section 1569.33, Health and Safety Code.

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HEALTH AND SAFETY CODE - HSC

DIVISION 2. LICENSING PROVISIONS [1200 - 1796.70]

(Division 2 enacted by Stats. 1939, Ch. 60.)

CHAPTER 3.2. Residential Care Facilities for the Elderly [1569 - 1569.889]

(Heading of Chapter 3.2 renumbered from Chapter 3.3 (as added by Stats. 1985, Ch. 1127) by Stats. 1988, Ch. 160, Sec. 91.)

ARTICLE 1. General Provisions [1569 - 1569.5]

(Article 1 added by Stats. 1985, Ch. 1127, Sec. 3.)

1569.

This chapter shall be known and may be cited as the California Residential Care Facilities for the Elderly Act.

(Added by Stats. 1985, Ch. 1127, Sec. 3.)

1569.1.

The Legislature hereby finds and declares:

(a) The Legislature has taken steps in recent years to develop a continuum of long-term social and health support services for older persons in the community that provide a range of options for long-term care and residential care facilities for the elderly are central in that continuum.

(b) These efforts require a reevaluation of residential care for the elderly outside the constraints of the Community Care Facilities Act.

(c) The Community Care Facilities Act was enacted in 1973 with the primary purpose of ensuring that residents of state hospitals would have access to safe, alternative community-based housing.

(d) Since that time, due to shortages in affordable housing and a greater demand for residences for the elderly providing some care and supervision, a growing number of elderly persons with health and social care needs now reside in community care facilities that may or may not be designed to meet their needs.

(e) Progress in the field of gerontology has provided new insights and information as to the types of services required to allow older persons to remain as independent as possible while residing in a residential care facility for the elderly.

(f) The fluctuating health and social status of older persons demands a system of residential care that can respond to these needs by making available multilevels of service within the facility, thus reducing the need for residents with fluctuating conditions to move between medical and nonmedical facilities.

(g) Residential care facilities for the elderly which are not primarily medically oriented represent a humane approach to meeting the housing, social and service needs of older persons, and can provide a homelike environment for older persons with a variety of care needs.

(h) It is, therefore, the intent of the Legislature to require that residential care facilities for the elderly be licensed as a separate category within the existing licensing structure of the State Department of Social Services.

(Added by Stats. 1985, Ch. 1127, Sec. 3.)

1569.2.

As used in this chapter:
(a) "Administrator" means the individual designated by the licensee to act on behalf of the licensee in the overall management of the facility. The licensee, if an individual, and the administrator may be one and the same person.
(b) "Beneficial ownership interest" means an ownership interest through the possession of stock, equity in capital, or any interest in the profits of the applicant or licensee, or through the possession of such an interest in other entities that directly or indirectly hold an interest in the applicant or licensee. The percentage of beneficial ownership in the applicant or licensee that is held by any other entity is determined by multiplying the other entities' percentage of ownership interest at each level.
(c) "Care and supervision" means the facility assumes responsibility for, or provides or promises to provide in the future, ongoing assistance with activities of daily living without which the resident's physical health, mental health, safety, or welfare would be endangered. Assistance includes assistance with taking medications, money management, or personal care.
(d) "Chain" means a group of two or more licensees that are controlled, as defined in this section, by the same persons or entities.
(e) "Control" means the ability to direct the operation or management of the applicant or licensee and includes the ability to exercise control through intermediary or subsidiary entities.
(f) "Department" means the State Department of Social Services.
(g) "Director" means the Director of Social Services.
(h) "Health-related services" mean services that shall be directly provided by an appropriate skilled professional, including a registered nurse, licensed vocational nurse, physical therapist, or occupational therapist.
(i) "Instrumental activities of daily living" means any of the following: housework, meals, laundry, taking of medication, money management, appropriate transportation, correspondence, telephoning, and related tasks.
(j) "License" means a basic permit to operate a residential care facility for the elderly.
(k) "Parent organization" means an organization in control of another organization either directly or through one or more intermediaries.
(l) "Personal activities of daily living" means any of the following: dressing, feeding, toileting, bathing, grooming, and mobility and associated tasks.
(m) "Personal care" means assistance with personal activities of daily living, to help provide for and maintain physical and psychosocial comfort.
(n) "Protective supervision" means observing and assisting confused residents, including persons with dementia, to safeguard them against injury.
(o) (1) "Residential care facility for the elderly" means a housing arrangement chosen voluntarily by persons 60 years of age or over, or their authorized representative, where varying levels and intensities of care and supervision, protective supervision, or personal care are provided, based upon their varying needs, as determined in order to be admitted and to remain in the facility. Persons under 60 years of age with compatible needs may be allowed to be admitted or retained in a residential care facility for the elderly as specified in Section 1569.316.

(2) This subdivision shall be operative only until the enactment of legislation implementing the three levels of care in residential care facilities for the elderly pursuant to Section 1569.70.

(p) (1) "Residential care facility for the elderly" means a housing arrangement chosen voluntarily by persons 60 years of age or over, or their authorized representative, where varying levels and intensities of care and supervision, protective supervision, personal care, or health-related services are provided, based upon their varying needs, as determined in order to be admitted and to remain in the facility. Persons under 60 years of age with compatible needs may be allowed to be admitted or retained in a residential care facility for the elderly as specified in Section 1569.316.

(2) This subdivision shall become operative upon the enactment of legislation implementing the three levels of care in residential care facilities for the elderly pursuant to Section 1569.70.

(q) "Sundowning" means a condition in which persons with cognitive impairment experience recurring confusion, disorientation, and increasing levels of agitation that coincide with the onset of late afternoon and early evening.

(r) "Supportive services" means resources available to the resident in the community that help to maintain their functional ability and meet their needs as identified in the individual resident assessment. Supportive services may include any of the following: medical, dental, and other health care services; transportation; recreational and leisure activities; social services; and counseling services.

(Amended by Stats. 2016, Ch. 86, Sec. 179. (SB 1171) Effective January 1, 2017.)

1569.3.

The license of any facility licensed as a residential facility for the elderly under the California Community Care Facilities Act provided for in Chapter 3 (commencing with Section 1500) on January 1, 1986, shall automatically be transferred for the unexpired term of the license to licensure as a residential care facility for the elderly under this chapter.

(Amended by Stats. 2005, Ch. 423, Sec. 3. Effective January 1, 2006.)

1569.4.

(a) Beginning May 1, 2021, and annually thereafter, the department shall collect information and send a report to each county's department of mental health or behavioral health of all licensed residential care facilities for the elderly in the county that accept the federal supplemental security rate and accept residents with a serious mental disorder, as defined in Section 5600.3 of the Welfare and Institutions Code, and the number of licensed beds at each facility.

(b) Beginning May 1, 2021, and quarterly thereafter, the department shall send to each county's department of mental health or behavioral health the report of licensed residential care facilities for the elderly that closed permanently in the prior

quarter, by county, and shall include the number of licensed beds of each facility and the reason for closing. The report shall include cumulative data and closure trends for each county and be based on facilities identified in subdivision (a).
(c) Upon receiving notice that a licensed residential care facility for the elderly intends to close permanently, the department shall notify the county mental or behavioral health department within three business days.
(Added by Stats. 2020, Ch. 139, Sec. 3. (AB 1766) Effective January 1, 2021.)

1569.5.

(a) The director shall adopt regulations authorizing residential care facilities for the elderly, as defined in Section 1569.2, to fill unused capacity on a short-term, time-limited basis to provide temporary respite care for persons who are frail and elderly, adults who have functional impairments, or persons with mental health disorders who need 24-hour supervision and who are being cared for by a caretaker or caretakers. The regulations shall address provisions for liability coverage and the level of facility responsibility for routine medical care and medication management, and may require screening of persons to determine the level of care required, a physical history completed by the person's personal physician, and other alternative admission criteria to protect the health and safety of persons applying for respite care. The regulations shall permit these facilities to charge a fee for the services provided, which shall include, but not be limited to, supervision, room, leisure activities, and meals.
(b) No facility shall accept persons in need of care beyond the level of care for which that facility is licensed.
(Amended by Stats. 2014, Ch. 144, Sec. 34. (AB 1847) Effective January 1, 2015.)

ARTICLE 2. Licensing [1569.10 - 1569.24]
(Article 2 added by Stats. 1985, Ch. 1127, Sec. 3.)

1569.10.

No person, firm, partnership, association, or corporation within the state and no state or local public agency shall operate, establish, manage, conduct, or maintain a residential facility for the elderly in this state without a current valid license or current valid special permit therefor, as provided in this chapter.
(Amended by Stats. 1987, Ch. 1069, Sec. 4.)

1569.11.

The department shall inspect and license residential care facilities for the elderly. A license is not transferable.
(Added by Stats. 1985, Ch. 1127, Sec. 3.)

1569.12.

The department may provide consulting services upon request to any residential care facility for the elderly to assist in the identification or correction of deficiencies and in the upgrading of the quality of care provided by the facility.
(Added by Stats. 1985, Ch. 1127, Sec. 3.)

1569.13.

(a) The department may contract for state, county, or other public agencies to assume specified licensing, approval, or consultation responsibilities. In exercising the authority so delegated, these agencies shall conform to the requirements of this chapter and to the rules, regulations, and standards of the department. The department shall reimburse agencies for services performed pursuant to this section, and the payments shall not exceed actual cost.
If any grants-in-aid are made by the federal government for the support of any inspection or consultation service approved by the department, the amount of the federal grant shall first be applied to defer the cost of the service before state reimbursement is made.
(b) The department may contract with any county for the purposes of having the county assume the responsibility within the county for the licensing and regulation of residential care facilities for the elderly serving six or fewer persons. Prior to the department contracting with any county for the licensing and regulation of residential care facilities for the elderly serving six or fewer persons, the department shall develop uniform standards which specify and delineate the responsibilities of contracting counties and the department. The department shall reimburse the county for the services performed, not to exceed the actual cost, out of the funds allocated to the department for the licensing and regulation of those facilities. The county shall conform to the requirements of this chapter and to the rules, regulations, and standards of the department.
(Amended by Stats. 1989, Ch. 488, Sec. 1.)

1569.14.

No license issued pursuant to this chapter shall have any property value for sale or exchange purposes and no person, including any owner, agent, or broker, shall sell or exchange any license for any commercial purpose.
(Added by Stats. 1985, Ch. 1127, Sec. 3.)

1569.145.

This chapter shall not apply to any of the following:
(a) A health facility, as defined by Section 1250.
(b) A clinic, as defined by Section 1200.
(c) A facility conducted by and for the adherents of a well-recognized church or religious denomination for the purpose of providing facilities for the care or

treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of that church or denomination.
(d) A house, institution, hotel, congregate housing project for the elderly, or other similar place that is limited to providing one or more of the following: housing, meals, transportation, housekeeping, or recreational and social activities; or that have residents independently accessing supportive services, provided, however, that no resident thereof requires an element of care and supervision or protective supervision as determined by the director. This subdivision shall not include a home or residence that is described in subdivision (f).
(e) Recovery houses or other similar facilities providing group living arrangements for persons recovering from alcoholism or drug addiction where the facility provides no care or supervision.
(f) (1) An arrangement for the care and supervision of a person or persons by a family member.

(2) An arrangement for the care and supervision of a person or persons from only one family by a close friend, whose friendship preexisted the contact between the provider and the recipient, and both of the following are met:

(A) The care and supervision is provided in a home or residence chosen by the recipient.

(B) The arrangement is not of a business nature and occurs only as long as the needs of the recipient for care and supervision are adequately met.

(g) (1) (A) Any housing occupied by elderly or disabled persons, or both, that is approved and operated pursuant to Section 202 of Public Law 86-372 (12 U.S.C. Sec. 1701q), or Section 811 of Public Law 101-625 (42 U.S.C. Sec. 8013), or whose mortgage is insured pursuant to Section 236 of Public Law 90-448 (12 U.S.C. Sec. 1715z), or that receives mortgage assistance pursuant to Section 221d(3) of Public Law 87-70 (12 U.S.C. Sec. 1715l), where supportive services are made available to residents at their option, as long as the project owner or operator does not contract for or provide the supportive services.

(B) Any housing that qualifies for a low-income housing credit pursuant to Section 252 of Public Law 99-514 (26 U.S.C. Sec. 42) or that is subject to the requirements for rental dwellings for low-income families pursuant to Section 8 of Public Law 93-383 (42 U.S.C. Sec. 1437f), and that is occupied by elderly or disabled persons, or both, where supportive services are made available to residents at their option, as long as the project owner or operator does not contract for or provide the supportive services.

(2) The project owner or operator to which paragraph (1) applies may coordinate, or help residents gain access to, the supportive services, either directly, or through a service coordinator.

(h) A similar facility determined by the director.
(i) For purposes of this section, "family member" means a spouse, by marriage or otherwise, child or stepchild, by natural birth or by adoption, parent, brother, sister, half brother, half sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece,

aunt, uncle, first cousin, or a person denoted by the prefix "grand" or "great," or the spouse of one of these persons.
(j) A person shall not be exempted from this chapter's licensure requirements if he or she has been appointed as conservator of the person, estate of the person, or both, if the person is receiving care and supervision from the conservator as regulated by this chapter, unless the conservator is otherwise exempted under other provisions of this section.
(Amended by Stats. 2009, Ch. 82, Sec. 3. (AB 123) Effective January 1, 2010.)

1569.147.

(a) Nothing in this chapter authorizes the imposition of rent regulations or controls for licensed residential care facilities for the elderly.
(b) Licensed residential care facilities for the elderly are not subject to controls on rent imposed by any state or local agency or other local government entity.
(Added by Stats. 1985, Ch. 1127, Sec. 3.)

1569.149.

A prospective applicant for licensure shall be notified at the time of the initial request for information regarding application for licensure that, prior to obtaining licensure, the facility shall secure and maintain a fire clearance approval from the local fire enforcing agency, as defined in Section 13244, or the State Fire Marshal, whichever has primary fire protection jurisdiction. The prospective applicant shall be notified of the provisions of Section 13235, relating to the fire safety clearance application. The prospective applicant for licensure shall be notified that the fire clearance shall be in accordance with state and local fire safety regulations.
(Added by Stats. 1989, Ch. 993, Sec. 3.)

1569.15.

(a) Any person, entity, or agent signing on behalf of an entity, seeking a license for a residential care facility for the elderly under this chapter shall file with the department, pursuant to regulations, an application on forms furnished by the department, that shall include, but not be limited to, all of the following:

(1) Evidence satisfactory to the department of the ability of the applicant to comply with this chapter and of rules and regulations adopted under this chapter by the department.

(2) Evidence satisfactory to the department that the applicant is of reputable and responsible character. The evidence shall include, but not be limited to, a criminal record clearance pursuant to Section 1569.17, employment history, and character references. If the applicant is a firm, association, organization, partnership, business trust, corporation, or company, like evidence shall be submitted as to the individuals or entities holding a beneficial ownership interest of 10 percent or more, and the person who has operational control of the

residential care facility for the elderly for which the application for issuance of license or special permit is made. The applicant shall provide or cause to be provided, at the department's request, any additional information related to consideration of the application regarding any entity that is an applicant or holds a beneficial ownership interest of 10 percent or more. Notwithstanding anything in this section, an applicant or licensee is not required to disclose the names of investors in a publicly traded company or investment fund if those investors are silent investors who do not have influence or control over operations of the company, fund, or facility.

(3) If applicable, the following information:

(A) Whether it is a for-profit or not-for-profit provider.

(B) The name, address, license number, and licensing agency name of other health, residential, or community care facilities owned, managed, or operated by the same applicant or by any parent organization of the applicant.

(C) The name and business address of any person or entity that controls, as defined in Section 1569.2, the applicant.

(D) If part of a chain, as defined in Section 1569.2, a diagram indicating the relationship between the applicant and the persons or entities that are part of the chain, including those that are controlled by the same parties, and in a separate list, the name, address, and license number, if applicable, for each person or entity in the diagram.

(E) The name and address of any persons, organizations, or entities that own the real property on which the facility seeking licensure and the licensed facilities described in subparagraph (B) are located.

(F) The name and address of any management company serving the facility and the same information required of applicants in subparagraphs (C) and (D) for the management company.

(4) Evidence satisfactory to the department that the applicant has sufficient financial resources to maintain the standards of service required by regulations adopted pursuant to this chapter.

(5) The name of the person with operational control of the applicant, such as the chief executive officer, general partner, owner, or like party, and state that person's prior or present service as an administrator, chief executive officer, general partner, director, like role of, or as a person who has held or holds a beneficial ownership interest of 10 percent or more in, any residential care facility for the elderly, in any facility licensed pursuant to Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), or Chapter 3 (commencing with Section 1500), or a similarly licensed facility in California or any other state within the past 10 years.

(6) The following information regarding the applicant and each individual or entity identified pursuant to paragraph (5):

(A) Any revocation, suspension, probation, exclusion order, or other similar administrative disciplinary action that was filed and sustained in California or any other state, or in the process of being adjudicated, against a facility associated with a person identified pursuant to paragraph (5) or by any authority responsible for the licensing of health, residential, or community care facilities within the past 10 years.

(B) Copies of final findings, orders, or both, issued by any health, residential, or community care licensing agency or any court relevant to the actions described in subparagraph (A).

(C) Any petition for bankruptcy relief filed within five years of the date of application involving operation or closure of a health, residential, or community care facility licensed in California or any other state, the court, date, and case number of the filing, and whether a discharge was granted. If a discharge was not granted, the applicant shall provide copies of any court findings supporting denial of discharge.

(7) Any other information as may be required by the department for the proper administration and enforcement of this chapter.

(8) Following the implementation of Article 7 (commencing with Section 1569.70), evidence satisfactory to the department of the applicant's ability to meet regulatory requirements for the level of care the facility intends to provide.

(9) Evidence satisfactory to the department of adequate knowledge of supportive services and other community supports that may be necessary to meet the needs of elderly residents.

(10) A signed statement that the person desiring issuance of a license has read and understood the residential care facility for the elderly statute and regulations.

(11) Designation by the applicant of the individual who shall be the administrator of the facility, including, if the applicant is an individual, whether or not the applicant shall also be the administrator.

(12) Evidence of the right of possession of the facility prior to the time the license is granted, which may be satisfied by the submission of a copy of the entire lease agreement or deed.

(13) Evidence of successfully completing a certified prelicensure education program pursuant to Section 1569.23.

(14) For any facility that promotes or advertises or plans to promote or advertise special care, special programming, or special environments for persons with

dementia, disclosure to the department of the special features of the facility in its plan of operation.

(b) The department shall cross-check all applicant information disclosed pursuant to paragraph (5) of subdivision (a), if electronically available, with the State Department of Public Health to determine if the applicant has a prior history of operating, holding a position in, or having ownership in, any entity specified in paragraph (5) of subdivision (a).

(c) Failure of the applicant to cooperate with the licensing agency in the completion of the application may result in the denial of the application. Failure to cooperate means that the information described in this section and in the regulations of the department has not been provided, or has not been provided in the form requested by the licensing agency, or both.

(d) The information required by this section shall be provided to the department upon initial application for licensure, and any change in the information shall be provided to the department within 30 calendar days of that change unless a shorter timeframe is required by the department. A licensee of multiple facilities may provide a single notice of changes to the department on behalf of all licensed facilities within the chain. Information pertaining to facilities operated in other states may be updated on an annual basis, except for the following information:

(1) Information specified in paragraph (6) of subdivision (a) shall be updated within 30 calendar days of the change.

(2) Information specified in subparagraph (B) of paragraph (3) of subdivision (a) shall be updated within six months after the change.

(e) An applicant or licensee shall maintain an email address of record with the department. The applicant or licensee shall provide written notification to the department of the email address and of any change to the email address within 10 business days of the change.

(f) (1) The department may deny an application for licensure or may subsequently revoke a license under this chapter if the applicant knowingly withheld material information or made a false statement of material fact with regard to information that was required by the application for licensure.

(2) The department may deny an application for licensure or may subsequently revoke a license under this chapter if the applicant did not disclose administrative disciplinary actions on the application as required by paragraph (6) of subdivision (a).

(3) In addition to the remedies provided under this chapter, the department may, subsequent to licensure, assess a civil penalty of one thousand dollars ($1,000) for a material violation of this section.

(Amended by Stats. 2019, Ch. 180, Sec. 1. (AB 737) Effective January 1, 2020.)

1569.150.

(a) The department and the licensing agencies with which it contracts for licensing shall review and make a final determination within 60 days of an applicant's submission of a complete application on all applications for a license to operate a residential care facility for the elderly if the applicant possesses a current valid license to operate a residential care facility for the elderly at another site. Applicants shall note on the application, or in a cover letter to the application, that they possess a current valid license at another site, and the number of that license.
(b) The department shall request a fire safety clearance from the appropriate fire marshal within five days of receipt of an application described in subdivision (a). The applicant shall be responsible for requesting and obtaining the required criminal record clearances.
(c) If the department for any reason is unable to comply with subdivision (a), it shall, within 60 days of receipt of the application described in subdivision (a), grant a provisional license to the applicant to operate for a period not to exceed six months, except as provided in subdivision (d). While the provisional license is in effect, the department shall continue its investigation and make a final determination on the application before the provisional license expires. The provisional license shall be granted, provided the department knows of no life safety risks, the criminal records clearances, if applicable, are complete, and the fire safety clearance is complete. The director may extend the term of a provisional license for an additional six months at the time of the application, if the director determines that more than six months will be required to achieve full compliance with licensing standards due to circumstances beyond the control of the applicant, and if all other requirements for a license have been met.
(d) If the department does not issue a provisional license pursuant to subdivision (c), the department shall issue a notice to the applicant identifying whether the provisional license has not been issued due to the existence of a life safety risk, lack of a fire safety clearance, lack of a criminal records clearance, failure to complete the application, or any combination of these reasons. If a life safety risk is identified, the risk preventing the issuance of the provisional license shall be clearly explained. If a lack of the fire safety clearance is identified, the notice shall include the dates on which the department requested the clearance and the current status of that request, and the fire marshal's name and telephone number to whom a fire safety clearance request was sent. The department shall identify the names of individuals for whom criminal records clearances are lacking. If failure to complete the application is identified, the notice shall list all of the forms or attachments that are missing or incorrect. This notice shall be sent to the applicant no later than 60 days after the applicant filed the application. If the reasons identified in the notice are corrected, the department shall issue the provisional license within five days after the corrections are made.
(e) The department shall, immediately after January 1, 1993, develop expedited procedures necessary to implement subdivisions (a), (b), (c), and (d).
(f) The department shall, immediately after January 1, 1993, develop an appeal procedure for applicants under this section for both denial of licenses and delay in processing applications.
(Added by Stats. 1992, Ch. 570, Sec. 2. Effective January 1, 1993.)

1569.151.

Upon receipt of an application to operate a residential care facility for the elderly from an applicant who is also applying or intends to apply for a permit to sell deposit subscriptions on life care contracts pursuant to Chapter 10 (commencing with Section 1770), the department shall review the application for licensure to determine the applicant's ability and intent to meet all statutory and regulatory requirements for a residential care facility for the elderly.
Upon determination that the applicant has provided satisfactory evidence of ability and intent, the department shall issue a preliminary approval for licensure, for purposes of the applicant obtaining a permit to sell deposit subscriptions for life care contracts. Preliminary approval does not guarantee that a license will be issued by the department.
(Added by Stats. 1986, Ch. 844, Sec. 2.5.)

1569.1515.

(a) A corporation that applies for licensure with the department shall list the facilities that any member of the board of directors, the executive director, or an officer has been licensed to operate, been employed in, or served as a member of the board of directors, the executive director, or an officer.
(b) The department shall not issue a provisional license or license to any corporate applicant that has a member of the board of directors, the executive director, or an officer who is not eligible for licensure pursuant to Sections 1569.16 and 1569.59.
(c) The department may revoke the license of any corporate licensee that has a member of the board of directors, the executive director, or an officer who is not eligible for licensure pursuant to Sections 1569.16 and 1569.59.
(d) Prior to instituting an administrative action pursuant to either subdivision (b) or (c), the department shall notify the applicant or licensee of the person's ineligibility to be a member of the board of directors, an executive director, or an officer of the applicant or licensee, and shall give the applicant or licensee 15 days to remove the person from that position.
(Added by Stats. 1998, Ch. 311, Sec. 36. Effective August 19, 1998.)

1569.152.

(a) A residential care facility for the elderly, as defined in Section 1569.2, which fails to make reasonable efforts to safeguard resident property shall reimburse a resident for or replace stolen or lost resident property at its then current value. The facility shall be presumed to have made reasonable efforts to safeguard resident property if the facility has shown clear and convincing evidence of its efforts to meet each of the requirements specified in Section 1569.153. The presumption shall be a rebuttable presumption, and the resident or the resident's representative may pursue this matter in any court of competent jurisdiction.
(b) A civil penalty shall be levied if the residential care facility for the elderly has no program in place or if the facility has not shown clear and convincing evidence of its efforts to meet all of the requirements set forth in Section 1569.153. The State

Department of Social Services shall issue a deficiency in the event that the manner in which the policies have been implemented is inadequate or the individual facility situation warrants additional theft and loss protections.
(c) The department shall not determine that a facility's program is inadequate based solely on the occasional occurrence of theft or loss in a facility.
(Added by Stats. 1988, Ch. 750, Sec. 2.)

1569.153.

A theft and loss program shall be implemented by the residential care facilities for the elderly within 90 days after January 1, 1989. The program shall include all of the following:
(a) Establishment and posting of the facility's policy regarding theft and investigative procedures.
(b) Orientation to the policies and procedures for all employees within 90 days of employment.
(c) Documentation of lost and stolen resident property with a value of twenty-five dollars ($25) or more within 72 hours of the discovery of the loss or theft and, upon request, the documented theft and loss record for the past 12 months shall be made available to the State Department of Social Services, law enforcement agencies and to the office of the State Long-Term Care Ombudsman in response to a specific complaint. The documentation shall include, but not be limited to, the following:

(1) A description of the article.

(2) Its estimated value.

(3) The date and time the theft or loss was discovered.

(4) If determinable, the date and time the loss or theft occurred.

(5) The action taken.

(d) A written resident personal property inventory is established upon admission and retained during the resident's stay in the residential care facility for the elderly. Inventories shall be written in ink, witnessed by the facility and the resident or resident's representative, and dated. A copy of the written inventory shall be provided to the resident or the person acting on the resident's behalf. All additions to an inventory shall be made in ink, and shall be witnessed by the facility and the resident or resident's representative, and dated. Subsequent items brought into or removed from the facility shall be added to or deleted from the personal property inventory by the facility at the written request of the resident, the resident's family, a responsible party, or a person acting on behalf of a resident. The facility shall not be liable for items which have not been requested to be included in the inventory or for items which have been deleted from the inventory. A copy of a current inventory shall be made available upon request to the resident, responsible party, or other authorized representative. The resident, resident's family, or a responsible party may list those items which are not subject to addition or deletion from the

inventory, such as personal clothing or laundry, which are subject to frequent removal from the facility.
(e) Inventory and surrender of the resident's personal effects and valuables upon discharge to the resident or authorized representative in exchange for a signed receipt.
(f) Inventory and surrender of personal effects and valuables following the death of a resident to the authorized representative in exchange for a signed receipt. Immediate written notice to the public administrator of the county upon the death of a resident whose heirs are unable or unwilling to claim the property as specified in Chapter 20 (commencing with Section 1140) of Division 3 of the Probate Code.
(g) Documentation, at least semiannually, of the facility's efforts to control theft and loss, including the review of theft and loss documentation and investigative procedures and results of the investigation by the administrator and, when feasible, the resident council.
(h) Establishment of a method of marking, to the extent feasible, personal property items for identification purposes upon admission and, as added to the property inventory list, including engraving of dentures and tagging of other prosthetic devices.
(i) Reports to the local law enforcement agency within 36 hours when the administrator of the facility has reason to believe resident property with a then current value of one hundred dollars ($100) or more has been stolen. Copies of those reports for the preceding 12 months shall be made available to the State Department of Social Services and law enforcement agencies.
(j) Maintenance of a secured area for residents' property which is available for safekeeping of resident property upon the request of the resident or the resident's responsible party. Provide a lock for the resident's bedside drawer or cabinet upon request of and at the expense of the resident, the resident's family, or authorized representative. The facility administrator shall have access to the locked areas upon request.
(k) A copy of this section and Sections 1569.152 and 1569.154 is provided by a facility to all of the residents and their responsible parties, and, available upon request, to all of the facility's prospective residents and their responsible parties.
(l) Notification to all current residents and all new residents, upon admission, of the facility's policies and procedures relating to the facility's theft and loss prevention program.
(m) Only those residential units in which there are no unrelated residents and where the unit can be secured by the resident or residents are exempt from the requirements of this section.
(Added by Stats. 1988, Ch. 750, Sec. 3.)

1569.154.

No provision of a contract of admission, which includes all documents which a resident or his or her representative is required to sign at the time of, or as a condition of, admission to a residential care facility for the elderly, shall require or imply a lesser standard of responsibility for the personal property of residents than is required by law.

(Added by Stats. 1988, Ch. 750, Sec. 4.)

1569.155.

Upon initial licensure, residential care facilities for the elderly shall be provided a printed copy of all applicable regulations by the department, without charge. All licensees shall subscribe to the appropriate regulation subscription service and are responsible for keeping current on changes in regulatory requirements.
(Added by Stats. 1985, Ch. 1127, Sec. 3.)

1569.156.

(a) A residential care facility for the elderly shall do all of the following:

(1) Not condition the provision of care or otherwise discriminate based on whether or not an individual has executed an advance directive, consistent with applicable laws and regulations.

(2) Provide education to staff on issues concerning advance directives.

(3) Provide written information, upon admission, about the right to make decisions concerning medical care, including the right to accept or refuse medical or surgical treatment and the right, under state law, to formulate advance directives.

(4) Provide written information about policies of the facility regarding the implementation of the rights described in paragraph (3).

(b) For purposes of this section, "advance directive" means an "advance health care directive," as defined in Section 4605 of the Probate Code, or some other form of instruction recognized under state law specifically addressing the provision of health care.
(Amended by Stats. 1999, Ch. 658, Sec. 2. Effective January 1, 2000. Operative July 1, 2000, by Sec. 43 of Ch. 658.)

1569.157.

(a) Every licensed residential care facility for the elderly, at the request of two or more residents, shall assist the residents in establishing and maintaining a single resident council at the facility. The resident council shall be composed of residents of the facility. Family members, resident representatives, advocates, long-term care ombudsman program representatives, facility staff, or others may participate in resident council meetings and activities at the invitation of the resident council.
(b) A resident council may, among other things, make recommendations to facility administrators to improve the quality of daily living and care in the facility and to promote and protect residents' rights.

(c) If a resident council submits written concerns or recommendations, the facility shall respond in writing regarding any action or inaction taken in response to those concerns or recommendations within 14 calendar days.
(d) Facility policies on resident councils shall not limit the right of residents to meet independently with outside persons or facility personnel.
(e) Each resident council member shall be informed by the facility of his or her right to be interviewed as part of the regulatory inspection process.
(f) Facilities shall promote resident councils as follows:

(1) If a facility has a resident council, the facility shall inform new residents of the existence of the resident council. The facility shall also provide information on the time, place, and dates of resident council meetings and the resident representative to contact regarding involvement in the resident council.

(2) If a facility has a resident council and a licensed capacity of 16 or more, the facility shall appoint a designated staff liaison to assist the resident council, make a room available for resident council meetings, and post meeting information in a central location readily accessible to residents, relatives, and resident representatives.

(3) If a facility does not have a resident council, upon admission, the facility shall provide written information on the resident's right to form a resident council to the resident and the resident representative, as indicated in the admissions agreement.

(4) Upon request, and with the permission of the resident council, the facility shall share the name and contact information of the designated representative of the resident council with the long-term care ombudsman program.

(g) A facility shall not willfully interfere with the formation, maintenance, or promotion of a resident council, or its participation in the regulatory inspection process. For the purposes of this subdivision, willful interference shall include, but not be limited to, discrimination or retaliation in any way against an individual as a result of his or her participation in a resident council, refusal to publicize resident council meetings or provide appropriate space for either meetings or a bulletin board, or failure to respond to written requests by the resident council in a timely manner.
(h) The text of this section with the heading "Rights of Resident Councils" shall be posted in a prominent place at the facility accessible to residents, family members, and resident representatives.
(i) A violation of this section shall not be subject to the provisions of Section 1569.40. A violation of this section shall constitute a violation of resident rights. A facility that violates this section shall be subject to a daily civil penalty of two hundred fifty dollars ($250) until the violation is corrected. A violation shall be deemed to have been corrected on the date the facility submits documentation of the correction to the department if the correction is verified by the department.
(Amended by Stats. 2014, Ch. 177, Sec. 1. (AB 1572) Effective January 1, 2015.)

1569.158.

(a) A residential care facility for the elderly shall not prohibit the formation of a family council. When requested by a member of the resident's family or the resident representative, a family council shall be allowed to meet in a common meeting room of the facility during mutually agreed upon hours.
(b) Facility policies on family councils shall in no way limit the right of residents and participants in a family council to meet independently with outside persons, including members of nonprofit or government organizations or with facility personnel during nonworking hours.
(c) "Family council" for the purpose of this section means a meeting of family members, friends, representatives, or agents as defined in Section 14110.8 of the Welfare and Institutions Code of two or more residents to confer in private without facility staff.
(d) Family councils shall be provided adequate space on a prominent bulletin board or other posting area for the display of meeting notices, minutes, information, and newsletters.
(e) Facility personnel or visitors may attend a family council meeting only at the family council's invitation.
(f) If a family council submits written concerns or recommendations, the facility shall respond in writing regarding any action or inaction taken in response to the concerns or recommendations within 14 calendar days.
(g) (1) If a facility has a family council, the facility shall include notice of the family council and its meetings to family members and resident representatives in routine mailings and shall inform family members and resident representatives of new and current residents who are identified on the admissions agreement during the admissions process or in the resident's records, of the existence of the family council, the time and place of meetings of the family council, and the name of the family council representative.

(2) If a facility does not have a family council, the facility shall provide, upon admission of a new resident, written information to the resident's family or resident representative of their right to form a family council.

(3) Upon request, and with the permission of the family council, the facility shall share the name and contact information of the designated representative of the family council with the long-term care ombudsman program.

(h) If a facility has a family council and a licensed capacity of 16 or more, the facility shall appoint a designated staff liaison who shall be responsible for providing assistance to the family council and responding to written requests that result from family council meetings.
(i) A facility shall not willfully interfere with the formation, maintenance, or promotion of a family council, or its participation in the regulatory inspection process. For the purposes of this subdivision, willful interference shall include, but shall not be limited to, discrimination or retaliation in any way against an individual as a result of his or her participation in a family council, refusal to publicize family council meetings or provide appropriate space for meetings or postings as required under this section, or failure to respond to written requests by a family council in a timely manner.

(j) A violation of this section shall not be subject to the provisions of Section 1569.40. A violation of this section shall constitute a violation of resident rights. A facility that violates this section shall be subject to a daily civil penalty of two hundred fifty dollars ($250) until the violation is corrected. A violation shall be deemed to have been corrected on the date the facility submits documentation of the correction to the department if the correction is verified by the department.
(Amended by Stats. 2014, Ch. 177, Sec. 2. (AB 1572) Effective January 1, 2015.)

1569.159.

The State Department of Social Services shall provide to residential care facilities for the elderly a form, which the residential care facility for the elderly shall attach to each resident admission agreement, notifying the resident that he or she is entitled to obtain services and equipment from the telephone company. The form shall include the following information:
"Any hearing or speech impaired, or otherwise disabled resident of any residential care facility for the elderly is entitled to equipment and service by the telephone company, pursuant to Section 2881 of the Public Utilities Code, to improve the quality of their telecommunications. Any resident who has a declaration from a licensed professional, or a state or federal agency pursuant to Section 2881 of the Public Utilities Code, that he or she is hearing or speech impaired, or otherwise disabled should contact the local telephone company and ask for assistance in obtaining this equipment and service."
This section shall not be construed to require, in any way, the licensee to provide a separate telephone line for any resident.
(Added by Stats. 1996, Ch. 448, Sec. 2. Effective January 1, 1997.)

1569.16.

(a) (1) If an application for a license indicates, or the department determines during the application review process, that the applicant previously was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3 (commencing with Section 1500), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) and the prior license was revoked within the preceding two years, the department shall cease any further review of the application until two years have elapsed from the date of the revocation. All residential care facilities for the elderly are exempt from the health planning requirements contained in Part 2 (commencing with Section 127125) of Division 107.

(2) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant previously was issued a certificate of approval by a foster family agency that was revoked by the department pursuant to subdivision (b) of Section 1534 within the preceding two years, the department shall cease any further review of the application until two years shall have elapsed from the date of the revocation.

(3) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant was excluded from a facility licensed by the department pursuant to Section 1558, 1568.092, 1569.58, or 1596.8897, the department shall cease any further review of the application unless the excluded individual has been reinstated pursuant to Section 11522 of the Government Code by the department.

(b) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant had previously applied for a license under any of the chapters listed in paragraph (1) of subdivision (a) and the application was denied within the last year, the department shall, except as provided in Section 1569.22, cease further review of the application until one year has elapsed from the date of the denial letter. In those circumstances where denials are appealed and upheld at an administrative hearing, review of the application shall cease for one year from the date of the decision and order being rendered by the department. The cessation of review shall not constitute a denial of the application. If there are coapplicants and the department denies a license due to concerns pertaining solely to one of the coapplicants, any other coapplicant may withdraw its application, and with the department's written consent pursuant to Section 1569.52, shall not be deemed to have a license application denied.
(c) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant had previously applied for a certificate of approval with a foster family agency and the department ordered the foster family agency to deny the application pursuant to subdivision (b) of Section 1534, the department shall cease further review of the application as follows:

(1) In cases where the applicant petitioned for a hearing, the department shall cease further review of the application until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall cease further review of the application until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(3) The department may continue to review the application if it has determined that the reasons for the denial of the application were due to circumstances and conditions that either have been corrected or are no longer in existence.

(d) The cessation of review shall not constitute a denial of the application for purposes of Section 1526 or any other law.
(Amended by Stats. 2015, Ch. 628, Sec. 3. (AB 601) Effective January 1, 2016.)

1569.17.

The Legislature recognizes the need to generate timely and accurate positive fingerprint identification of applicants as a condition of issuing licenses, permits, or

certificates of approval for persons to operate or provide direct care services in a residential care facility for the elderly. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with clients of residential care facilities for the elderly may pose a risk to the clients' health and safety. An individual shall be required to obtain either a criminal record clearance or a criminal record exemption from the State Department of Social Services before their initial presence in a residential care facility for the elderly.
(a) (1) Before and, as applicable, subsequent to issuing a license to any person or persons to operate or manage a residential care facility for the elderly, the department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than an infraction or arrested for any crime specified in subdivision (c) of Section 290 of the Penal Code, or for violating Section 245, 273ab, or 273.5, subdivision (b) of Section 273a, or, prior to January 1, 1994, paragraph (2) of Section 273a, of the Penal Code, or for any crime for which the department is prohibited from granting a criminal record exemption pursuant to subdivision (f).

(2) The criminal history information shall include the full criminal record, if any, of those persons, and subsequent arrest information pursuant to Section 11105.2 of the Penal Code.

(3) The following shall apply to the criminal record information:

(A) If the State Department of Social Services finds that the applicant or any other person specified in subdivision (b) has been convicted of a crime, other than an infraction, the application or presence shall be denied, unless the director grants an exemption pursuant to subdivision (f).

(B) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b), is awaiting trial for a crime other than an infraction, the State Department of Social Services may cease processing the criminal record information until the conclusion of the trial.

(C) If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the State Department of Social Services with a statement of that fact.

(D) If the State Department of Social Services finds after licensure that the licensee, or any other person specified in paragraph (2) of subdivision (b), has been convicted of a crime other than an infraction, the license may be revoked, unless the director grants an exemption pursuant to subdivision (f).

(E) An applicant and any other person specified in subdivision (b) shall submit fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, for a state and federal level criminal offender record information search, in addition to the search required by subdivision (a). If an applicant meets all other conditions for licensure, except receipt of the Federal Bureau of Investigation's criminal history information for the applicant and persons listed in subdivision

(b), the department may issue a license if the applicant and each person described by subdivision (b) has signed and submitted a statement that they have never been convicted of a crime in the United States, other than an infraction. If, after licensure, the department determines that the licensee or person specified in subdivision (b) has a criminal record, the license may be revoked pursuant to Section 1569.50. The department may also suspend the license pending an administrative hearing pursuant to Sections 1569.50 and 1569.51.

(b) In addition to the applicant, the provisions of this section shall apply to criminal record clearances and exemptions for the following persons:

(1) (A) Adults responsible for administration or direct supervision of staff.

(B) Any person, other than a client, residing in the facility. Residents of unlicensed independent senior housing facilities that are located in contiguous buildings on the same property as a residential care facility for the elderly shall be exempt from these requirements.

(C) Any person who provides client assistance in dressing, grooming, bathing, or personal hygiene. Any nurse assistant or home health aide meeting the requirements of Section 1338.5 or 1736.6, respectively, who is not employed, retained, or contracted by the licensee, and who has been certified or recertified on or after July 1, 1998, shall be deemed to meet the criminal record clearance requirements of this section. A certified nurse assistant and certified home health aide who will be providing client assistance and who falls under this exemption shall provide one copy of their current certification, prior to providing care, to the residential care facility for the elderly. The facility shall maintain the copy of the certification on file as long as the care is being provided by the certified nurse assistant or certified home health aide at the facility. Nothing in this paragraph restricts the right of the department to exclude a certified nurse assistant or certified home health aide from a licensed residential care facility for the elderly pursuant to Section 1569.58.

(D) Any staff person, volunteer, or employee who has contact with the clients.

(E) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in a similar capacity.

(F) Additional officers of the governing body of the applicant or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person’s capability to exercise substantial influence over the operation of the facility.

(2) The following persons are exempt from requirements applicable under paragraph (1):

(A) A spouse, relative, significant other, or close friend of a client shall be exempt if this person is visiting the client or provides direct care and supervision to that client only.

(B) A volunteer to whom all of the following apply:

(i) The volunteer is at the facility during normal waking hours.

(ii) The volunteer is directly supervised by the licensee or a facility employee with a criminal record clearance or exemption.

(iii) The volunteer spends no more than 16 hours per week at the facility.

(iv) The volunteer does not provide clients with assistance in dressing, grooming, bathing, or personal hygiene.

(v) The volunteer is not left alone with clients in care.

(C) A third-party contractor retained by the facility if the contractor is not left alone with clients in care.

(D) A third-party contractor or other business professional retained by a client and at the facility at the request or by permission of that client. These individuals shall not be left alone with other clients.

(E) Licensed or certified medical professionals are exempt from fingerprint and criminal background check requirements imposed by community care licensing. This exemption does not apply to a person who is a community care facility licensee or an employee of the facility.

(F) Employees of licensed home health agencies and members of licensed hospice interdisciplinary teams who have contact with a resident of a residential care facility at the request of the resident or resident’s legal decisionmaker are exempt from fingerprint and criminal background check requirements imposed by community care licensing. This exemption does not apply to a person who is a community care facility licensee or an employee of the facility.

(G) Clergy and other spiritual caregivers who are performing services in common areas of the residential care facility, or who are advising an individual resident at the request of, or with permission of, the resident, are exempt from fingerprint and criminal background check requirements imposed by community care licensing. This exemption does not apply to a person who is a community care facility licensee or an employee of the facility.

(H) Any person similar to those described in this subdivision, as defined by the department in regulations.

(I) Nothing in this paragraph shall prevent a licensee from requiring a criminal record clearance of any individual exempt from the requirements of this section, provided that the individual has client contact.

(c) (1) (A) Subsequent to initial licensure, a person specified in subdivision (b) who is not exempted from fingerprinting shall obtain either a criminal record clearance or an exemption, pursuant to subdivision (f), from the State Department of Social Services prior to employment, residence, or initial presence in a facility. A person specified in subdivision (b) who is not exempt from fingerprinting shall be fingerprinted and shall sign a declaration under penalty of perjury regarding any prior criminal convictions. The licensee shall submit these fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, for a state and federal level criminal offender record information search, or to comply with paragraph (1) of subdivision (g) prior to the person's employment, residence, or initial presence in the residential care facility for the elderly.

(B) These fingerprint images and related information shall be electronically transmitted in a manner approved by the State Department of Social Services and the Department of Justice. A licensee's failure to submit fingerprint images and related information to the Department of Justice, or to comply with paragraph (1) of subdivision (g), as required in this section, shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars ($100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars ($100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1569.50. The State Department of Social Services may assess civil penalties for continued violations as permitted by Section 1569.49. The licensee shall then submit these fingerprint images to the State Department of Social Services for processing. Documentation of the individual's clearance or exemption shall be maintained by the licensee and be available for inspection. The Department of Justice shall notify the department, as required by Section 1522.04, and notify the licensee by mail within 14 days of electronic transmission of the fingerprints to the Department of Justice, if the person has no criminal record. A violation of the regulations adopted pursuant to Section 1522.04 shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars ($100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars ($100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1569.50. The department may assess civil penalties for continued violations as permitted by Section 1569.49.

(2) Within 14 calendar days of the receipt of the fingerprint images, the Department of Justice shall notify the State Department of Social Services of the criminal record information, as provided for in this subdivision. If no criminal

record information has been recorded, the Department of Justice shall provide the licensee and the State Department of Social Services with a statement of that fact within 14 calendar days of receipt of the fingerprint images. If new fingerprint images are required for processing, the Department of Justice shall, within 14 calendar days from the date of receipt of the fingerprint images, notify the licensee that the fingerprint images were illegible.

(3) Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If the State Department of Social Services determines, on the basis of the fingerprint images submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, an offense specified in Section 243.4, 273a, 273ab, 273d, 273g, or 368 of the Penal Code, or a felony, the State Department of Social Services shall notify the licensee in writing within 15 calendar days of the receipt of the notification from the Department of Justice to act immediately to terminate the person's employment, remove the person from the residential care facility for the elderly, or bar the person from entering the residential care facility for the elderly. The State Department of Social Services may subsequently grant an exemption pursuant to subdivision (f). If the conviction was for another crime, except an infraction, the licensee shall, upon notification by the State Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the residential care facility for the elderly, or bar the person from entering the residential care facility for the elderly or (2) seek an exemption pursuant to subdivision (f). The department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered by the department. A licensee's failure to comply with the department's prohibition of employment, contact with clients, or presence in the facility as required by this paragraph shall result in a citation of deficiency and an immediate assessment of civil penalties by the department against the licensee, in the amount of one hundred dollars ($100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars ($100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1569.50.

(4) The department may issue an exemption on its own motion pursuant to subdivision (f) if the person's criminal history indicates that the person is of good character based on the age, seriousness, and frequency of the conviction or convictions. The department, in consultation with interested parties, shall develop regulations to establish the criteria to grant an exemption pursuant to this paragraph.

(5) Concurrently with notifying the licensee pursuant to paragraph (4), the department shall notify the affected individual of the right to seek an exemption pursuant to subdivision (f). The individual may seek an exemption only if the licensee terminates the person's employment or removes the person from the facility after receiving notice from the department pursuant to paragraph (4).

(d) (1) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that the department is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, when the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of the sentence, notwithstanding a subsequent order pursuant to the provisions of Sections 1203.4 and 1203.4a of the Penal Code permitting a person to withdraw their plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this section or any other provision of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction. For purposes of this section or any other provision of this chapter, the arrest disposition report certified by the Department of Justice or documents admissible in a criminal action pursuant to Section 969b of the Penal Code shall be prima facie evidence of the conviction, notwithstanding any other law prohibiting the admission of these documents in a civil or administrative action.

(2) For purposes of this section or any other provision of this chapter, the department shall consider criminal convictions from another state or federal court as if the criminal offense was committed in this state.

(e) (1) The State Department of Social Services shall not use a record of arrest to deny, revoke, or terminate any application, license, employment, or residence unless the department investigates the incident and secures evidence, whether or not related to the incident of arrest, that is admissible in an administrative hearing to establish conduct by the person that may pose a risk to the health and safety of any person who is or may become a client.

(2) The department shall not issue a criminal record clearance to a person who has been arrested for any crime specified in Section 290 of the Penal Code, or for violating Section 245, 273ab, or 273.5, or subdivision (b) of Section 273a of the Penal Code, or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department is prohibited from granting a record exemption pursuant to subdivision (f), prior to the department's completion of an investigation pursuant to paragraph (1).

(3) The State Department of Social Services is authorized to obtain any arrest or conviction records or reports from any law enforcement agency as necessary to the performance of its duties to inspect, license, and investigate community care facilities and individuals associated with a community care facility.

(f) (1) After review of the record, the director may grant an exemption from disqualification for a license as specified in paragraphs (1) and (4) of subdivision (a), or for employment, residence, or presence in a residential care facility for the elderly as specified in paragraphs (4), (5), and (6) of subdivision (c) if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit or

granting an exemption for purposes of subdivision (c). However, an exemption shall not be granted pursuant to this subdivision if the conviction was for any of the following offenses:

(A) An offense specified in Section 220, 243.4, or 264.1, subdivision (a) of Section 273a, or, prior to January 1, 1994, paragraph (1) of Section 273a, Section 273ab, 273d, 288, or 289, subdivision (c) of Section 290, or Section 368, of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(B) A felony offense specified in Section 729 of the Business and Professions Code or Section 206 or 215, subdivision (a) of Section 347, subdivision (b) of Section 417, or subdivision (a) of Section 451 of the Penal Code.

(2) The director shall notify in writing the licensee or the applicant of their decision within 60 days of receipt of all information from the applicant and other sources determined necessary by the director for the rendering of a decision pursuant to this subdivision.

(3) The department shall not prohibit a person from being employed or having contact with clients in a facility on the basis of a denied criminal record exemption request or arrest information unless the department complies with the requirements of Section 1569.58.

(g) (1) For purposes of compliance with this section, the department may permit an individual to transfer a current criminal record clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another facility licensed by a state licensing district office. The request shall be submitted in writing to the department, and shall include a copy of the person's driver's license or valid identification card issued by the Department of Motor Vehicles, or a valid photo identification issued by another state or the United States government if the person is not a California resident. Upon request of the licensee, who shall enclose a self-addressed stamped envelope for this purpose, the department shall verify whether the individual has a clearance that can be transferred.

(2) The State Department of Social Services shall hold criminal record clearances in its active files for a minimum of two years after an employee is no longer employed at a licensed facility in order for the criminal record clearances to be transferred under this section.

(h) If a licensee or facility is required by law to deny employment or to terminate employment of any employee based on written notification from the department that the employee has a prior criminal conviction or is determined unsuitable for employment under Section 1569.58, the licensee or facility shall not incur civil liability or unemployment insurance liability as a result of that denial or termination.

(i) Notwithstanding any other law, the department may provide an individual with a copy of their state or federal level criminal offender record information search response as provided to that department by the Department of Justice if the

department has denied a criminal background clearance based on this information and the individual makes a written request to the department for a copy specifying an address to which it is to be sent. The state or federal level criminal offender record information search response shall not be modified or altered from its form or content as provided by the Department of Justice and shall be provided to the address specified by the individual in their written request. The department shall retain a copy of the individual's written request and the response and date provided.
(Amended by Stats. 2021, Ch. 687, Sec. 4. (SB 354) Effective January 1, 2022.)

1569.171.

Prior to issuance to any person of a certificate of completion of the administrator certification program pursuant to Section 1569.616, the department shall secure from an appropriate law enforcement agency a criminal record to determine if the person has been convicted of a crime other than a minor traffic violation. Based upon the criminal record information received, the department shall take appropriate action as provided for in Section 1569.17.
(Added by Stats. 1991, Ch. 848, Sec. 1.)

1569.172.

The Department of Justice may charge a fee sufficient to cover its cost in providing services in accordance with Section 1569.17 to comply with the 14-day requirement for provision to the department of the criminal record information, as contained in subdivision (c) of Section 1569.17.
(Amended by Stats. 1998, Ch. 311, Sec. 38. Effective August 19, 1998.)

1569.175.

(a) In addition to any other requirements of this chapter, any residential care facility for the elderly providing residential care for six or fewer persons at which the owner does not reside shall provide a procedure approved by the licensing agency for immediate response to incidents and complaints. This procedure shall include a method of assuring that the owner, licensee, or person designated by the owner or licensee is notified of the incident, that the owner, licensee, or person designated by the owner or licensee has personally investigated the matter, and that the person making the complaint or reporting the incident has received a response of action taken or a reason why no action needs to be taken.
(b) In order to assure the opportunity for complaints to be made directly to the owner, licensee, or person designated by the owner or licensee, and to provide the opportunity for the owner, licensee, or person designated by the owner or licensee to meet residents and learn of problems in the neighborhood, any facility with a nonresident owner shall establish a fixed time on a weekly basis when the owner, licensee, or person designated by the owner or licensee will be present.

(c) Facilities with nonresident owners shall establish procedures to comply with the requirements of this section on or before July 1, 1987.
(Added by Stats. 1986, Ch. 822, Sec. 2.)

1569.185.

(a) (1) An application fee adjusted by facility and capacity shall be charged by the department for the issuance of a license to operate a residential care facility for the elderly. After initial licensure, a fee shall be charged by the department annually on each anniversary of the effective date of the license.
The fees are for the purpose of financing activities specified in this chapter. Fees shall be assessed as follows, subject to paragraph (2):

Fee Schedule		
Capacity	Initial Application	Annual
1–3	$495.60	$495.60
4–6	$990.00	$495.60
7–15	$1,486.80	$742.80
16–30	$1,980.00	$990.00
31–49	$2,476.80	$1,238.40
50–74	$2,972.40	$1,448.00
75–100	$3,469.20	$1,734.00
101–150	$3,964.80	$1,982.40
151–200	$4,622.40	$2,311.20
201–250	$5,280.00	$2,640.00
251–300	$5,940.00	$2,970.00

301–350	$6,600.00	$3,300.00
351–400	$7,260.00	$3,630.00
401–500	$8,580.00	$4,290.00
501–600	$9,900.00	$4,950.00
601–700	$11,220.00	$5,610.00
701+	$13,200.00	$6,600.00

(2) (A) The Legislature finds that all revenues generated by fees for licenses computed under this section and used for the purposes for which they were imposed are not subject to Article XIII B of the California Constitution.

(B) The department, at least every five years, shall analyze initial application fees and annual fees issued by it to ensure the appropriate fee amounts are charged. The department shall recommend to the Legislature that fees established by the Legislature be adjusted as necessary to ensure that the amounts are appropriate.

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

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

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

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

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

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

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

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

(H) A plan of correction fee of two hundred dollars ($200) when a licensee does not implement a plan of correction on or prior to the date specified in the plan.

(2) A local jurisdiction shall not impose a business license, fee, or tax for the privilege of operating a facility licensed under this chapter that serves six or fewer persons.

(c) (1) The revenues collected from licensing fees pursuant to this section shall be utilized by the department for the purpose of ensuring the health and safety of all individuals provided care or supervision by licensees and to support the activities of the licensing programs, including, but not limited to, monitoring facilities for compliance with licensing laws and regulations pursuant to this chapter, and other administrative activities in support of the licensing program, when appropriated for these purposes. The revenues collected shall be used in addition to any other funds appropriated in the annual Budget Act in support of the licensing program. The department shall adjust the fees collected pursuant to this section to ensure that they do not exceed the costs described in this paragraph.

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

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

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

(Amended by Stats. 2014, Ch. 707, Sec. 2. (SB 1382) Effective January 1, 2015.)

1569.19.

A license shall be forfeited by operation of law prior to its expiration date when one of the following occurs:

(a) The licensee sells or otherwise transfers the facility or facility property, except when change of ownership applies to transferring of stock when the facility is owned by a corporation and when the transfer of stock does not constitute a

majority change in ownership. The sale of a facility shall be subject to the requirements of this chapter.
(b) The licensee surrenders the license to the department.
(c) The licensee moves a facility from one location to another. The department shall develop regulations to ensure that the facilities are not charged a full licensing fee and do not have to complete the entire application process when applying for a license for the new location.
(d) The licensee is convicted of an offense specified in Section 220, 243.4, or 264.1, or paragraph (1) of Section 273a, Section 273d, 288, or 289 of the Penal Code, or is convicted of another crime specified in subdivision (c) of Section 667.5 of the Penal Code.
(e) The licensee dies. When a licensee dies, the continued operation shall be subject to the requirements of Section 1569.193.
(f) The licensee abandons the facility. A licensee who abandons the facility and the residents in care resulting in an immediate and substantial threat to the health and safety of the abandoned residents, in addition to forfeiture of the license pursuant to this section, shall be excluded from licensure in facilities licensed by the department without the right to petition for reinstatement.
(Amended by Stats. 2014, Ch. 700, Sec. 1. (AB 1899) Effective January 1, 2015.)

1569.191.

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

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

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

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

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

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

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

(d) The department shall give priority to applications for licensure that are submitted pursuant to this section in order to ensure timely transfer of the property and business. The department shall make a decision within 60 days after a complete application is submitted on whether to issue a license pursuant to Section 1569.15.
(e) If the parties involved in the transfer of the property and business fully comply with this section, then the transfer may be completed and the buyer shall not be considered to be operating an unlicensed facility while the department makes a final determination on the application for licensure.
(f) Facilities that are subject to Chapter 10 (commencing with Section 1770) of Division 2, including Section 1789.4, shall not be subject to paragraph (1) of subdivision (a), and subdivisions (c) and (d).
(Amended by Stats. 1993, Ch. 526, Sec. 2. Effective January 1, 1994.)

1569.193.

(a) When a licensee dies, an adult relative, or other nonrelated adult, who has control of the property may be designated as the responsible party to continue operation of the facility if the following conditions are met:
(1) The licensee has filed a notarized written statement with the department designating the responsible party in the event of death, and the licensee has submitted the following information to the department:

(A) A notarized statement, signed by the designee acknowledging acceptance of designation as responsible party.

(B) A declaration signed by the designee under penalty of perjury regarding any prior criminal convictions.

(2) The designee files an application for licensure pursuant to Section 1569.15 within 20 working days of the date of death, shows evidence satisfactory to the department that he or she has the ability to operate the facility, and provides evidence of the licensee's death.

(b) A designee under this section shall notify the department of the licensee's death by the close of business on the department's next business day following the licensee's death.
(c) (1) If the designee decides not to apply for licensure, he or she shall notify the department of that decision within five working days of the licensee's death. If the designee decides not to apply, the department shall assist the designee in the development and implementation of a relocation plan.
(2) If the designee decides to apply for licensure, the department shall decide within 60 days after the application is submitted whether to issue a provisional license pursuant to Section 1569.21. A provisional license shall be granted only if the department is satisfied that the conditions specified in subdivision (a) have been met and that the health and safety of the residents of the facility will not be jeopardized.

(d) If the designee complies with this section, he or she shall not be considered to be operating an unlicensed facility while the department decides whether to grant the provisional license.
(Amended by Stats. 1998, Ch. 179, Sec. 1. Effective January 1, 1999.)

1569.194.

(a) Every residential care facility for the elderly that is licensed or has a valid special permit therefor pursuant to Section 1569.10 shall provide a copy of the disaster and mass casualty plan required pursuant to Section 87223 of Title 22 of the California Code of Regulations to any fire department, law enforcement agency, or civil defense or other disaster authority in the area or community in which the facility is located, upon request by the fire department, law enforcement agency, or civil defense or other disaster authority. Section 1569.40 shall not apply to this section.
(b) The department is not required to monitor compliance with this section as part of its regulatory monitoring functions.
(Added by Stats. 2007, Ch. 18, Sec. 2. Effective January 1, 2008.)

1569.20.

Upon the filing of the application for issuance of an initial license, the department shall, within five working days of the filing, make a determination regarding the completeness of the application. If the application is complete, the department shall immediately request a fire clearance and notify the applicant to arrange a time for the department to conduct a prelicensure inspection. If the department determines that an application is for licensure of a currently licensed facility for which there is no material change to the management or operations of the facility, the prelicensure inspection is optional at the discretion of the department. If the application is incomplete, the department shall notify the applicant and request the necessary information. Within 60 days of making a determination that the file is complete, the department shall make a determination whether the application is in compliance with this chapter and the rules and regulations of the department and shall either immediately issue the license or notify the applicant of the deficiencies. The notice shall specify whether the deficiencies constitute denial of the application or whether further corrections for compliance will likely result in approval of the application.
(Amended by Stats. 2014, Ch. 29, Sec. 22. (SB 855) Effective June 20, 2014.)

1569.21.

The director may issue provisional licenses to operate residential care facilities for the elderly for the facilities which the director determines are in substantial compliance with this chapter and the rules and regulations adopted pursuant thereto; provided, that no life safety risks are involved, as determined by the director. In determining whether any life safety risks are involved, the director shall

require completion of all applicable fire clearances and criminal record clearances as otherwise required by the department's rules and regulations. This provisional license shall expire six months from the date of issuance, or at such earlier time as the director may determine, and may not be renewed. However, the director may extend the term of a provisional license for an additional six months at time of application, if it is determined that more than six months will be required to achieve full compliance with licensing standards due to circumstances beyond the control of the applicant; provided, that all other requirements for a license have been met.
(Added by Stats. 1985, Ch. 1127, Sec. 3.)

1569.22.

Immediately upon the denial of any application for a license, the department shall notify the applicant in writing. Within 15 days after the department mails the notice, the applicant may present his or her written petition for a hearing to the department. Upon receipt by the department of the petition in proper form, the petition shall be set for hearing. The proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department has all the powers granted therein.
(Added by Stats. 1985, Ch. 1127, Sec. 3.)

1569.23.

(a) As a requirement for licensure, the applicant shall demonstrate that he or she has successfully completed a certification program approved by the department.
(b) The certification program shall consist of both of the following:
(1) Eighty hours of coursework, at least 60 hours of which shall be attended in person.

(2) A state-administered examination consisting of no less than 100 questions. The examination shall reflect the uniform core of knowledge required pursuant to subdivision (c).

(c) The certification program shall include a uniform core of knowledge which shall include all of the following:
(1) Law, including regulations, policies, and procedural standards that impact the operations of residential care facilities for the elderly.

(2) Business operations.

(3) Management and supervision of staff.

(4) Psychosocial need of the elderly residents.

(5) Physical needs for elderly residents.

(6) Community and support services.

(7) Medication management, including use, misuse, and interaction of drugs commonly used by the elderly, including antipsychotics, and the adverse effects of psychotropic drugs for use in controlling the behavior of persons with dementia.

(8) Resident admission, retention, and assessment procedures.

(9) Managing Alzheimer's disease and related dementias, including nonpharmacologic, person-centered approaches to dementia care.

(10) Managing the physical environment, including maintenance and housekeeping.

(11) Residents' rights, and the importance of initial and ongoing training for all staff to ensure residents' rights are fully respected and implemented.

(12) Cultural competency and sensitivity in issues relating to the underserved, aging, lesbian, gay, bisexual, and transgender community.

(13) Postural supports, restricted health conditions, and hospice care.

(d) Successful completion of the certification program shall be demonstrated by passing the state-administered examination and submitting a fee of one hundred dollars ($100) to the department for the issuance of a certificate of completion.
(e) (1) The department shall establish by regulation the program content, the testing instrument, process for approving certification programs, and criteria to be used for authorizing individuals or organizations to conduct certification programs. These regulations shall be developed with the participation of provider organizations.

(2) The department shall ensure that the examination consists of at least 100 questions and allows an applicant to have access to the California Residential Care Facility for the Elderly Act and related regulations during the examination. The department, no later than July 1 of every other year, shall review and revise the examination in order to ensure the rigor and quality of the examination. Each year, the department shall ensure by January 1 that the exam is not in conflict with current law. The department may convene a stakeholder group to assist in developing and reviewing test questions.

(f) This section shall apply to all applications for licensure unless the applicant provides evidence that he or she has a current license for another residential care facility for the elderly which was initially licensed prior to July 1, 1989, or has successfully completed an approved certification program within the prior five years.
(g) If the applicant is a firm, partnership, association, or corporation, the chief executive officer, or other person serving in a like capacity, or the designated administrator of the facility, shall provide evidence of successfully completing an approved certification program.
(h) This section shall become operative on January 1, 2016.

(Repealed (in Sec. 1) and added by Stats. 2014, Ch. 698, Sec. 2. (AB 1570) Effective January 1, 2015. Section operative January 1, 2016, by its own provisions.)

1569.235.

As a requirement for licensure, the applicant shall attend an orientation given by the department which outlines the applicable rules and regulations, and the scope and responsibility for operation of a residential care facility for the elderly.
(Added by Stats. 1991, Ch. 848, Sec. 3.)

1569.24.

Within 90 days after a facility accepts its first resident for placement following its initial licensure, the department shall inspect the facility to evaluate compliance with rules and regulations and to assess the facility's continuing ability to meet regulatory requirements. The licensee shall notify the department, within five business days after accepting its first resident for placement, that the facility has commenced operating.
The department may take appropriate remedial action as provided for in this chapter.
(Amended by Stats. 2006, Ch. 902, Sec. 11. Effective January 1, 2007.)

ARTICLE 2.5. Resident's Bill of Rights [1569.261 - 1569.269]

(Article 2.5 added by Stats. 2014, Ch. 702, Sec. 1.)

1569.261.

(a) It is the intent of the Legislature in enacting this article to adopt fundamental rights for all persons residing in a residential care facility for the elderly, as defined in Section 1569.2, and to ensure that facilities respect and promote these rights.
(b) In establishing this bill of rights, the Legislature intends that persons residing in residential care facilities for the elderly be treated with dignity, kindness, and respect, and that their civil liberties be fully honored.
(c) A central purpose of the bill of rights is to strengthen a resident's right to make choices about his or her care, treatment, and daily life in the facility and to ensure that the resident's choices are respected. The Legislature intends to enhance each resident's autonomy and ability to make decisions concerning his or her life.
(d) The Legislature also intends that each residential care facility for the elderly provide a safe, comfortable, and homelike environment for its residents and that it protect residents from physical or mental abuse, neglect, exploitation, or endangerment.
(Added by Stats. 2014, Ch. 702, Sec. 1. (AB 2171) Effective January 1, 2015.)

1569.265.

(a) Rights and liberties set forth in this article do not diminish a resident's constitutional rights or any other rights set forth in other state or federal laws and regulations. Persons residing in residential care facilities for the elderly shall continue to enjoy all of their civil and legal rights.
(b) The provisions of this article apply only to privately operated residential care facilities for the elderly.
(Added by Stats. 2014, Ch. 702, Sec. 1. (AB 2171) Effective January 1, 2015.)

1569.267.

(a) At admission, a facility staff person shall personally advise a resident and the resident's representative of, and give a complete written copy of, the rights in this article and the personal rights in Section 87468 of Title 22 of the California Code of Regulations. The licensee shall have each resident and the resident's representative sign and date a copy of the resident's rights, and the licensee shall include the signed and dated copy in the resident's record.
(b) Licensees shall prominently post, in areas accessible to the residents and their representatives, a copy of the residents' rights.
(c) The rights posted pursuant to subdivision (b) shall be posted both in English and in any other language in a facility in which 5 percent or more of the residents can only read that other language.
(d) The licensee shall provide initial and ongoing training for all members of its staff to ensure that residents' rights are fully respected and implemented.
(Added by Stats. 2014, Ch. 702, Sec. 1. (AB 2171) Effective January 1, 2015.)

1569.269.

(a) Residents of residential care facilities for the elderly shall have all of the following rights:

(1) To be accorded dignity in their personal relationships with staff, residents, and other persons.

(2) To be granted a reasonable level of personal privacy in accommodations, medical treatment, personal care and assistance, visits, communications, telephone conversations, use of the Internet, and meetings of resident and family groups.

(3) To confidential treatment of their records and personal information and to approve their release, except as authorized by law.

(4) To be encouraged and assisted in exercising their rights as citizens and as residents of the facility. Residents shall be free from interference, coercion, discrimination, and retaliation in exercising their rights.

(5) To be accorded safe, healthful, and comfortable accommodations, furnishings, and equipment.

(6) To care, supervision, and services that meet their individual needs and are delivered by staff that are sufficient in numbers, qualifications, and competency to meet their needs.

(7) To be served food of the quality and in the quantity necessary to meet their nutritional needs.

(8) To make choices concerning their daily life in the facility.

(9) To fully participate in planning their care, including the right to attend and participate in meetings or communications regarding the care and services to be provided in accordance with Section 1569.80, and to involve persons of their choice in the planning process. The licensee shall provide necessary information and support to ensure that residents direct the process to the maximum extent possible, and are enabled to make informed decisions and choices.

(10) To be free from neglect, financial exploitation, involuntary seclusion, punishment, humiliation, intimidation, and verbal, mental, physical, or sexual abuse.

(11) To present grievances and recommend changes in policies, procedures, and services to the staff of the facility, the facility's management and governing authority, and to any other person without restraint, coercion, discrimination, reprisal, or other retaliatory actions. The licensee shall take prompt actions to respond to residents' grievances.

(12) To contact the State Department of Social Services, the long-term care ombudsman, or both, regarding grievances against the licensee. The licensee shall post the telephone numbers and addresses for the local offices of the State Department of Social Services and ombudsman program, in accordance with Section 9718 of the Welfare and Institutions Code, conspicuously in the facility foyer, lobby, residents' activity room, or other location easily accessible to residents.

(13) To be fully informed, as evidenced by the resident's written acknowledgement, prior to or at the time of admission, of all rules governing residents' conduct and responsibilities. In accordance with Section 1569.885, all rules established by a licensee shall be reasonable and shall not violate any rights set forth in this chapter or in other applicable laws or regulations.

(14) To receive in the admission agreement a comprehensive description of the method for evaluating residents' service needs and the fee schedule for the items and services provided, and to receive written notice of any rate increases pursuant to Sections 1569.655 and 1569.884.

(15) To be informed in writing at or before the time of admission of any resident retention limitations set by the state or licensee, including any limitations or restrictions on the licensee's ability to meet residents' needs.

(16) To reasonable accommodation of individual needs and preferences in all aspects of life in the facility, except when the health or safety of the individual or other residents would be endangered.

(17) To reasonable accommodation of resident preferences concerning room and roommate choices.

(18) To written notice of any room changes at least 30 days in advance unless the request for a change is agreed to by the resident, required to fill a vacant bed, or necessary due to an emergency.

(19) To share a room with the resident's spouse, domestic partner, or a person of resident's choice when both spouses, partners, or residents live in the same facility and consent to the arrangement.

(20) To select their own physicians, pharmacies, privately paid personal assistants, hospice agency, and health care providers, in a manner that is consistent with the resident's contract of admission or other rules of the facility, and in accordance with this act.

(21) To have prompt access to review all of their records and to purchase photocopies. Photocopied records shall be promptly provided, not to exceed two business days, at a cost not to exceed the community standard for photocopies.

(22) To be protected from involuntary transfers, discharges, and evictions in violation of state laws and regulations. Facilities shall not involuntarily transfer or evict residents for grounds other than those specifically enumerated under state law or regulations, and shall comply with enumerated eviction and relocation protections for residents. For purposes of this paragraph, "involuntary" means a transfer, discharge, or eviction that is initiated by the licensee, not by the resident.

(23) To move from a facility.

(24) To consent to have relatives and other individuals of the resident's choosing visit during reasonable hours, privately and without prior notice.

(25) To receive written information on the right to establish an advanced health care directive and, pursuant to Section 1569.156, the licensee's written policies on honoring those directives.

(26) To be encouraged to maintain and develop their fullest potential for independent living through participation in activities that are designed and implemented for this purpose, in accordance with Section 87219 of Title 22 of the California Code of Regulations.

(27) To organize and participate in a resident council that is established pursuant to Section 1569.157.

(28) To protection of their property from theft or loss in accordance with Sections 1569.152, 1569.153, and 1569.154.

(29) To manage their financial affairs. A licensee shall not require residents to deposit their personal funds with the licensee. Except as provided in approved continuing care agreements, a licensee, or a spouse, domestic partner, relative, or employee of a licensee, shall not do any of the following:

(A) Accept appointment as a guardian or conservator of the person or estate of a resident.

(B) Become or act as a representative payee for any payments made to a resident, without the written and documented consent of the resident or the resident's representative.

(C) Serve as an agent for a resident under any general or special power of attorney.

(D) Become or act as a joint tenant on any account with a resident.

(E) Enter into a loan or promissory agreement or otherwise borrow money from a resident without a notarized written agreement outlining the terms of the repayment being given to the resident.

(30) To keep, have access to, and use their own personal possessions, including toilet articles, and to keep and be allowed to spend their own money, unless limited by statute or regulation.

(b) A licensed residential care facility for the elderly shall not discriminate against a person seeking admission or a resident based on sex, race, color, religion, national origin, marital status, registered domestic partner status, ancestry, actual or perceived sexual orientation, or actual or perceived gender identity.
(c) No provision of a contract of admission, including all documents that a resident or his or her representative is required to sign as part of the contract for, or as a condition of, admission to a residential care facility for the elderly, shall require that a resident waive benefits or rights to which he or she is entitled under this chapter or provided by federal or other state law or regulation.
(d) Residents' family members, friends, and representatives have the right to organize and participate in a family council that is established pursuant to Section 1569.158.
(e) The rights specified in this section shall be in addition to any other rights provided by law.
(f) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.
(Added by Stats. 2014, Ch. 702, Sec. 1. (AB 2171) Effective January 1, 2015.)

ARTICLE 2.7. Firearms, Ammunition, and Deadly Weapons [1569.280 - 1569.284]

(Article 2.7 added by Stats. 2019, Ch. 840, Sec. 4.)

1569.280.

(a) This article shall be known, and may be cited, as the Keep Our Seniors Safe Act.
(b) This article does not require a facility to accept, store, or retain firearms or ammunition.
(c) The department shall promulgate regulations to implement this article.
(d) Until regulations are adopted, the department may implement and administer the provisions of this article through the issuance of written directives that have the same force and effect as regulations. The directives shall be exempt from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).
(Added by Stats. 2019, Ch. 840, Sec. 4. (SB 172) Effective January 1, 2020.)

1569.281.

As used in this article, the following terms have the following meanings:
(a) "Firearm" means a device, designed to be used as a weapon, from which is expelled through a barrel, a projectile by the force of an explosion or other form of combustion, including the frame or receiver of the device.
(b) "Ammunition" means one or more loaded cartridges consisting of a primed case, propellant, and with one or more projectiles. "Ammunition" does not include blanks.
(c) "Antique firearm" has the same meaning as set forth, and has the same meaning as, in Section 921(a)(16) of Title 18 of the United States Code.
(d) "Deadly weapon" means any of the following:
(1) Any weapon, the possession or concealed carrying of which is prohibited by Section 16590 of the Penal Code.

(2) A destructive device, as defined in Section 16460 of the Penal Code.

(e) "Handgun" has the same meaning as set forth in Section 16640 of the Penal Code and includes the frame or receiver of the same.
(f) "Facility" means a residential care facility for the elderly licensed by the State Department of Social Services, Community Care Licensing Division.
(Added by Stats. 2019, Ch. 840, Sec. 4. (SB 172) Effective January 1, 2020.)

1569.282.

A licensee that permits residents to possess firearms on the facility premises shall do all of the following:
(a) Accept and centrally store a resident's firearm, ammunition, or both.
(b) Retain and centrally store a licensee's firearm, ammunition, or both.
(c) Residents' and licensees' firearms, ammunition, or both shall be centrally stored in the facility and in the following manner:

(1) Firearms shall be centrally stored unloaded, in a locked gun safe, that meets the regulatory standards established by the Department of Justice in Section 4100 of Title 11 of the California Code of Regulations.

(2) Ammunition shall be centrally stored separately in a locked location different from firearms.

(Added by Stats. 2019, Ch. 840, Sec. 4. (SB 172) Effective January 1, 2020.)

1569.283.

(a) A licensee shall not accept, retain, or store any deadly weapon, as defined in Section 1569.281, of a resident or licensee.
(b) A licensee shall not accept, retain, or store any of the following firearms owned or possessed by a resident or licensee:
(1) A firearm regulated pursuant to Chapter 1 (commencing with Section 18710) of Division 5 of Title 2 of Part 6 of the Penal Code.

(2) A firearm regulated pursuant to Chapter 2 (commencing with Section 30500) of Division 10 of Title 4 of Part 6 of the Penal Code.

(3) A firearm regulated pursuant to Chapter 6 (commencing with Section 32610) of Division 10 of Title 4 of Part 6 of the Penal Code.

(4) A firearm regulated pursuant to Article 2 (commencing with Section 33300) of Chapter 8 of Division 10 of Title 4 of Part 6 of the Penal Code.

(c) The licensee shall not accept, retain, or store a firearm required to be registered with the Department of Justice pursuant to Section 29180 of the Penal Code unless it verifies it is in fact registered with the Department of Justice pursuant to Section 29180 of the Penal Code.
(d) The licensee may accept, retain, or store a firearm that is otherwise required to be registered with the Department of Justice pursuant to Section 29180 of the Penal Code but which is exempt from the registration requirements because it was entered into the centralized registry set forth in Section 11106 of the Penal Code prior to July 1, 2018, as being owned by a specific individual or entity if that firearm has assigned to it a distinguishing number or mark of identification because the department accepted entry of that firearm into the centralized registry.
(e) Commencing July 1, 2021, unless it is an antique firearm, the licensee shall not accept, retain, or store a firearm unless the owner of the firearm provides to the licensee documentation that the person is listed with the Department of Justice pursuant to Section 11106 of the Penal Code as the registered owner of that firearm.
(Added by Stats. 2019, Ch. 840, Sec. 4. (SB 172) Effective January 1, 2020.)

1569.284.

The acceptance or storage of a resident's firearm by a licensee at a facility in accordance with this article, or the retention and storage of a licensee's firearm, shall not constitute a loan, sale, receipt, or transfer of a firearm within the meaning of Sections 26500, 27545, or subdivision (a) of Section 31615 of the Penal Code.
(Added by Stats. 2019, Ch. 840, Sec. 4. (SB 172) Effective January 1, 2020.)

ARTICLE 3. Regulations [1569.30 - 1569.39]

(Article 3 added by Stats. 1985, Ch. 1127, Sec. 3.)

1569.30.

(a) The department shall adopt, amend, or repeal, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, reasonable rules, regulations, and standards as may be necessary or proper to carry out the purposes and intent of this chapter and to enable the department to exercise the powers and perform the duties conferred upon it by this chapter, not inconsistent with any statute of this state.
(b) The regulations governing residential facilities for the elderly under the Community Care Facilities Act (Chapter 3 (commencing with Section 1500)) shall continue to govern residential care facilities for the elderly under this act until amended or repealed.
(Amended by Stats. 2004, Ch. 183, Sec. 190. Effective January 1, 2005.)

1569.31.

The regulations for a license shall prescribe standards of safety and sanitation for the physical plant and standards for basic care and supervision, personal care, and services to be provided.
The department's regulations shall allow for the development of new and innovative community programs.
In adopting regulations which implement this chapter, the department shall provide flexibility to allow facilities conducted by and exclusively for adherents of a well-recognized church or religious denomination who rely solely on prayer or spiritual means for healing to operate a licensed residential care facility for the elderly.
(Added by Stats. 1985, Ch. 1127, Sec. 3.)

1569.311.

Every residential care facility for the elderly shall have one or more carbon monoxide detectors in the facility that meet the standards established in Chapter 8 (commencing with Section 13260) of Part 2 of Division 12. The department shall account for the presence of these detectors during inspections.
(Added by Stats. 2014, Ch. 503, Sec. 3. (AB 2386) Effective January 1, 2015.)

1569.312.

Every facility required to be licensed under this chapter shall provide at least the following basic services:
(a) Care and supervision as defined in Section 1569.2.
(b) Assistance with instrumental activities of daily living in the combinations which meet the needs of residents.
(c) Helping residents gain access to appropriate supportive services, as defined, in the community.
(d) Being aware of the resident's general whereabouts, although the resident may travel independently in the community.
(e) Monitoring the activities of the residents while they are under the supervision of the facility to ensure their general health, safety, and well-being.
(f) Encouraging the residents to maintain and develop their maximum functional ability through participation in planned activities.
(Amended by Stats. 1986, Ch. 844, Sec. 4.)

1569.313.

Each residential care facility for the elderly shall state, on its client information form or admission agreement, and on its patient's rights form, the facility's policy concerning family visits and other communication with resident clients and shall promptly post notice of its visiting policy at a location in the facility that is accessible to residents and families.
The facility's policy concerning family visits and communication shall be designed to encourage regular family involvement with the resident client and shall provide ample opportunities for family participation in activities at the facility.
(Added by Stats. 1985, Ch. 954, Sec. 3.)

1569.314.

A residential care facility for the elderly shall not require residents to purchase medications, or rent or purchase medical supplies or equipment, from any particular pharmacy or other source.
This section shall not preclude a residential care facility for the elderly from requiring that residents who need assistance with the purchasing, storing, or taking of medications comply with the facility's policies and procedures regarding storage of medications and methods of assisting residents with the taking of medications, if the policies and procedures are reasonably necessary and meet the intent of state or federal regulations.
(Amended by Stats. 1991, Ch. 888, Sec. 8.)

1569.315.

Each residential care facility for the elderly required to be licensed pursuant to this chapter shall keep a current record of clients in the facility, including the client's name and ambulatory status, and the name, address, and telephone number of the

client's physician and of any person or agency responsible for the care of the client. The facility shall protect the privacy and confidentiality of this information.
(Added by Stats. 1985, Ch. 869, Sec. 4. See similar Section 1569.315 added by Stats. 1985, Ch. 1096.)

1569.315.

Each facility required to be licensed shall keep a current record of all of the following:
(a) Clients in the facility, including each client's name and ambulatory status.
(b) The name and telephone number of each client's physician.
(c) The name, address, and telephone number of any person or agency responsible for the care of a client.
The facility shall respect the privacy and confidentiality of this information.
(Added by Stats. 1985, Ch. 1096, Sec. 5.)

1569.316.

(a) The referring agency or facility, or its designee, shall provide to the administrator all information in its possession concerning any history of dangerous propensity of the client prior to the placement in the residential care facility for the elderly. However, no confidential client information shall be released pursuant to this section without the consent of the client or his or her authorized representative.
(b) In determining a person's compatibility, the licensee shall consider criteria that includes, but is not limited to, both of the following:
(1) The extent to which the person's personal and health care needs can be adequately met in the residential care facility for the elderly.

(2) The existence of a past history of violence or mental illness that would create a risk for the person or other residents of that facility.

(Added by Stats. 1996, Ch. 434, Sec. 2. Effective January 1, 1997.)

1569.317.

Every residential care facility for the elderly, as defined in Section 1569.2, shall, for the purpose of addressing issues that arise when a resident is missing from the facility, develop and comply with an absentee notification plan as part of the written record of the care the resident will receive in the facility, as described in Section 1569.80. The plan shall include and be limited to the following: a requirement that an administrator of the facility, or his or her designee, inform the resident's authorized representative when that resident is missing from the facility and the circumstances in which an administrator of the facility, or his or her designee, shall notify local law enforcement when a resident is missing from the facility.
(Added by Stats. 2013, Ch. 674, Sec. 3. (AB 620) Effective January 1, 2014.)

1569.318.

Every residential care facility for the elderly shall abide by the provisions of the Lesbian, Gay, Bisexual, and Transgender Long-Term Care Facility Residents' Bill of Rights (Chapter 2.45 (commencing with Section 1439.50)).
(Added by Stats. 2017, Ch. 483, Sec. 4. (SB 219) Effective January 1, 2018.)

1569.319.

(a) A licensee of a facility that has internet service shall provide at least one internet access device, such as a computer, smart phone, tablet, or other device, that can support real-time interactive applications, is equipped with videoconferencing technology, including microphone and camera functions, and is dedicated for resident use.
(b) A licensee shall ensure the following requirements are met in providing any internet access device for resident use:

(1) The device shall be available in a manner that allows a resident to access it for discussion of personal or confidential information with a reasonable level of personal privacy.

(2) The device shall be made available to residents in a manner that permits shared access among all residents in the facility during reasonable hours.

(Added by Stats. 2021, Ch. 469, Sec. 3. (AB 665) Effective January 1, 2022.)

1569.32.

Any duly authorized officer, employee, or agent of the department may, upon presentation of proper identification, enter and inspect any place providing personal care, supervision, and services at any time, with or without advance notice, to secure compliance with, or to prevent a violation of, this chapter.
(Added by Stats. 1985, Ch. 1127, Sec. 3.)

1569.33.

(a) Every licensed residential care facility for the elderly shall be subject to unannounced inspections by the department. The department shall inspect these facilities as often as necessary to ensure the quality of care provided.
(b) The department shall conduct an annual unannounced inspection of a facility under any of the following circumstances:

(1) When a license is on probation.

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

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

(4) When a facility requires an annual inspection as a condition of receiving federal financial participation.

(5) In order to verify that a person who has been ordered out of the facility for the elderly by the department is no longer at the facility.

(c) On and after January 1, 2017, and until January 1, 2018, the following shall apply:

(1) The department shall conduct annual unannounced inspections of no less than 30 percent of residential care facilities for the elderly not subject to an inspection under subdivision (b).

(2) These unannounced inspections shall be conducted based on a random sampling methodology developed by the department.

(3) The department shall inspect a residential care facility for the elderly at least once every three years.

(d) On and after January 1, 2018, and until January 1, 2019, the following shall apply:

(1) The department shall conduct annual unannounced inspections of no less than 20 percent of residential care facilities for the elderly not subject to an evaluation under subdivision (b).

(2) These unannounced inspections shall be conducted based on a random sampling methodology developed by the department.

(3) The department shall inspect a residential care facility for the elderly at least once every two years.

(e) On and after January 1, 2019, the department shall conduct annual unannounced inspections of all residential care facilities for the elderly.

(f) (1) The department shall notify the residential care facility for the elderly in writing of all deficiencies in its compliance with the provisions of this chapter and the rules and regulations adopted pursuant to this chapter.

(2) Unless otherwise specified in the plan of correction, the residential care facility for the elderly shall remedy the deficiencies within 10 days of the notification.

(g) (1) Reports on the results of each inspection, evaluation, or consultation shall be kept on file in the department, and all inspection reports, consultation reports, lists of deficiencies, and plans of correction shall be open to public inspection.

(2) (A) The department shall post on its Internet Web site information on how to obtain an inspection report.

(B) It is the intent of the Legislature that the department shall make inspection reports available on its Internet Web site by January 1, 2020.

(h) As a part of the department's evaluation process, the department shall review the plan of operation, training logs, and marketing materials of any residential care facility for the elderly that advertises or promotes special care, special programming, or a special environment for persons with dementia to monitor compliance with Sections 1569.626 and 1569.627.
(i) (1) The department shall design, or cause to be designed, a poster that contains information on the appropriate reporting agency in case of a complaint or emergency.
(2) Each residential care facility for the elderly shall post this poster in the main entryway of its facility.

(j) This section shall become operative on January 1, 2017.
(Repealed (in Sec. 6) and added by Stats. 2015, Ch. 20, Sec. 7. (SB 79) Effective June 24, 2015. Section operative January 1, 2017, by its own provisions.)

1569.331.

The Legislature hereby finds and declares that in order to protect the health and safety of elders in care at residential care facilities for the elderly, appropriate oversight and regulation of residential care facilities for the elderly requires regular, periodic inspections of these facilities in addition to investigations in response to complaints. It is the intent of the Legislature to increase the frequency of unannounced inspections pursuant to Section 1569.33. In addition to the information that the State Department of Social Services is required to report during the 2015–16 legislative budget subcommittee hearings pursuant to Section 85 of Chapter 29 of the Statutes of 2014, the department shall also at that time report the projected costs of conducting annual inspections of residential care facilities for the elderly beginning January 1, 2018.
(Added by Stats. 2014, Ch. 704, Sec. 2. (SB 895) Effective January 1, 2015.)

1569.335.

(a) The department shall provide the Office of the State Long-Term Care Ombudsman, as defined in subdivision (c) of Section 9701 of the Welfare and Institutions Code, with a precautionary notification if the department begins to prepare to issue a temporary suspension or revocation of any license, so that the office may properly prepare to provide advocacy services if and when necessary.
(b) The department shall notify affected public placement agencies and the Office of the State Long-Term Care Ombudsman whenever the department substantiates that a violation has occurred that poses a serious threat to the health and safety of any resident when the violation results in the assessment of any penalty or causes an accusation to be filed for the revocation of a license.
(c) (1) If the violation is appealed by the facility within 15 business days, the department shall only notify placement agencies of the violation when the appeal has been exhausted.

(2) If the appeal process has not been completed within 60 days, the placement agency shall be notified with a notation that indicates that the case is still under appeal.

(3) The notice to each placement agency shall be updated monthly for the following 24-month period and shall include the name and location of the facility, the amount of the fine, the nature of the violation, the corrective action taken, the status of the revocation, and the resolution of the complaint.

(Amended by Stats. 2016, Ch. 823, Sec. 6. (AB 2231) Effective January 1, 2017.)

1569.34.

The director shall have the authority to contract for personal services as required in order to perform inspections of, or consultation with, residential care facilities for the elderly.
The department shall establish by December 1, 1986, within the department an interdisciplinary team of professionals to advise the department on implementation of this chapter and to be available in crisis situations to assist local licensing evaluators on the needs of elderly residents in facilities.
This team shall include at least a geriatric nurse practitioner or a public health nurse with geriatric experience and a social worker with related experience.
(Added by Stats. 1985, Ch. 1127, Sec. 3.)

1569.345.

Upon request, the department shall provide the Office of the State Long-Term Care Ombudsman and any approved organizations of the office with copies of inspection reports for residential care facilities for the elderly.
(Added by Stats. 1985, Ch. 1127, Sec. 3.)

1569.35.

(a) Any person may request an investigation of a residential care facility for the elderly in accordance with this chapter by making a complaint to the department alleging a violation of applicable requirements prescribed by statutes or regulations of this state, including, but not limited to, a denial of access of any person authorized to enter the facility pursuant to Section 9722 of the Welfare and Institutions Code. A complaint may be made either orally or in writing.
(b) The substance of the complaint shall be provided to the licensee no earlier than at the time of the inspection. Unless the complainant specifically requests otherwise, neither the substance of the complaint provided the licensee nor any copy of the complaint or any record published, released, or otherwise made available to the licensee shall disclose the name of any person mentioned in the complaint except the name of any duly authorized officer, employee, or agent of the department conducting the investigation or inspection pursuant to this chapter.

(c) (1) Upon receipt of a complaint, other than a complaint alleging denial of a statutory right of access to a residential care facility for the elderly, the department shall make a preliminary review and, unless the department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, it shall make an onsite inspection within 10 days after receiving the complaint except where the visit would adversely affect the licensing investigation or the investigation of other agencies, including, but not limited to, law enforcement agencies. In either event, the complainant shall be promptly informed of the department's proposed course of action.

(2) If a local long-term care ombudsman or the State Long-Term Care Ombudsman files a complaint alleging denial of a statutory right of access to a residential care facility for the elderly under Section 9722 of the Welfare and Institutions Code, the department shall give priority to the complaint pursuant to Section 9721 of the Welfare and Institutions Code and notify the Office of the State Long-Term Care Ombudsman that an investigation has been initiated pursuant to this section.

(3) Prior to conducting an onsite investigation pursuant to this section, the department shall make a good faith effort, documented in writing, to contact and interview the complainant and inform the complainant of the department's proposed course of action and the relevant deadline for the department to complete its investigation. To the extent practicable, the officer, employee, or agent of the department who will conduct the investigation shall be the representative who interviews and makes contact with the complainant.

(d) Within 10 business days of completing the investigation of a complaint under this section, the department shall notify the complainant in writing of the department's determination as a result of the investigation.
(Amended by Stats. 2015, Ch. 486, Sec. 4. (AB 1387) Effective January 1, 2016.)

1569.351.

(a) The department shall ensure that the licensee's plan of correction is verifiable and measurable. The plan of correction shall specify what evidence is acceptable to establish that a deficiency has been corrected. This evidence shall be included in the department's facility file.
(b) The department shall specify in its licensing report all violations that, if not corrected, will have a direct and immediate risk to the health, safety, or personal rights of residents in care.
(c) The department shall complete all complaint investigations and place a note of final conclusion in the department's facility file, regardless of whether the licensee voluntarily surrendered the license.
(Added by Stats. 2008, Ch. 291, Sec. 14. Effective September 25, 2008.)

1569.355.

The director shall establish an automated license information system on licensees and former licensees of licensed residential care facilities for the elderly. The system shall maintain a record of any information that may be pertinent, as determined by the director, for licensure under this chapter. This information may include, but is not limited to, the licensees' addresses, telephone numbers, violations of any laws related to the care of clients in a residential care facility for the elderly, licenses, revocation of any licenses and, to the extent permitted by federal law, social security numbers.
(Added by Stats. 1985, Ch. 1127, Sec. 3.)

1569.356.

To the extent that the department's computer system can electronically accommodate additional residential care facility for the elderly profile information, the department shall post on its Internet Web site the current name, business address, and telephone number of the licensee, the name of the owner of the residential care facility for the elderly, if not the same as the licensee, the name of any parent organization, the licensed capacity of the facility, including the capacity for nonambulatory residents, whether the facility is permitted to accept and retain residents receiving hospice care services, whether the facility has a special care unit or program for people with Alzheimer's disease and other dementias and has a delayed egress or secured perimeter system in place, or both, and information required pursuant to subparagraph (B) of paragraph (3) of subdivision (a) of Section 1569.15.
(Added by Stats. 2015, Ch. 628, Sec. 4. (AB 601) Effective January 1, 2016.)

1569.36.

(a) Not less than 30 days prior to the expiration date of any residential care facility for the elderly license, the department shall transmit a copy to the state ombudsman in the Department of Aging as well as the local ombudsman, if one exists, of all notices sent to the facility by the department during the term of the current license as a result of a substantiated complaint regarding a violation of any of the provisions of this chapter relating to resident abuse and neglect, food, sanitation, incidental medical care, and residential supervision. During that one-year period the copy of the notices transmitted and the proof of the transmittal shall be open for public inspection.
(b) The department shall provide the names and addresses of the state ombudsman in the Department of Aging and, where applicable, the local ombudsman, to each residential care facility for the elderly.
(Amended by Stats. 1989, Ch. 1115, Sec. 13.)

1569.37.

No licensee, or officer or employee of the licensee, shall discriminate or retaliate in any manner, including, but not limited to, eviction or threat of eviction, against any

person receiving the services of the licensee's residential care facility for the elderly, or against any employee of the licensee's facility, on the basis, or for the reason that, the person or employee or any other person has initiated or participated in the filing of a complaint, grievance, or a request for inspection with the department pursuant to this chapter, or has initiated or participated in the filing of a complaint, grievance, or request for investigation with the appropriate local ombudsman, or with the state ombudsman recognized pursuant to Chapter 11 (commencing with Section 9700) of Division 8.5 of the Welfare and Institutions Code.
(Amended by Stats. 2013, Ch. 295, Sec. 3. (AB 581) Effective January 1, 2014.)

1569.371.

(a) No licensee, or officer or employee of the licensee, shall discriminate or retaliate in any manner against any person receiving the services of the licensee's residential care facility for the elderly, or against any employee of the licensee's facility, on the basis, or for the reason that, the person, employee, or any other person dialed or called 911.
(b) A violation of this section is subject to civil penalty pursuant to Section 1569.49.
(c) This section shall become operative on January 1, 2016.
(Added by Stats. 2014, Ch. 705, Sec. 1. (SB 911) Effective January 1, 2015.)

1569.38.

(a) Each residential care facility for the elderly shall place in a conspicuous place copies of all licensing reports issued by the department within the preceding 12 months, and all licensing reports issued by the department resulting from the most recent annual visit of the department to the facility. This subdivision shall not apply to any portion of a licensing report referring to a complaint that was found by the department to be unfounded or unsubstantiated. The facility, during the admission process, shall inform the resident and the resident's responsible person in writing that licensing reports are available for review at the facility, and that copies of licensing reports and other documents pertaining to the facility are available from the appropriate district office of the department. The facility shall provide the telephone number and address of the appropriate district office.
(b) A licensed residential care facility for the elderly shall provide written notice to a resident, the resident's responsible party, if any, and the local long-term care ombudsman, within 10 days from the occurrence of either of the following events:

(1) The department commences proceedings to suspend or revoke the license of the facility pursuant to Section 1569.50.

(2) A criminal action that relates to the health or safety of the residents is brought against the licensed residential care facility.

(c) The notice provided to a resident and the resident's responsible party, if any, shall include the name and contact information for the local long-term care ombudsman and for the Community Care Licensing Division of the department with

a statement that directs the resident or the resident's responsible party to contact the division for information on the license status of the facility.
(d) The notice, described in subdivision (b), provided to a resident and the resident's responsible party, if any, shall include the reason given for the commencement of proceedings to suspend or revoke the license of the facility, or the reason given for criminal action brought against the licensed residential care facility.
(e) Upon providing the notice described in subdivision (b), the licensed residential care facility shall also post a written notice, in at least 14-point type, in a conspicuous location in the facility, that may include where the mail boxes are located, where the facility license is posted, or any other easily accessible location in the facility. The posting shall include all of the following information:

(1) The date of the notice.

(2) The name of the residential care facility for the elderly.

(3) A statement that a copy of the most recent licensing report prepared by the department, and any additional reports of facility evaluation visits, within the preceding 12 months, may be obtained at the facility.

(4) The name and telephone number of the contact person designated by the Community Care Licensing Division of the department to provide information on the license status of the facility.

(f) The notice required to be posted pursuant to subdivision (e) shall remain posted until the deficiencies that gave rise to the notice are resolved.
(g) A licensee who fails to comply with the requirements of subdivision (b) or (c) shall be liable for civil penalties in the amount of one hundred dollars ($100) for each day of the failure to provide notification as required in this section. The total civil penalty for each day shall not exceed one hundred dollars ($100) regardless of the number of notices that the licensee fails to send that day. The total civil penalty for a continuous violation of subdivision (b) or (c) shall not exceed five thousand dollars ($5,000).
(h) For purposes of this section, "responsible party" means an individual, including the patient's relative, health care surrogate decisionmaker, or a placement agency, who assists the resident in placement or assumes varying degrees of responsibility for the well-being of the resident, as designated by the resident in writing.
(Amended by Stats. 2011, Ch. 365, Sec. 1. (AB 313) Effective January 1, 2012.)

1569.39.

(a) A residential care facility for the elderly that accepts or retains residents with prohibited health conditions, as defined by the department, in Section 87615 of Title 22 of the California Code of Regulations, shall assist residents with accessing home health or hospice services, as indicated in the resident's current appraisal, to ensure that residents receive medical care as prescribed by the resident's physician and contained in the resident's service plan.

(b) A residential care facility for the elderly that accepts or retains residents with restricted health conditions, as defined by the department, shall ensure that residents receive medical care as prescribed by the resident's physician and contained in the resident's service plan by appropriately skilled professionals acting within their scope of practice. An appropriately skilled professional may not be required when the resident is providing self-care, as defined by the department, and there is documentation in the resident's service plan that the resident is capable of providing self-care.
(c) An "appropriately skilled professional" means, for purposes of this section, an individual who has training and is licensed to perform the necessary medical procedures prescribed by a physician. This includes, but is not limited to, a registered nurse, licensed vocational nurse, physical therapist, occupational therapist, or respiratory therapist. These professionals may include, but are not limited to, those persons employed by a home health agency, the resident, or a facility, and who are currently licensed in this state.
(d) Failure to meet or arrange to meet the needs of those residents who require health-related services as specified in the resident's written record of care, defined pursuant to Section 1569.80, or failure to notify the physician of a resident's illness or injury that poses a danger of death or serious bodily harm is a licensing violation and subject to civil penalty pursuant to Section 1569.49.
(e) This section shall become operative on January 1, 2016.
(Added by Stats. 2014, Ch. 705, Sec. 2. (SB 911) Effective January 1, 2015.)

ARTICLE 4. Offenses [1569.40 - 1569.495]
(Article 4 added by Stats. 1985, Ch. 1127, Sec. 3.)

1569.40.

(a) Any person who violates this chapter, or who willfully or repeatedly violates any rule or regulation adopted under this chapter, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars ($1,000), by imprisonment in the county jail for a period not to exceed one year, or by both the fine and imprisonment.
(b) Operation of a residential care facility for the elderly without a license shall be subject to a summons to appear in court. Unlicensed operation, establishment, management, conducting, or maintaining of a facility as prohibited by Section 1569.10 is a separate and distinct offense of this section and is punishable as a misdemeanor.
(c) A misdemeanor may be prosecuted regardless of any concurrent enforcement of civil penalties or administrative remedies available to the department.
(d) Notwithstanding any other provision of this chapter, any person, firm, partnership, association, or corporation who owns, operates, establishes, manages, conducts, or maintains a residential care facility for the elderly, as defined in subdivisions (k) and (l) of Section 1569.2 which is an unlicensed residential care facility for the elderly as defined in subdivision (a) of Section 1569.44 is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding

two thousand five hundred dollars ($2,500), by imprisonment in the county jail for a period not to exceed one year, or by both the fine and imprisonment.
(Amended by Stats. 1989, Ch. 1115, Sec. 14.)

1569.405.

Upon a finding by the licensing authority that a facility is in operation without a license, a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, may enforce Section 1569.10 by utilizing the procedures set forth in Chapter 5 (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code. A facility violating Section 1569.10 is guilty of an infraction punishable by a fine of two hundred dollars ($200) for each day of violation. Upon a determination that a residential care facility for the elderly is in violation of Section 1569.10, and after a citation has been issued, the peace officer shall immediately notify the licensing authority in the department.
(Added by Stats. 1987, Ch. 856, Sec. 2.)

1569.406.

Any person who, without lawful authorization from a duly authorized officer, employee, or agent of the department, informs an owner, operator, employee, agent, or resident of a residential care facility for the elderly of an impending and unannounced site visit to that facility by personnel of the department, except for a site visit prior to licensing the facility, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars ($1,000), by imprisonment in the county jail for a period not to exceed 180 days, or by both a fine and imprisonment.
(Amended by Stats. 1991, Ch. 888, Sec. 9.)

1569.41.

The director may bring an action to enjoin the violation or threatened violation of Section 1569.10 or 1569.44, or both, in the superior court in and for the county in which the violation occurred or is about to occur. Any proceeding under this section shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the director shall not be required to allege facts necessary to show or tending to show lack of adequate remedy at law or irreparable damage or loss. Upon a finding by the director that the violations threaten the health or safety of persons in, or served by, a residential care facility for the elderly, the agency contracted with pursuant to Section 1569.13 may bring an action to enjoin the violation, threatened violation, or continued violation by any residential care facility for the elderly which is located in an area for which it is responsible pursuant to the terms of the contract.
With respect to any and all actions brought pursuant to this section alleging actual violation of Section 1569.10 or 1569.44, or both, the court shall, if it finds the

allegations to be true, issue its order enjoining the residential care facility for the elderly from continuance of the violation.
(Added by Stats. 1985, Ch. 1127, Sec. 3.)

1569.42.

Any action brought by the director against a residential care facility for the elderly shall not abate by reason of a sale or other transfer of ownership of the residential care facility for the elderly which is a party to the action except with express written consent of the director.
(Added by Stats. 1985, Ch. 1127, Sec. 3.)

1569.43.

Notwithstanding any other provisions of this chapter, the district attorney of every county, and city attorneys in those cities which have city attorneys which prosecute misdemeanors pursuant to Section 72193 of the Government Code, shall, upon their own initiative or upon application by the state department or its authorized representative, institute and conduct the prosecution of any action for violation of this chapter within his or her jurisdiction.
(Amended by Stats. 2002, Ch. 784, Sec. 515. Effective January 1, 2003.)

1569.44.

(a) A facility shall be deemed to be an "unlicensed residential care facility for the elderly" and "maintained and operated to provide residential care" if it is unlicensed and not exempt from licensure, and any one of the following conditions is satisfied:

(1) The facility is providing care and supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.

(2) The facility is held out as, or represented as, providing care and supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.

(3) The facility accepts or retains residents who demonstrate the need for care and supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.

(4) The facility represents itself as a licensed residential facility for the elderly.

(b) No unlicensed residential facility for the elderly, as defined in subdivision (a), shall operate in this state.
(c) Upon discovery of an unlicensed residential care facility for the elderly, the department shall refer residents to the appropriate placement or adult protective services agency or the appropriate local or state long-term care ombudsman, if either of the following conditions exist:

(1) There is an immediate threat to the clients' health and safety.

(2) The facility will not cooperate with the licensing agency to apply for a license, meet licensing standards, and obtain a valid license.

(Amended by Stats. 1989, Ch. 1115, Sec. 16.)

1569.45.

A facility shall be licensed as a residential care facility for the elderly if it offers care and supervision, as defined, to its residents. Every residential care facility for the elderly in this state shall be licensed under this chapter.
(Added by Stats. 1985, Ch. 1127, Sec. 3.)

1569.46.

Operation of an unlicensed facility shall be an act of unfair competition and an unfair business practice within the meaning of Chapter 5 (commencing with Section 17200) of the Business and Professions Code.
(Added by Stats. 1989, Ch. 1115, Sec. 17.)

1569.47.

(a) "Placement agency" means any county welfare department, county social service department, county mental health department, county public guardian, general acute care hospital discharge planner or coordinator, state-funded program or private agency providing placement or referral services, conservator pursuant to Part 3 (commencing with Section 1800) of Division 4 of the Probate Code, conservator pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code, and regional center for persons with developmental disabilities which is engaged in finding homes or other places for the placement of elderly persons for temporary or permanent care.
(b) A placement agency shall not place individuals in licensed residential care facilities for the elderly when the individual, because of his or her health condition, cannot be cared for within the limits of the license or requires inpatient care in a health facility. Violation of this subdivision is a misdemeanor.
(c) A placement agency or employee of a placement agency shall not place, refer, or recommend placement of a person in a facility providing care and supervision, or protective supervision, unless the facility is licensed as a residential care facility for the elderly or is exempt from licensing under Section 1569.145. Violation of this subdivision is a misdemeanor.
(d) Any employee of a placement agency who knows, or reasonably suspects, that a facility which is not exempt from licensing is operating without a license shall report the name and address of the facility to the department. Failure to report as required by this subdivision is a misdemeanor.

(e) The department shall investigate any report filed under subdivision (d). If the department has probable cause to believe that the facility which is the subject of the report is operating without a license, the department shall investigate the facility within 10 days after receipt of the report.
(f) A placement agency shall notify the appropriate licensing agency of any known or suspected incidents which would jeopardize the health or safety of residents in a residential care facility for the elderly. Reportable incidents include, but are not limited to, all of the following:

(1) Incidents of physical abuse.

(2) Any violation of personal rights.

(3) Any situation in which a facility is unclean, unsafe, unsanitary, or in poor condition.

(4) Any situation in which a facility has insufficient personnel or incompetent personnel on duty.

(5) Any situation in which residents experience mental or verbal abuse.

(Amended by Stats. 1991, Ch. 888, Sec. 10.)

1569.48.

An emergency resident contingency account may be established within the Technical Assistance Fund established under Section 1523.2 to which not more than 50 percent of each penalty assessed pursuant to Section 1569.49 is deposited for use by the Community Care Licensing Division of the department, at the discretion of the director, for the relocation and care of residents when a facility's license is revoked or temporarily suspended. The money in the account shall cover costs, including, but not limited to, transportation expenses, expenses incurred in notifying family members, and any other costs directly associated with providing continuous care and supervision to the residents. The department shall seek the input of stakeholders and local agencies in developing policies for emergency resident care and supervision.
(Amended by Stats. 2014, Ch. 29, Sec. 23. (SB 855) Effective June 20, 2014.)

1569.481.

(a) (1) It is the intent of the Legislature in enacting this section to authorize the department to take quick, effective action to protect the health and safety of residents of residential care facilities for the elderly and to minimize the effects of transfer trauma that accompany the abrupt transfer of residents by appointing a temporary manager to assume the operation of a facility that is found to be in a condition in which continued operation by the licensee or his or her representative presents a substantial probability of imminent danger of serious physical harm or death to the residents.

(2) A temporary manager appointed pursuant to this section shall assume the operation of the facility in order to bring it into compliance with the law, facilitate a transfer of ownership to a new licensee, or ensure the orderly transfer of residents should the facility be required to close. Upon a final decision and order of revocation of the license, issuance of a temporary suspension, or a forfeiture by operation of law, the department shall immediately issue a provisional license to the appointed temporary manager. Notwithstanding the applicable sections of this code governing the revocation of a provisional license, the provisional license issued to a temporary manager shall automatically expire upon the termination of the temporary manager. The temporary manager shall possess the provisional license solely for purposes of carrying out the responsibilities authorized by this section and the duties set forth in the written agreement between the department and the temporary manager. The temporary manager does not have the right to appeal the expiration of the provisional license.

(b) For purposes of this section, "temporary manager" means the person, corporation, or other entity appointed temporarily by the department as a substitute facility licensee or administrator with authority to hire, terminate, reassign staff, obligate facility funds, alter facility procedures, and manage the facility to correct deficiencies identified in the facility's operation. The temporary manager has the final authority to direct the care and supervision activities of any person associated with the facility, including superseding the authority of the licensee and the administrator.

(c) The director, in order to protect the residents of the facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety, may appoint a temporary manager when any of the following circumstances exist:

(1) The director determines that it is necessary to temporarily suspend the license of a residential care facility for the elderly pursuant to Section 1569.50 and the immediate relocation of the residents is not feasible based on transfer trauma, lack of available alternative placements, or other emergency considerations for the health and safety of the residents.

(2) The licensee is unwilling or unable to comply with the requirements of Section 1569.525 or the requirements of Section 1569.682 regarding the safe and orderly relocation of residents when ordered to do so by the department or when otherwise required by law.

(3) The licensee has opted to secure a temporary manager pursuant to Section 1569.525.

(d) (1) Upon appointment, the temporary manager shall complete its application for a license to operate a residential care facility for the elderly and take all necessary steps and make best efforts to eliminate any substantial threat to the health and safety to residents or complete the transfer of residents to alternative placements pursuant to Section 1569.525 or 1569.682. For purposes of a provisional license issued to a temporary manager, the licensee's existing fire safety clearance shall serve as the fire safety clearance for the temporary manager's provisional license.

(2) A person shall not impede the operation of a temporary manager. The temporary manager's access to, or possession of, the property shall not be interfered with during the term of the temporary manager's appointment. There shall be an automatic stay for a 60-day period subsequent to the appointment of a temporary manager of any action that would interfere with the functioning of the facility, including, but not limited to, termination of utility services, attachments, or setoffs of resident trust funds, and repossession of equipment in the facility.

(e) (1) The appointment of a temporary manager shall be immediately effective and shall continue for a period not to exceed 60 days unless otherwise extended in accordance with paragraph (2) of subdivision (h) at the discretion of the department or as permitted by paragraph (2) of subdivision (d) of Section 1569.525, or unless otherwise terminated earlier by any of the following events:

(A) The temporary manager notifies the department, and the department verifies, that the facility meets state and, if applicable, federal standards for operation, and will be able to continue to maintain compliance with those standards after the termination of the appointment of the temporary manager.

(B) The department approves a new temporary manager.

(C) A new operator is licensed.

(D) The department closes the facility.

(E) A hearing or court order ends the temporary manager appointment, including the appointment of a receiver under Section 1569.482.

(F) The appointment is terminated by the department or the temporary manager.

(2) The appointment of a temporary manager shall authorize the temporary manager to act pursuant to this section. The appointment shall be made pursuant to a written agreement between the temporary manager and the department that outlines the circumstances under which the temporary manager may expend funds. The department shall provide the licensee and administrator with a copy of the accusation to appoint a temporary manager at the time of appointment. The accusation shall notify the licensee of the licensee's right to petition the Office of Administrative Hearings for a hearing to contest the appointment of the temporary manager as described in subdivision (f) and shall provide the licensee with a form and appropriate information for the licensee's use in requesting a hearing.

(3) The director may rescind the appointment of a temporary manager and appoint a new temporary manager at any time that the director determines the temporary manager is not adhering to the conditions of the appointment.

(f) (1) The licensee of a residential care facility for the elderly may contest the appointment of the temporary manager by filing a petition for an order to terminate the appointment of the temporary manager with the Office of Administrative Hearings within 15 days from the date of mailing of the accusation to appoint a temporary manager under subdivision (e). On the same day the petition is filed with the Office of Administrative Hearings, the licensee shall serve a copy of the petition to the office of the director.

(2) Upon receipt of a petition under paragraph (1), the Office of Administrative Hearings shall set a hearing date and time within 10 business days of the receipt of the petition. The office shall promptly notify the licensee and the department of the date, time, and place of the hearing. The office shall assign the case to an administrative law judge. At the hearing, relevant evidence may be presented pursuant to Section 11513 of the Government Code. The administrative law judge shall issue a written decision on the petition within 10 business days of the conclusion of the hearing. The 10-day time period for holding the hearing and for rendering a decision may be extended by the written agreement of the parties.

(3) The administrative law judge shall uphold the appointment of the temporary manager if the department proves, by a preponderance of the evidence, that the circumstances specified in subdivision (c) applied to the facility at the time of the appointment. The administrative law judge shall order the termination of the temporary manager if the burden of proof is not satisfied.

(4) The decision of the administrative law judge is subject to judicial review as provided in Section 1094.5 of the Code of Civil Procedure by the superior court of the county where the facility is located. This review may be requested by the licensee of the facility or the department by filing a petition seeking relief from the order. The petition may also request the issuance of temporary injunctive relief pending the decision on the petition. The superior court shall hold a hearing within 10 business days of the filing of the petition and shall issue a decision on the petition within 10 days of the hearing. The department may be represented by legal counsel within the department for purposes of court proceedings authorized under this section.

(g) If the licensee does not protest the appointment or does not prevail at either the administrative hearing under paragraph (2) of subdivision (f) or the superior court hearing under paragraph (4) of subdivision (f), the temporary manager shall continue in accordance with subdivision (e).

(h) (1) If the licensee petitions the Office of Administrative Hearings pursuant to subdivision (f), the appointment of the temporary manager by the director pursuant to this section shall continue until it is terminated by the administrative law judge or by the superior court, or it shall continue until the conditions of subdivision (e) are satisfied, whichever is earlier.

(2) At any time during the appointment of the temporary manager, the director may request an extension of the appointment by filing a petition for hearing with the Office of Administrative Hearings and serving a copy of the petition on the licensee. The office shall proceed as specified in paragraph (2) of subdivision (f). The administrative law judge may extend the appointment of the temporary

manager an additional 60 days upon a showing by the department that the conditions specified in subdivision (c) continue to exist.

(3) The licensee or the department may request review of the administrative law judge's decision on the extension as provided in paragraph (4) of subdivision (f).

(i) The temporary manager appointed pursuant to this section shall meet the following qualifications:

(1) Be qualified to oversee correction of deficiencies in a residential care facility for the elderly on the basis of experience and education.

(2) Not be the subject of any pending actions by the department or any other state agency nor have ever been excluded from a department-licensed facility or had a license or certification suspended or revoked by an administrative action by the department or any other state agency.

(3) Not have a financial ownership interest in the facility and not have a member of his or her immediate family who has a financial ownership interest in the facility.

(4) Not currently serve, or within the past two years have served, as a member of the staff of the facility.

(j) Payment of the costs of the temporary manager shall comply with the following requirements:

(1) Upon agreement with the licensee, the costs of the temporary manager and any other expenses in connection with the temporary management shall be paid directly by the facility while the temporary manager is assigned to that facility. Failure of the licensee to agree to the payment of those costs may result in the payment of the costs by the department and subsequent required reimbursement of the department by the licensee pursuant to this section.

(2) Direct costs of the temporary manager shall be equivalent to the sum of the following:

(A) The prevailing fee paid by licensees for positions of the same type in the facility's geographic area.

(B) Additional costs that reasonably would have been incurred by the licensee if the licensee and the temporary manager had been in an employment relationship.

(C) Other reasonable costs incurred by the temporary manager in furnishing services pursuant to this section.

(3) Direct costs may exceed the amount specified in paragraph (2) if the department is otherwise unable to find a qualified temporary manager.

(k) (1) The responsibilities of the temporary manager may include, but are not limited to, the following:

(A) Paying wages to staff. The temporary manager shall have the full power to hire, direct, manage, and discharge employees of the facility, subject to any contractual rights they may have. The temporary manager shall pay employees at the same rate of compensation, including benefits, that the employees would have received from the licensee or wages necessary to provide adequate staff for the protection of clients and compliance with the law.

(B) Preserving resident funds. The temporary manager shall be entitled to, and shall take possession of, all property or assets of residents that are in the possession of the licensee or administrator of the facility. The temporary manager shall preserve all property, assets, and records of residents of which the temporary manager takes possession.

(C) Contracting for outside services as may be needed for the operation of the facility. A contract for outside services in excess of five thousand dollars ($5,000) shall be approved by the director.

(D) Paying commercial creditors of the facility to the extent required to operate the facility. The temporary manager shall honor all leases, mortgages, and secured transactions affecting the building in which the facility is located and all goods and fixtures in the building, but only to the extent of payments that, in the case of a rental agreement, are for the use of the property during the period of the temporary management, or that, in the case of a purchase agreement, come due during the period of the temporary management.

(E) Performing all acts that are necessary and proper to maintain and operate the facility in accordance with sound fiscal policies. The temporary manager shall take action as is reasonably necessary to protect or conserve the assets or property of which the temporary manager takes possession and may use those assets or property only in the performance of the powers and duties set forth in this section.

(2) Expenditures by the temporary manager in excess of five thousand dollars ($5,000) shall be approved by the director. Total encumbrances and expenditures by the temporary manager for the duration of the temporary management shall not exceed the sum of forty-nine thousand nine hundred ninety-nine dollars ($49,999) unless approved by the director in writing.

(3) The temporary manager shall not make capital improvements to the facility in excess of five thousand dollars ($5,000) without the approval of the director.

(l) (1) To the extent department funds are advanced for the costs of the temporary manager or for other expenses in connection with the temporary management, the department shall be reimbursed from the revenues accruing to the facility or to the licensee or an entity related to the licensee. Any reimbursement received by the department shall be redeposited in the account from which the department funds

were advanced. If the revenues are insufficient to reimburse the department, the unreimbursed amount shall constitute grounds for a monetary judgment in civil court and a subsequent lien upon the assets of the facility or the proceeds from the sale thereof. Pursuant to Chapter 2 (commencing with Section 697.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure, a lien against the personal assets of the facility or an entity related to the licensee based on the monetary judgment obtained shall be filed with the Secretary of State on the forms required for a notice of judgment lien. A lien against the real property of the facility or an entity related to the licensee based on the monetary judgment obtained shall be recorded with the county recorder of the county where the facility of the licensee is located or where the real property of the entity related to the licensee is located. The lien shall not attach to the interests of a lessor, unless the lessor is operating the facility. The authority to place a lien against the personal and real property of the licensee for the reimbursement of any state funds expended pursuant to this section shall be given judgment creditor priority.

(2) For purposes of this section, "entity related to the licensee" means an entity, other than a natural person, of which the licensee is a subsidiary or an entity in which a person who was obligated to disclose information under Section 1569.15 possesses an interest that would also require disclosure pursuant to Section 1569.15.

(m) Appointment of a temporary manager under this section does not relieve the licensee of any responsibility for the care and supervision of residents under this chapter. The licensee, even if the license is deemed surrendered or the facility abandoned, shall be required to reimburse the department for all costs associated with operation of the facility during the period the temporary manager is in place that are not accounted for by using facility revenues or for the relocation of residents handled by the department if the licensee fails to comply with the relocation requirements of Section 1569.525 or 1569.682 when required by the department to do so. If the licensee fails to reimburse the department under this section, then the department, along with using its own remedies available under this chapter, may request that the Attorney General's office, the city attorney's office, or the local district attorney's office seek any available criminal, civil, or administrative remedy, including, but not limited to, injunctive relief, restitution, and damages in the same manner as provided for in Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code.

(n) The department may use funds from the emergency resident contingency account pursuant to Section 1569.48 when needed to supplement the operation of the facility or the transfer of residents under the control of the temporary manager appointed under this section if facility revenues are unavailable or exhausted when needed. Pursuant to subdivision (l), the licensee shall be required to reimburse the department for any funds used from the emergency resident contingency account during the period of control of the temporary manager and any incurred costs of collection.

(o) This section does not apply to a residential care facility for the elderly that serves six or fewer persons and is also the principal residence of the licensee.

(p) Notwithstanding any other provision of law, the temporary manager shall be liable only for damages resulting from gross negligence in the operation of the facility or intentional tortious acts.
(q) All governmental immunities otherwise applicable to the state shall also apply to the state in the use of a temporary manager in the operation of a facility pursuant to this section.
(r) A licensee is not liable for any occurrences during the temporary management under this section except to the extent that the occurrences are the result of the licensee's conduct.
(s) The department may adopt regulations for the administration of this section.
(Amended by Stats. 2015, Ch. 303, Sec. 281. (AB 731) Effective January 1, 2016.)

1569.482.

(a) It is the intent of the Legislature in enacting this section to authorize the department to take quick, effective action to protect the health and safety of residents of residential care facilities for the elderly and to minimize the effects of transfer trauma that accompany the abrupt transfer of residents through a system whereby the department may apply for a court order appointing a receiver to temporarily operate a residential care facility for the elderly. The receivership is not intended to punish a licensee or to replace attempts to secure cooperative action to protect the residents' health and safety. The receivership is intended to protect the residents in the absence of other reasonably available alternatives. The receiver shall assume the operation of the facility in order to bring it into compliance with law, facilitate a transfer of ownership to a new licensee, or ensure the orderly transfer of residents should the facility be required to close.
(b) (1) Whenever circumstances exist indicating that continued management of a residential care facility by the current licensee would present a substantial probability or imminent danger of serious physical harm or death to the residents, or the facility is closing or intends to terminate operation as a residential care facility for the elderly and adequate arrangements for the relocation of residents have not been made at least 30 days prior to the closing or termination, the director may petition the superior court for the county in which the facility is located for an order appointing a receiver to temporarily operate the facility in accordance with this section.

(2) The petition shall allege the facts upon which the action is based and shall be supported by an affidavit of the director. A copy of the petition and affidavit together with an order to appear and show cause why temporary authority to operate the residential care facility for the elderly should not be vested in a receiver pursuant to this section, shall be delivered to the licensee, administrator, or a responsible person at the facility to the attention of the licensee and administrator. The order shall specify a hearing date, which shall be not less than 10, nor more than 15, days following delivery of the petition and order upon the licensee, except that the court may shorten or lengthen the time upon a showing of just cause.

(c) (1) If the director files a petition pursuant to subdivision (b) for appointment of a receiver to operate a residential care facility for the elderly, in accordance with Section 564 of the Code of Civil Procedure, the director may also petition the court, in accordance with Section 527 of the Code of Civil Procedure, for an order appointing a temporary receiver. A temporary receiver appointed by the court pursuant to this subdivision shall serve until the court has made a final determination on the petition for appointment of a receiver filed pursuant to subdivision (b). A receiver appointed pursuant to this subdivision shall have the same powers and duties as a receiver would have if appointed pursuant to subdivision (b). Upon the director filing a petition for a receiver, the receiver shall complete its application for a provisional license to operate a residential care facility for the elderly. For purposes of a provisional license issued to a receiver, the licensee's existing fire safety clearance shall serve as the fire safety clearance for the receiver's provisional license.

(2) At the time of the hearing, the department shall advise the licensee of the name of the proposed receiver. The receiver shall be a certified residential care facility for the elderly administrator or other responsible person or entity, as determined by the court, from a list of qualified receivers established by the department, and, if need be, with input from providers of residential care and consumer representatives. Persons appearing on the list shall have experience in the delivery of care services to clients of community care facilities, and, if feasible, shall have experience with the operation of a residential care facility for the elderly, shall not be the subject of any pending actions by the department or any other state agency, and shall not have ever been excluded from a department licensed facility nor have had a license or certification suspended or revoked by an administrative action by the department or any other state agency. The receivers shall have sufficient background and experience in management and finances to ensure compliance with orders issued by the court. The owner, licensee, or administrator shall not be appointed as the receiver unless authorized by the court.

(3) If at the conclusion of the hearing, which may include oral testimony and cross-examination at the option of any party, the court determines that adequate grounds exist for the appointment of a receiver and that there is no other reasonably available remedy to protect the residents, the court may issue an order appointing a receiver to temporarily operate the residential care facility for the elderly and enjoining the licensee from interfering with the receiver in the conduct of his or her duties. In these proceedings, the court shall make written findings of fact and conclusions of law and shall require an appropriate bond to be filed by the receiver and paid for by the licensee. The bond shall be in an amount necessary to protect the licensee in the event of any failure on the part of the receiver to act in a reasonable manner. The bond requirement may be waived by the licensee.

(4) The court may permit the licensee to participate in the continued operation of the facility during the pendency of any receivership ordered pursuant to this section and shall issue an order detailing the nature and scope of participation.

(5) Failure of the licensee to appear at the hearing on the petition shall constitute an admission of all factual allegations contained in the petition for purposes of these proceedings only.

(6) The licensee shall receive notice and a copy of the application each time the receiver applies to the court or the department for instructions regarding his or her duties under this section, when an accounting pursuant to subdivision (i) is submitted, and when any other report otherwise required under this section is submitted. The licensee shall have an opportunity to present objections or otherwise participate in those proceedings.

(d) A person shall not impede the operation of a receivership created under this section. The receiver's access to, or possession of, the property shall not be interfered with during the term of the receivership. There shall be an automatic stay for a 60-day period subsequent to the appointment of a receiver of any action that would interfere with the functioning of the facility, including, but not limited to, cancellation of insurance policies executed by the licensees, termination of utility services, attachments, or setoffs of resident trust funds and working capital accounts and repossession of equipment in the facility.

(e) When a receiver is appointed, the licensee may, at the discretion of the court, be divested of possession and control of the facility in favor of the receiver. If the court divests the licensee of possession and control of the facility in favor of the receiver, the department shall immediately issue a provisional license to the receiver. Notwithstanding the applicable sections of this code governing the revocation of a provisional license, the provisional license issued to a receiver shall automatically expire upon the termination of the receivership. The receiver shall possess the provisional license solely for purposes of carrying out the responsibilities authorized by this section and the duties ordered by the court. The receiver shall have no right to appeal the expiration of the provisional license.

(f) A receiver appointed pursuant to this section:

(1) May exercise those powers and shall perform those duties ordered by the court, in addition to other duties provided by statute.

(2) Shall operate the facility in a manner that ensures the safety and adequate care for the residents.

(3) Shall have the same rights to possession of the building in which the facility is located, and of all goods and fixtures in the building at the time the petition for receivership is filed, as the licensee and administrator would have had if the receiver had not been appointed.

(4) May use the funds, building, fixtures, furnishings, and any accompanying consumable goods in the provision of care and services to residents and to any other persons receiving services from the facility at the time the petition for receivership was filed.

(5) Shall take title to all revenue coming to the facility in the name of the receiver who shall use it for the following purposes in descending order of priority:

(A) To pay wages to staff. The receiver shall have full power to hire, direct, manage, and discharge employees of the facility, subject to any contractual rights they may have. The receiver shall pay employees at the same rate of compensation, including benefits, that the employees would have received from the licensee or wages necessary to provide adequate staff for the protection of the clients and compliance with the law.

(B) To preserve resident funds. The receiver shall be entitled to, and shall take, possession of all property or assets of residents that are in the possession of the licensee or operator of the facility. The receiver shall preserve all property, assets, and records of residents of which the receiver takes possession.

(C) To contract for outside services as may be needed for the operation of the residential care facility for the elderly. A contract for outside services in excess of five thousand dollars ($5,000) shall be approved by the court.

(D) To pay commercial creditors of the facility to the extent required to operate the facility. Except as provided in subdivision (h), the receiver shall honor all leases, mortgages, and secured transactions affecting the building in which the facility is located and all goods and fixtures in the building of which the receiver has taken possession, but only to the extent of payments which, in the case of a rental agreement, are for the use of the property during the period of receivership, or which, in the case of a purchase agreement, come due during the period of receivership.

(E) To receive a salary, as approved by the court.

(F) To do all things necessary and proper to maintain and operate the facility in accordance with sound fiscal policies. The receiver shall take action as is reasonably necessary to protect or conserve the assets or property of which the receiver takes possession and may use those assets or property only in the performance of the powers and duties set out in this section and by order of the court.

(G) To ask the court for direction in the treatment of debts incurred prior to the appointment, if the licensee’s debts appear extraordinary, of questionable validity, or unrelated to the normal and expected maintenance and operation of the facility, or if payment of the debts will interfere with the purposes of receivership.

(g) (1) A person who is served with notice of an order of the court appointing a receiver and of the receiver’s name and address shall be liable to pay the receiver, rather than the licensee, for any goods or services provided by the residential care facility for the elderly after the date of the order. The receiver shall give a receipt for each payment and shall keep a copy of each receipt on file. The receiver shall deposit amounts received in a special account and shall use this account for all disbursements. Payment to the receiver pursuant to this subdivision shall discharge the obligation to the extent of the payment and shall not thereafter be the basis of

a claim by the licensee or any other person. A resident shall not be evicted nor may any contract or rights be forfeited or impaired, nor may any forfeiture be effected or liability increased, by reason of an omission to pay the licensee, operator, or other person a sum paid to the receiver pursuant to this subdivision.

(2) This section shall not be construed to suspend, during the temporary management by the receiver, any obligation of the licensee for payment of local, state, or federal taxes. A licensee shall not be held liable for acts or omissions of the receiver during the term of the temporary management.

(3) Upon petition of the receiver, the court may order immediate payment to the receiver for past services that have been rendered and billed, and the court may also order a sum not to exceed one month's advance payment to the receiver of any sums that may become payable under the Medi-Cal program.

(h) (1) A receiver shall not be required to honor a lease, mortgage, or secured transaction entered into by the licensee of the facility and another party if the court finds that the agreement between the parties was entered into for a collusive, fraudulent purpose or that the agreement is unrelated to the operation of the facility.

(2) A lease, mortgage, or secured transaction or an agreement unrelated to the operation of the facility that the receiver is permitted to dishonor pursuant to this subdivision shall only be subject to nonpayment by the receiver for the duration of the receivership, and the dishonoring of the lease, mortgage, security interest, or other agreement, to this extent, by the receiver shall not relieve the owner or operator of the facility from any liability for the full amount due under the lease, mortgage, security interest, or other agreement.

(3) If the receiver is in possession of real estate or goods subject to a lease, mortgage, or security interest that the receiver is permitted to dishonor pursuant to paragraph (1), and if the real estate or goods are necessary for the continued operation of the facility, the receiver may apply to the court to set a reasonable rent, price, or rate of interest to be paid by the receiver during the duration of the receivership. The court shall hold a hearing on this application within 15 days. The receiver shall send notice of the application to any known owner of the property involved at least 10 days prior to the hearing.

(4) Payment by the receiver of the amount determined by the court to be reasonable is a defense to any action against the receiver for payment or possession of the goods or real estate, subject to the lease or mortgage, which is brought by any person who received the notice required by this subdivision. However, payment by the receiver of the amount determined by the court to be reasonable does not relieve the owner or operator of the facility from any liability for the difference between the amount paid by the receiver and the amount due under the original lease, mortgage, or security interest.

(i) A monthly accounting shall be made by the receiver to the department of all moneys received and expended by the receiver on or before the 15th day of the following month or as ordered by the court, and the remainder of income over

expenses for that month shall be returned to the licensee. A copy of the accounting shall be provided to the licensee. The licensee or owner of the residential care facility for the elderly may petition the court for a determination as to the reasonableness of any expenditure made pursuant to paragraph (5) of subdivision (f).

(j) (1) The receiver shall be appointed for an initial period of not more than three months. The initial three-month period may be extended for additional periods not exceeding three months, as determined by the court pursuant to this section. At the end of one month, the receiver shall report to the court on its assessment of the probability that the residential care facility for the elderly will meet state standards for operation by the end of the initial three-month period and will continue to maintain compliance with those standards after termination of the receiver's management. If it appears that the facility cannot be brought into compliance with state standards within the initial three-month period, the court shall take appropriate action as follows:

(A) Extend the receiver's management for an additional three months if there is a substantial likelihood that the facility will meet state standards within that period and will maintain compliance with the standards after termination of the receiver's management. The receiver shall report to the court in writing upon the facility's progress at the end of six weeks of any extension ordered pursuant to this paragraph.

(B) Order the director to revoke or temporarily suspend, or both, the license pursuant to Section 1569.50 and extend the receiver's management for the period necessary to transfer clients in accordance with the transfer plan, but for not more than three months from the date of initial appointment of a receiver, or 14 days, whichever is greater. An extension of an additional three months may be granted if deemed necessary by the court.

(2) If it appears at the end of six weeks of an extension ordered pursuant to subparagraph (A) of paragraph (1) that the facility cannot be brought into compliance with state standards for operation or that it will not maintain compliance with those standards after the receiver's management is terminated, the court shall take appropriate action as specified in subparagraph (B) of paragraph (1).

(3) In evaluating the probability that a residential care facility for the elderly will maintain compliance with state standards of operation after the termination of receiver management ordered by the court, the court shall consider at least the following factors:

(A) The duration, frequency, and severity of past violations in the facility.

(B) History of compliance in other care facilities operated by the proposed licensee.

(C) Efforts by the licensee to prevent and correct past violations.

(D) The financial ability of the licensee to operate in compliance with state standards.

(E) The recommendations and reports of the receiver.

(4) Management of a residential care facility for the elderly operated by a receiver pursuant to this section shall not be returned to the licensee, to any person related to the licensee, or to any person who served as a member of the facility's staff or who was employed by the licensee prior to the appointment of the receiver unless both of the following conditions are met:

(A) The department believes that it would be in the best interests of the residents of the facility, requests that the court return the operation of the facility to the former licensee, and provides clear and convincing evidence to the court that it is in the best interests of the facility's residents to take that action.

(B) The court finds that the licensee has fully cooperated with the department in the appointment and ongoing activities of a receiver appointed pursuant to this section, and, if applicable, any temporary manager appointed pursuant to Section 1569.481.

(5) The owner of the facility may at any time sell, lease, or close the facility, subject to the following provisions:

(A) If the owner closes the facility, or the sale or lease results in the closure of the facility, the court shall determine if a transfer plan is necessary. If the court so determines, the court shall adopt and implement a transfer plan consistent with the provisions of Section 1569.682.

(B) If the licensee proposes to sell or lease the facility and the facility will continue to operate as a residential care facility for the elderly, the court and the department shall reevaluate any proposed transfer plan. If the court and the department determine that the sale or lease of the facility will result in compliance with licensing standards, the transfer plan and the receivership shall, subject to those conditions that the court may impose and enforce, be terminated upon the effective date of the sale or lease.

(k) (1) The salary of the receiver shall be set by the court commensurate with community care facility industry standards, giving due consideration to the difficulty of the duties undertaken, and shall be paid from the revenue coming to the facility. If the revenue is insufficient to pay the salary in addition to other expenses of operating the facility, the receiver's salary shall be paid from the emergency resident contingency account as provided in Section 1569.48. State advances of funds in excess of five thousand dollars ($5,000) shall be approved by the director. Total advances for encumbrances and expenditures shall not exceed the sum of forty-nine thousand nine hundred ninety-nine dollars ($49,999) unless approved by the director in writing.

(2) To the extent state funds are advanced for the salary of the receiver or for other expenses in connection with the receivership, as limited by subdivision (g), the state shall be reimbursed from the revenues accruing to the facility or to the licensee or an entity related to the licensee. Reimbursement received by the state shall be redeposited in the account from which the state funds were advanced. If the revenues are insufficient to reimburse the state, the unreimbursed amount shall constitute grounds for a monetary judgment in civil court and a subsequent lien upon the assets of the facility or the proceeds from the sale thereof. Pursuant to Chapter 2 (commencing with Section 697.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure, a lien against the personal assets of the facility or an entity related to the licensee based on the monetary judgment obtained shall be filed with the Secretary of State on the forms required for a notice of judgment lien. A lien against the real property of the facility or an entity related to the licensee based on the monetary judgment obtained shall be recorded with the county recorder of the county where the facility of the licensee is located or where the real property of the entity related to the licensee is located. The lien shall not attach to the interests of a lessor, unless the lessor is operating the facility. The authority to place a lien against the personal and real property of the licensee for the reimbursement of any state funds expended pursuant to this section shall be given judgment creditor priority.

(3) For purposes of this subdivision, "entity related to the licensee" means an entity, other than a natural person, of which the licensee is a subsidiary or an entity in which any person who was obligated to disclose information under Section 1569.15 possesses an interest that would also require disclosure pursuant to Section 1569.15.

(l) (1) This section does not impair the right of the owner of a residential care facility for the elderly to dispose of his or her property interests in the facility, but any facility operated by a receiver pursuant to this section shall remain subject to that administration until terminated by the court. The termination shall be promptly effectuated, provided that the interests of the residents have been safeguarded as determined by the court.

(2) This section does not limit the power of the court to appoint a receiver under any other applicable provision of law or to order any other remedy available under law.

(m) (1) Notwithstanding any other provision of law, the receiver shall be liable only for damages resulting from gross negligence in the operation of the facility or intentional tortious acts.

(2) All governmental immunities otherwise applicable to the State of California shall also apply in the use of a receiver in the operation of a facility pursuant to this section.

(3) The licensee is not liable for any occurrences during the receivership except to the extent that the occurrences are the result of the licensee's conduct.

(n) The department may adopt regulations for the administration of this section. This section does not impair the authority of the department to temporarily suspend licenses under Section 1569.50 or to reach a voluntary agreement with the licensee for alternate management of a community care facility including the use of a temporary manager under Section 1569.481. This section does not authorize the department to interfere in a labor dispute.
(o) This section does not apply to a residential care facility for the elderly that serves six or fewer persons and is also the principal residence of the licensee.
(p) This section does not apply to a licensee that has obtained a certificate of authority to offer continuing care contracts, as defined in paragraph (8) of subdivision (c) of Section 1771.
(Amended by Stats. 2015, Ch. 303, Sec. 282. (AB 731) Effective January 1, 2016.)

1569.485.

(a) Notwithstanding any other provision of this chapter, any person who violates Section 1569.10 or 1569.44, or both, shall be assessed by the department an immediate civil penalty in the amount of one hundred dollars ($100) per resident for each day of the violation, unless other remedies available to the department, including criminal prosecution, are deemed more effective by the department.
(b) The civil penalty authorized in subdivision (a) shall be doubled if an unlicensed facility is operated and the operator refuses to seek licensure or the operator seeks licensure and the licensure application is denied and the operator continues to operate the unlicensed facility, unless other remedies available to the department, including criminal prosecution, are deemed more effective by the department.
(c) An operator may appeal the assessment to the director. The department shall adopt regulations setting forth the appeal procedure.
(Amended by Stats. 1990, Ch. 1488, Sec. 2.)

1569.49.

(a) In addition to the suspension, temporary suspension, or revocation of a license issued under this chapter, the department shall levy civil penalties as follows:
(b) (1) The amount of the civil penalty shall be one hundred dollars ($100) per day for each violation of this chapter if the facility fails to correct a deficiency after being provided a specified length of time to correct that deficiency.

(A) If a licensee or a licensee's representative submits evidence to the department that the licensee has corrected a deficiency, and the department, after reviewing that evidence, has determined that the deficiency has been corrected, the civil penalty shall cease as of the day the department received that evidence.

(B) If the department deems it necessary, the department shall inspect the facility within five working days after the department receives evidence pursuant to subparagraph (A) to confirm that the deficiency has been corrected.

(C) If the department determines that the deficiency has not been corrected, the civil penalty shall continue to accrue from the date of the original citation.

(D) If the department is able to verify that the deficiency was corrected prior to the date on which the department received the evidence pursuant to subparagraph (A), the civil penalty shall cease as of that earlier date.

(2) (A) If the department issues a notification of deficiency to a facility for a repeat violation of a violation specified in paragraph (1), the department shall assess an immediate civil penalty of two hundred fifty dollars ($250) per repeat violation and one hundred dollars ($100) for each day the repeat violation continues after citation. The notification of deficiency shall state the manner in which the deficiency constitutes a repeat violation and shall be submitted to a supervisor for review and approval.

(B) For purposes of this section, "repeat violation" means a violation within 12 months of a prior violation of a statutory or regulatory provision designated by the same combination of letters or numerals, or both letters and numerals.

(C) Notwithstanding subparagraphs (A) and (B), the department, in its sole discretion, may reduce the civil penalty for the cited repeat violation to the level of the underlying violation, as applicable, if it determines that the cited repeat violation is not substantially similar to the original violation.

(3) If the nature or seriousness of the violation or the frequency of the violation warrants a higher penalty or an immediate civil penalty assessment, or both, as provided in this chapter, a correction of the deficiency shall not impact the imposition of a civil penalty.

(c) The department shall assess an immediate civil penalty of five hundred dollars ($500) per violation and one hundred dollars ($100) for each day the violation continues after citation for any of the following serious violations:

(1) Any violation that the department determines resulted in the injury or illness of a resident.

(2) (A) Fire clearance violations, including, but not limited to, overcapacity, ambulatory status, inoperable smoke alarms, and inoperable fire alarm systems. The civil penalty shall not be assessed if the licensee has done either of the following:

(i) Requested the appropriate fire clearance based on ambulatory, nonambulatory, or bedridden status, and the decision is pending.

(ii) Initiated eviction proceedings.

(B) A licensee denied a clearance for bedridden residents may appeal to the fire authority, and, if that appeal is denied, may subsequently appeal to the Office of the State Fire Marshal, and shall not be assessed an immediate civil

penalty until the final appeal is decided, or after 60 days has passed from the date of the citation, whichever is earlier.

(3) Absence of supervision as required by statute or regulation.

(4) Accessible bodies of water, when prohibited in this chapter or regulations adopted pursuant to this chapter.

(5) Accessible firearms, ammunition, or both.

(6) Refused entry to a facility or any part of a facility in violation of Section 1569.32, 1569.33, or 1569.35.

(7) The presence of a person subject to a department Order of Exclusion on the premises.

(d) If the department issues a notification of deficiency to a facility for a repeat violation of a violation specified in subdivision (c), the department shall assess an immediate civil penalty of one thousand dollars ($1,000) per repeat violation and one hundred dollars ($100) for each day the repeat violation continues after citation. The notification of deficiency shall state the manner in which the deficiency constitutes a repeat violation and shall be submitted to a supervisor for review and approval.

(e) For a violation that the department determines resulted in the death of a resident, the civil penalty shall be fifteen thousand dollars ($15,000).

(f) For a violation that the department determines constitutes physical abuse, as defined in Section 15610.63 of the Welfare and Institutions Code, or resulted in serious bodily injury, as defined in Section 15610.67 of the Welfare and Institutions Code, to a resident, the civil penalty shall be ten thousand dollars ($10,000).

(g) (1) Before the assessment of a civil penalty pursuant to subdivision (e) or (f), the decision shall be approved by the program administrator of the Community Care Licensing Division.

(2) (A) The department shall reduce the amount of a civil penalty due pursuant to subdivision (e) or (f) by the amount of the civil penalty already assessed for the underlying violation.

(B) If the amount of the civil penalty that the department has already assessed for the underlying violation exceeds the amount of the penalty pursuant to subdivision (e) or (f), the larger amount shall prevail and be due and payable as already assessed by the department.

(h) (1) A notification of a deficiency written by a representative of the department shall include a factual description of the nature of the deficiency fully stating the manner in which the licensee failed to comply with the specified statute or regulation, and, if applicable, the particular place or area of the facility in which the deficiency occurred. The department shall make a good faith effort to work with the licensee to determine the cause of the deficiency and ways to prevent any repeat violations.

(2) The department shall adopt regulations setting forth the appeal procedures for deficiencies.

(i) (1) A licensee shall have the right to submit to the department a written request for a formal review of a civil penalty assessed pursuant to subdivisions (e) and (f) within 15 business days of receipt of the notice of a civil penalty assessment and shall provide all available supporting documentation at that time. The review shall be conducted by the deputy director of the Community Care Licensing Division. The licensee may submit additional supporting documentation that was unavailable at the time of submitting the request for review within the first 30 business days after submitting the request for review. If the department requires additional information from the licensee, that information shall be requested within the first 30 business days after receiving the request for review. The licensee shall provide this additional information within 30 business days of receiving the request from the department. If the deputy director determines that the civil penalty was not assessed, or the finding of the deficiency that resulted in the assessment of the civil penalty was not made, in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of the deputy director's decision within 60 business days of the date when all necessary information has been provided to the department by the licensee.

(2) Upon exhausting the review described in paragraph (1), a licensee may further appeal that decision to an administrative law judge. Proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted by those provisions. In all proceedings conducted in accordance with this section, the standard of proof shall be by a preponderance of the evidence.

(3) If, in addition to an assessment of civil penalties, the department elects to file an administrative action to suspend or revoke the facility license that includes violations relating to the assessment of the civil penalties, the department review of the pending appeal shall cease and the assessment of the civil penalties shall be heard as part of the administrative action process.

(4) Civil penalties shall be due and payable when administrative appeals have been exhausted. Unless payment arrangements have been made that are acceptable to the department, a civil penalty not paid within 30 days shall be subject to late fees, as specified by the department in regulation.

(j) (1) A licensee shall have the right to submit to the department a written request for a formal review of any other civil penalty or deficiency not described in subdivision (i) within 15 business days of receipt of the notice of a civil penalty assessment or a finding of a deficiency, and shall provide all available supporting documentation at that time. The review shall be conducted by a regional manager of the Community Care Licensing Division. The licensee may submit additional supporting documentation that was unavailable at the time of submitting the request for review within the first 30 business days after submitting the request for

review. If the department requires additional information from the licensee, that information shall be requested within the first 30 business days after receiving the request for review. The licensee shall provide this additional information within 30 business days of receiving the request from the department. If the regional manager determines that the civil penalty was not assessed, or the finding of the deficiency was not made, in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of the regional manager's decision within 60 business days of the date when all necessary information has been provided to the department by the licensee.

(2) Upon exhausting the review described in paragraph (1), the licensee may further appeal that decision to the program administrator of the Community Care Licensing Division within 15 business days of receipt of notice of the regional manager's decision. The licensee may submit additional supporting documentation that was unavailable at the time of appeal to the program administrator within the first 30 business days after requesting that appeal. If the department requires additional information from the licensee, that information shall be requested within the first 30 business days after receiving the request for the appeal. The licensee shall provide this additional information within 30 business days of receiving the request from the department. If the program administrator determines that the civil penalty was not assessed, or the finding of the deficiency was not made, in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of the program administrator's decision within 60 business days of the date when all necessary information has been provided to the department by the licensee. The program administrator's decision is considered final and concludes the licensee's administrative appeal rights regarding the appeal conducted pursuant to this paragraph.

(3) Civil penalties shall be due and payable when administrative appeals have been exhausted. Unless payment arrangements have been made that are acceptable to the department, a civil penalty not paid within 30 days shall be subject to late fees, as specified by the department in regulation.

(k) The department shall adopt regulations implementing this section.
(l) The department shall, by January 1, 2016, amend its regulations to reflect the changes to this section made by Section 6 of Chapter 813 of the Statutes of 2014.
(m) Notwithstanding the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement and administer the changes made by the act that added this subdivision through all-county letters or similar written instructions until regulations are adopted pursuant to the Administrative Procedure Act.
(n) This section shall become operative on July 1, 2017.
(Repealed (in Sec. 7) and added by Stats. 2016, Ch. 823, Sec. 8. (AB 2231) Effective January 1, 2017. Section operative July 1, 2017, by its own provisions.)

1569.495.

The civil, criminal, and administrative remedies available to the department pursuant to this article are not exclusive, and may be sought and employed in any combination deemed advisable by the state department to enforce this chapter.
(Added by Stats. 1985, Ch. 1127, Sec. 3.)

ARTICLE 5. Suspension and Revocation [1569.50 - 1569.545]
(Article 5 added by Stats. 1985, Ch. 1127, Sec. 3.)

1569.50.

(a) The department may deny an application for a license or may suspend or revoke a license issued under this chapter upon any of the following grounds and in the manner provided in this chapter:

(1) Violation by the licensee of this chapter or of the rules and regulations adopted under this chapter.

(2) Aiding, abetting, or permitting the violation of this chapter or of the rules and regulations adopted under this chapter.

(3) Conduct that is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility or the people of the State of California.

(4) The conviction of a licensee, or other person mentioned in Section 1569.17 at any time before or during licensure, of a crime as defined in Section 1569.17.

(5) Engaging in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services for the care of clients.

(b) The remedies provided in this section may be applied if the department finds that any employee, administrator, partner, officer, director, member, or manager of the applicant or licensee, any person who controls, as defined in Section 1569.2, the licensee, or any person who holds a beneficial ownership interest of 10 percent or more in the applicant or licensee has engaged in the conduct described in subdivision (a) related to any facility licensed pursuant to Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), or Chapter 3 (commencing with Section 1500), or a similarly licensed facility in California or any other state.
(c) The director may temporarily suspend a license, prior to a hearing when, in the opinion of the director, the action is necessary to protect residents or clients of the facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety. The director shall notify the licensee of the temporary suspension and the effective date of the temporary suspension and at the same time shall serve the provider with an accusation. Upon receipt of a notice of defense

to the accusation by the licensee, the director shall, within 15 days, set the matter for hearing, and the hearing shall be held as soon as possible but not later than 30 days after receipt of the notice. The temporary suspension shall remain in effect until the time the hearing is completed and the director has made a final determination on the merits. However, the temporary suspension shall be deemed vacated if the director fails to make a final determination on the merits within 30 days after the original hearing has been completed.
(d) A licensee who abandons the facility and the residents in care resulting in an immediate and substantial threat to the health and safety of the abandoned residents, in addition to revocation of the license pursuant to this section, shall be excluded from licensure in facilities licensed by the department without the right to petition for reinstatement.
(Amended by Stats. 2015, Ch. 628, Sec. 5. (AB 601) Effective January 1, 2016.)

1569.51.

(a) Proceedings for the suspension, revocation, or denial of a license under this chapter shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the state department shall have all the powers granted by these provisions. In the event of conflict between this chapter and those provisions of the Government Code, the provisions of the Government Code shall prevail.
(b) In all proceedings conducted in accordance with this section, the standard of proof to be applied shall be by the preponderance of the evidence.
(c) If the license is not temporarily suspended pursuant to Section 1569.50, the hearing shall be held within 90 days after receipt of the notice of defense, unless a continuance of the hearing is granted by the department or the administrative law judge. When the matter has been set for hearing only the administrative law judge may grant a continuance of the hearing. The administrative law judge may, but need not, grant a continuance of the hearing, only upon finding the existence of one or more of the following:

(1) The death or incapacitating illness of a party, a representative or attorney of a party, a witness to an essential fact, or of the parent, child, or member of the household of such person, when it is not feasible to substitute another representative, attorney, or witness because of the proximity of the hearing date.

(2) Lack of notice of hearing as provided in Section 11509 of the Government Code.

(3) A material change in the status of the case where a change in the parties or pleadings requires postponement, or an executed settlement or stipulated findings of fact obviate the need for hearing. A partial amendment of the pleadings shall not be good cause for continuance to the extent that the unamended portion of the pleadings is ready to be heard.

(4) A stipulation for continuance signed by all parties or their authorized representatives, including, but not limited to, a representative, which is

communicated with the request for continuance to the administrative law judge no later than 25 business days before the hearing.

(5) The substitution of the representative or attorney of a party upon showing that the substitution is required.

(6) The unavailability of a party, representative, or attorney of a party, or witness to an essential fact due to a conflicting and required appearance in a judicial matter if when the hearing date was set, the person did not know and could neither anticipate nor at any time avoid the conflict, and the conflict with request for continuance is immediately communicated to the administrative law judge.

(7) The unavailability of a party, a representative or attorney of a party, or a material witness due to an unavoidable emergency.

(8) Failure by a party to comply with a timely discovery request if the continuance request is made by the party who requested the discovery.

(Amended by Stats. 1992, Ch. 1315, Sec. 22. Effective January 1, 1993.)

1569.510.

(a) The department shall conduct an unannounced visit to a facility within 30 days after the effective date of a temporary suspension of a license in order to ensure that the facility is nonoperational, unless the department previously has verified that the facility is nonoperational.
(b) The department shall conduct an unannounced visit to a facility within 30 days after the effective date of a revocation of a license in order to ensure that the facility is nonoperational, unless the department previously has verified that the facility is nonoperational.
(Added by Stats. 2008, Ch. 291, Sec. 17. Effective September 25, 2008.)

1569.511.

(a) The administrative law judge conducting a hearing under this article may permit the testimony of a child witness, or a similarly vulnerable witness, including a witness who is developmentally disabled, to be taken outside the presence of the respondent or respondents if all of the following conditions exist:

(1) The administrative law judge determines that taking the witness's testimony outside the presence of the respondent or respondents is necessary to ensure truthful testimony.

(2) The witness is likely to be intimidated by the presence of the respondent or respondents.

(3) The witness is afraid to testify in front of the respondent or respondents.

(b) If the testimony of the witness is taken outside of the presence of the respondent or respondents, the department shall provide for the use of one-way closed-circuit television so the respondent or respondents can observe the testimony of the witness. Nothing in this section shall limit a respondent's right of cross-examination.
(c) The administrative law judge conducting a hearing under this section may clear the hearing room of any persons who are not a party to the action in order to protect any witness from intimidation or other harm, taking into account the rights of all persons.
(Added by Stats. 1994, Ch. 1267, Sec. 7. Effective January 1, 1995.)

1569.512.

(a) (1) An out-of-court statement made by a minor under 12 years of age who is the subject or victim of an allegation at issue is admissible evidence at an administrative hearing conducted pursuant to this article. The out-of-court statement may be used to support a finding of fact unless an objection is timely made and the objecting party establishes that the statement is unreliable because it was the product of fraud, deceit, or undue influence. However, the out-of-court statement may not be the sole basis for the finding of fact, unless the adjudicator finds that the time, content, and circumstances of the statement provide sufficient indicia of reliability.

(2) The proponent of the statement shall give reasonable notice to all parties of the intended introduction of the statement at the hearing.

(3) For purposes of this subdivision, an objection is timely if it identifies with reasonable specificity the disputed out-of-court statement and it gives the proponent of the evidence a reasonable period of time to prepare a response to the objection prior to the hearing.

(b) This section shall not be construed to limit the right of any party to the administrative hearing to subpoena a witness whose statement is admitted as evidence or to introduce admissible evidence relevant to the weight of the hearsay evidence or the credibility of the hearsay declarant.
(Added by Stats. 2002, Ch. 707, Sec. 3. Effective January 1, 2003.)

1569.515.

In addition to the witness fees and mileage provided by Section 11450.40 of the Government Code, the department may pay actual, necessary, and reasonable expenses in an amount not to exceed the per diem allowance payable to a nonrepresented state employee on travel status. The department may pay witness expenses pursuant to this section in advance of the hearing.
(Amended by Stats. 1995, Ch. 938, Sec. 62. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938.)

1569.52.

The withdrawal of an application for a license after it has been filed with the department shall not, unless the department consents in writing to such withdrawal, deprive the department of its authority to institute or continue a proceeding against the applicant for the denial of the license upon any ground provided by law or to enter an order denying the license upon any such ground. The suspension, expiration, or forfeiture by operation of law of a license issued by the department, or its suspension, forfeiture, or cancellation by order of the department or by order of a court of law, or its surrender without the written consent of the department, shall not deprive the department of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.
(Added by Stats. 1985, Ch. 1127, Sec. 3.)

1569.525.

(a) If the director determines that it is necessary to temporarily suspend or to revoke any license of a residential care facility for the elderly in order to protect the residents or clients of the facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety pursuant to Section 1569.50, the department shall make every effort to minimize trauma for the residents.
(b) (1) (A) After a decision is made to temporarily suspend or, upon an order, to revoke the license of a residential care facility for the elderly which is likely to result in closure of the facility, the department shall contact both of the following:

(i) The Office of the State Long-Term Care Ombudsman.

(ii) Any local agency that may have placement or advocacy responsibility for the residents of a residential care facility for the elderly.

(B) The department shall work with these agencies, and the licensee if the director determines it to be appropriate, to locate alternative placement sites and to contact relatives or other persons responsible for the care of these residents, and to assist in the transfer of residents.

(2) The department shall use appropriately skilled professionals deemed appropriate by the department to provide onsite evaluation of the residents and assist in any transfers.

(3) The department shall require the licensee to prepare and submit to the licensing agency a written plan for relocation and compliance with the terms and conditions of the approved plans, and to provide other information as necessary for the enforcement of this section.

(c) Upon receipt of an order to temporarily suspend or revoke a license, the licensee shall be prohibited from accepting new residents or entering into admission agreements for new residents.
(d) Upon an order to temporarily suspend a license, the following shall apply:

(1) The licensee shall immediately provide written notice of the temporary suspension to the resident and initiate contact with the resident's responsible person, if applicable.

(2) The department may secure, or permit the licensee to secure, the services of a temporary manager who is not an immediate family member of the licensee or an entity that is not owned by the licensee to manage the day-to-day operations of the facility. The temporary manager shall be appointed and assume operation of the facility in accordance with Section 1569.481.

(e) Upon an order to revoke a license following the temporary suspension of a license pursuant to Section 1569.50 that led to the transfer of all residents, the following applies:

(1) The licensee shall provide a 60-day written notice of license revocation that may lead to closure to the resident and the resident's responsible person within 24 hours of receipt of the department's order of revocation.

(2) The department shall permit the licensee to secure the services of a temporary manager who is not an immediate family member of the licensee or an entity that is not owned by the licensee to manage the day-to-day operations of the residential care facility for the elderly for a period of at least 60 days, provided that all of the following conditions are met:

(A) A proposal is submitted to the department within 72 hours of the licensee's receipt of the department's order of revocation that includes both of the following:

(i) A completed "Application for a Community Care Facility or Residential Care Facility for the Elderly License" form (LIC 200), or similar form as determined by the department, signed and dated by both the licensee and the person or entity described in paragraph (2).

(ii) A copy of the executed agreement between the licensee and the person or entity described in paragraph (2) that delineates the roles and responsibilities of each party and specifies that the person or entity described in paragraph (2) shall have the full authority necessary to operate the facility, in compliance with all applicable laws and regulations, and without interference from the licensee.

(B) The person or entity described in paragraph (2) shall be currently licensed and in substantial compliance to operate a residential care facility for the elderly that is of comparable size or greater and has comparable programming to the facility. For purposes of this subparagraph, the following definitions apply:

(i) "Comparable programming" includes, but is not limited to, dementia care, hospice care, and care for residents with exempted prohibited health care conditions.

(ii) "Comparable size" means a facility capacity of 1 to 15 residents, 16 to 49 residents, or 50 or more residents.

(C) The person or entity described in paragraph (2) is not subject to the application fee specified in Section 1569.185.

(D) If the department denies a proposal to secure the services of a person or entity pursuant to paragraph (2), this denial shall not be deemed a denial of a license application subject to the right to a hearing under Section 1569.22 and other procedural rights under Section 1569.51.

(f) (1) Notwithstanding Section 1569.651 or any other law, for paid preadmission fees, a resident who transfers from the facility due to the notice of temporary suspension or revocation of a license pursuant to this section is entitled to a refund in accordance with all of the following:

(A) A 100-percent refund if preadmission fees were paid within six months of either notice of closure required by this section.

(B) A 75-percent refund if preadmission fees were paid more than six months, but not more than 12 months, before either notice required by this section.

(C) A 50-percent refund if preadmission fees were paid more than 12 months, but not more than 18 months, before either notice required by this section.

(D) A 25-percent refund if preadmission fees were paid more than 18 months, but not more than 25 months, before either notice required by this section.

(2) A preadmission fee refund is not required if preadmission fees were paid 25 months or more before either notice required by this section.

(3) The preadmission fee refund required by this paragraph shall be paid within 15 days of issuing either notice required by this section. In lieu of the refund, the resident may request that the licensee provide a credit toward the resident's monthly fee obligation in an amount equal to the preadmission fee refund due.

(4) If a resident transfers from the facility due to the revocation of a license, and the resident gives notice at least five days before leaving the facility, or if the transfer is due to a temporary suspension of the license order, the licensee shall refund to the resident or his or her legal representative a proportional per diem amount of any prepaid monthly fees at the time the resident leaves the facility and the unit is vacated. Otherwise the licensee shall pay the refund within seven days from the date that the resident leaves the facility and the unit is vacated.

(g) Within 24 hours after each resident who is transferring pursuant to these provisions has left the facility, the licensee that had his or her license temporarily suspended or revoked shall, based on information provided by the resident or the resident's responsible person, submit a final list of names and new locations of all residents to the department and the local ombudsman program.

(h) If at any point during or following a temporary suspension or revocation order of a license the director determines that there is a risk to the residents of a facility of physical or mental abuse, abandonment, or any other substantial threat to health or safety, the department shall take any necessary action to minimize trauma for the residents, including, but not limited to, all of the following:

(1) Contact any local agency that may have placement or advocacy responsibility for the residents and work with those agencies to locate alternative placement sites.

(2) Contact the residents' relatives, legal representatives, authorized agents in a health care directive, or responsible parties.

(3) Assist in the transfer of residents, and, if necessary, arrange or coordinate transportation.

(4) Provide onsite evaluation of the residents and use any medical personnel deemed appropriate by the department to provide onsite evaluation of the residents and assist in any transfers.

(5) Arrange for or coordinate care and supervision.

(6) Arrange for the distribution of medications.

(7) Arrange for the preparation and service of meals and snacks.

(8) Arrange for the preparation of the residents' records and medications for transfer of each resident.

(9) Assist in any way necessary to facilitate a safe transfer of all residents.

(10) Check on the status of each transferred resident within 24 hours of transfer.

(i) The participation of the department and local agencies in the relocation of residents from a residential care facility for the elderly shall not relieve the licensee of any responsibility under this section. A licensee that fails to comply with the requirements of this section shall be required to reimburse the department and local agencies for the cost of providing those services. If the licensee fails to provide the services required in this section, the department shall request that the Attorney General's office, the city attorney's office, or the local district attorney's office seek injunctive relief and damages.

(j) Notwithstanding Section 1569.49, a licensee who fails to comply with the requirements of this section shall be liable for civil penalties in the amount of five hundred dollars ($500) per violation per day for each day that the licensee is in violation of this section, until the violation has been corrected. The civil penalties shall be issued immediately following the written notice of violation.

(k) This section does not preclude the department from amending the effective date in the order of suspension or revocation of a license and closing the facility, or from pursuing any other available remedies if necessary to protect the health and safety of the residents in care.

(Amended by Stats. 2015, Ch. 303, Sec. 283. (AB 731) Effective January 1, 2016.)

1569.53.

Any license suspended or revoked pursuant to this chapter may be reinstated pursuant to Section 11522 of the Government Code.
Whenever a license issued under this chapter for a residential care facility for the elderly is suspended, revoked, temporarily suspended, forfeited, canceled, or expires, the department shall provide written notice of the occurrence within 10 days to the local director of social services in the county in which the facility is located.
(Added by Stats. 1985, Ch. 1127, Sec. 3.)

1569.54.

(a) (1) When the department does not suspend the license of a residential care facility for the elderly pursuant to this article, the department may still order the licensee to remove a resident who has a health condition which cannot be cared for within the limits of the license or requires inpatient care in a health facility as determined by the department.

(2) Where the department determines that the resident's mental or physical condition requires immediate transfer from the facility in order to protect the health and safety of the resident, the department may order the licensee to remove the resident after the department consults with a physician or other medical professional about the transfer and ways in which transfer trauma can be minimized.

(b) (1) Where the department alleges that a resident has a health condition which cannot be cared for within the limits of the license or requires inpatient care in a health facility, the department shall give notice to the resident, his or her legal representative when appropriate, and the licensee. The notice shall specify a deadline for submitting a written plan for relocation and inform the resident of his or her right for a review and determination by an interdisciplinary team as provided for in Section 1569.34. The resident, or his or her legal representative, shall have three working days to inform the licensee of the request for review. Upon receiving a request from a resident, or his or her legal representative, for a review and determination, the licensee shall forward the request to the department within two working days of receipt. Failure or refusal by the licensee to submit the request for review and determination to the department may be subject to the civil penalties specified in Section 1569.49.

(2) The review and determination shall be completed within 30 days from the date that the resident was initially informed of the need to relocate. If the determination is made that the resident must relocate, the notice shall include a plan for transfer, including attempts to minimize transfer trauma for the resident.

The department may require the licensee to prepare and submit to the licensing agency a written plan for relocation, to comply with the terms and conditions of the

approved plans and to provide other information as necessary for the enforcement of this section.
(c) The provisions allowing for a resident's right to a review prior to transfer as provided for in subdivision (b) neither negates the department's authority and responsibility to require an immediate transfer according to paragraph (2) of subdivision (a) when the department finds and provides evidence that the resident must be relocated in order to protect the health and safety of the resident, nor implies any right to a fair hearing pursuant to Chapter 7 (commencing with Section 10950) of Part 2 of Division 9 of the Welfare and Institutions Code.
The department shall specify in regulations the process provided for pursuant to this section for making relocation decisions and for appealing and reviewing these decisions.
(Repealed and added by Stats. 1989, Ch. 1115, Sec. 24.)

1569.545.

(a) For purposes of this section, "suspension of new admissions" means a prohibition on admitting new residents to receive care or services in the facility.
(b) The department may order a suspension of new admissions for a facility in either of the following circumstances:
(1) The department finds that the facility has violated this chapter or any applicable regulations, the violation presents a direct and immediate risk to the health, safety, or personal rights of a resident or residents of the facility, and the violation is not corrected immediately.

(2) The facility has failed to pay a fine assessed by the department after the facility's appeal rights have been exhausted.

(c) A suspension of new admissions for a failure to pay a fine, as described in paragraph (2) of subdivision (b), shall remain in effect until the facility pays the fine assessed by the department.
(d) A suspension of new admissions under paragraph (1) of subdivision (b) shall remain in effect until the department determines that the facility has corrected the violation. The department shall conduct a followup visit to determine compliance within 10 working days following the latest date of correction specified in the notice of deficiency, unless the licensee has demonstrated that the deficiency was corrected as required in the notice. The department may make unannounced visits after the suspension of new admissions is lifted to ensure that the facility continues to maintain correction of the violation. The department may order another suspension of new admissions or take other appropriate enforcement action if the facility does not maintain correction of the violation.
(e) A licensee may appeal a suspension of new admissions ordered under this section to the director. The department shall adopt regulations that specify the appeal procedure.
(f) A suspension of new admissions ordered under this section shall not be stayed pending the facility's appeal or request for review.
(Added by Stats. 2014, Ch. 706, Sec. 1. (SB 1153) Effective January 1, 2015.)

ARTICLE 5.5. Employee Actions [1569.58 - 1569.595]

(Article 5.5 added by Stats. 1989, Ch. 825, Sec. 2.)

1569.58.

(a) The department may prohibit any person from being a licensee, owning a beneficial ownership interest of 10 percent or more in a licensed facility, or being an administrator, officer, director, member, or manager of a licensee or entity controlling a licensee, and may further prohibit any licensee from employing, or continuing the employment of, or allowing in a licensed facility, or allowing contact with clients of a licensed facility by, any employee, prospective employee, or person who is not a client and who has done any of the following:

(1) Violated, or aided or permitted the violation by any other person of, any provisions of this chapter or of any rules or regulations promulgated under this chapter.

(2) Engaged in conduct that is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility, or the people of the State of California.

(3) Been denied an exemption to work or to be present in a facility, when that person has been convicted of a crime as defined in Section 1569.17.

(4) Engaged in any other conduct that would constitute a basis for disciplining a licensee.

(5) Engaged in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services for the care of clients.

(b) The excluded person, the facility, and the licensee shall be given written notice of the basis of the department's action and of the excluded person's right to an appeal. The notice shall be served either by personal service or by registered mail. Within 15 days after the department serves the notice, the excluded person may file with the department a written appeal of the exclusion order. If the excluded person fails to file a written appeal within the prescribed time, the department's action shall be final.

(c) (1) The department may require the immediate removal of a member of the board of directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility pending a final decision of the matter, when, in the opinion of the department, the action is necessary to protect residents or clients from physical or mental abuse, abandonment, or any other substantial threat to their health or safety.

(2) If the department requires the immediate removal of a member of the board of directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility the department shall serve an order of immediate exclusion upon the excluded

person that shall notify the excluded person of the basis of the department's action and of the excluded person's right to a hearing.

(3) Within 15 days after the department serves an order of immediate exclusion, the excluded person may file a written appeal of the exclusion with the department. The department's action shall be final if the excluded person does not appeal the exclusion within the prescribed time. The department shall do the following upon receipt of a written appeal:

(A) Within 30 days of receipt of the appeal, serve an accusation upon the excluded person.

(B) Within 60 days of receipt of a notice of defense by the excluded person pursuant to Section 11506 of the Government Code, conduct a hearing on the accusation.

(4) An order of immediate exclusion of the excluded person from the facility shall remain in effect until the hearing is completed and the department has made a final determination on the merits. However, the order of immediate exclusion shall be deemed vacated if the department fails to make a final determination on the merits within 60 days after the original hearing has been completed.

(d) An excluded person who files a written appeal of the exclusion order with the department pursuant to this section shall, as part of the written request, provide their current mailing address. The excluded person shall subsequently notify the department in writing of any change in mailing address, until the hearing process has been completed or terminated.

(e) Hearings held pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code. The standard of proof shall be the preponderance of the evidence and the burden of proof shall be on the department.

(f) The department may institute or continue a disciplinary proceeding against a member of the board of directors, an executive director, or an officer of a licensee or an employee, prospective employee, or person who is not a client upon any ground provided by this section. The department may enter an order prohibiting any person from being a member of the board of directors, an executive director, or an officer of a licensee, or prohibiting the excluded person's employment or presence in the facility, or otherwise take disciplinary action against the excluded person, notwithstanding any resignation, withdrawal of employment application, or change of duties by the excluded person, or any discharge, failure to hire, or reassignment of the excluded person by the licensee or that the excluded person no longer has contact with clients at the facility.

(g) A licensee's failure to comply with the department's exclusion order after being notified of the order shall be grounds for disciplining the licensee pursuant to Section 1569.50.

(h) (1) (A) In cases in which the excluded person appealed the exclusion order and there is a decision and order of the department upholding the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate

any facility licensed by the department or from being a certified foster parent or resource family for the remainder of the excluded person's life, unless otherwise ordered by the department.

(B) The excluded individual may petition for reinstatement one year after the effective date of the decision and order of the department upholding the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the decision and order.

(2) (A) In cases in which the department informed the excluded person of their right to appeal the exclusion order and the excluded person did not appeal the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or a certified foster parent or resource family for the remainder of the excluded person's life, unless otherwise ordered by the department.

(B) The excluded individual may petition for reinstatement after one year has elapsed from the date of the notification of the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the exclusion order.

(i) For purposes of this section, exclusion, as specified in subdivision (a), shall include exclusion from the home of a resource family, as defined in Section 1517 of this code and Section 16519.5 of the Welfare and Institutions Code.
(Amended by Stats. 2019, Ch. 777, Sec. 15. (AB 819) Effective January 1, 2020.)

1569.59.

(a) (1) If the department determines that a person was issued a license under this chapter, Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3 (commencing with Section 1500), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.3 (commencing with Section 1570), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30), or that the applicant previously was approved as a resource family under Article 2 (commencing with Section 16519.5) of Chapter 5 of Part 4 of Division 9 of the Welfare and Institutions Code, and the prior license was revoked or prior approval was rescinded within the preceding two years, the department shall exclude the person from, and remove the person from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter.

(2) If the department determines that a person previously was issued a certificate of approval by a foster family agency that was revoked or rescinded by the department pursuant to subdivision (d) of Section 1517 or subdivision (b) of Section 1534 within the preceding two years, the department shall exclude the person from, and remove the person from the position of, a member of the board

of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter.

(b) If the department determines that the person had previously applied for a license under this chapter, Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3 (commencing with Section 1500), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.3 (commencing with Section 1570), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30), or that the person previously applied for resource family approval under Article 2 (commencing with Section 16519.5) of Chapter 5 of Part 4 of Division 9 of the Welfare and Institutions Code, and the application was denied within the last year, the department shall exclude the person from, and remove the person from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter and as follows:

(1) In cases in which the applicant petitioned for a hearing, the department shall exclude the person from, and remove the person from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

(2) In cases in which the department or county informed the applicant of the right to petition for a hearing and the applicant did not petition for a hearing, the department shall exclude the person from, and remove the person from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(c) If the department determines that the person had previously applied for a certificate of approval with a foster family agency and the department ordered the foster family agency to deny the application pursuant to subdivision (d) of Section 1517 or subdivision (b) of Section 1534, the department shall exclude the person from, and remove the person from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter and as follows:

(1) In cases in which the applicant petitioned for a hearing, the department shall exclude the person from, and remove the person from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

(2) In cases in which the department informed the applicant of the right to petition for a hearing and the applicant did not petition for a hearing, the department shall exclude the person from, and remove the person from the

position of, a member of the board of directors, the executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(d) Exclusion or removal of an individual pursuant to this section shall not be considered an order of exclusion for purposes of Section 1569.58 of this code, Section 16519.6 of the Welfare and Institutions Code, or any other law.
(e) The department may determine not to exclude a person from, and remove the person from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter if it has determined that the reasons for the denial of the application or revocation of the facility license or certificate of approval, or the denial or rescission of resource family approval, were due to circumstances or conditions that either have been corrected or are no longer in existence.
(f) For purposes of this section, exclusion from a licensed facility shall include exclusion from a resource family, as defined in Section 1517 of this code and Section 16519.5 of the Welfare and Institutions Code. The exclusion of a resource family or an applicant for resource family approval pursuant to this section shall only be imposed as set forth in the written directives or regulations adopted pursuant to Section 16519.5 of the Welfare and Institutions Code.
(Amended by Stats. 2020, Ch. 104, Sec. 13. (AB 2944) Effective September 18, 2020.)

1569.595.

The department shall conduct an unannounced visit to a facility within 30 days after the department serves an order of immediate exclusion from the facility upon the licensee or a person subject to immediate removal or exclusion from the facility pursuant to paragraph (3) of subdivision (c) of Section 1569.17 and subdivision (c) of Section 1569.58 in order to ensure that the excluded person is not within the facility, unless the department previously has verified that the excluded person is not within the facility.
(Added by Stats. 2008, Ch. 291, Sec. 18. Effective September 25, 2008.)

ARTICLE 6. Other Provisions [1569.60 - 1569.696]

(Article 6 added by Stats. 1985, Ch. 1127, Sec. 3.)

1569.60.

(a) The director shall require as a condition precedent to the issuance of any license for a residential care facility for the elderly, if the licensee handles or will handle any money of a person within the facility, that the applicant for the license file or have on file with the department a bond issued by a surety company admitted to do business in this state in a sum to be fixed by the department based upon the magnitude of the operations of the applicant, but which sum shall not be less than one thousand dollars ($1,000), running to the State of California and

conditioned upon his or her faithful and honest handling of the money of persons within the facility.
(b) The failure of any licensee under this chapter to maintain on file with the state department a bond in the amount prescribed by the director or who embezzles the trust funds of a person in the facility shall constitute cause for the revocation of the license.
(c) The provisions of this section shall not apply if the licensee handles moneys of persons within the residential care facility for the elderly in amounts less than fifty dollars ($50) per person and less than five hundred dollars ($500) for all persons in any month.
(Amended by Stats. 1992, Ch. 1315, Sec. 24. Effective January 1, 1993.)

1569.601.

The director may grant a partial or total variance from the bonding requirements of Section 1569.60 for any residential care facility for the elderly if he or she finds that compliance with them is so onerous that a residential care facility for the elderly will cease to operate, and if he or she also finds that money of the persons received or cared for in the facility has been, or will be, deposited in a bank in this state, in a trust company authorized to transact a trust business in this state, or in a savings and loan association in this state, upon condition that the money may not be withdrawn except on authorization of the guardian or conservator of the person.
(Added by renumbering Section 1569.61 by Stats. 1989, Ch. 1115, Sec. 25.)

1569.605.

On and after July 1, 2015, all residential care facilities for the elderly, except those facilities that are an integral part of a continuing care retirement community, shall maintain liability insurance covering injury to residents and guests in the amount of at least one million dollars ($1,000,000) per occurrence and three million dollars ($3,000,000) in the total annual aggregate, caused by the negligent acts or omissions to act of, or neglect by, the licensee or its employees.
(Added by Stats. 2014, Ch. 205, Sec. 1. (AB 1523) Effective January 1, 2015.)

1569.61.

The department shall develop and maintain at each district office a file for each facility in that district, containing all documents regarding the facility that were received or created by the department on or after January 1, 1999, and that are not confidential under other provisions of law. This file shall be available immediately upon the request of any consumer who shall have the right to obtain copies of documents from the file upon the payment of a reasonable charge for the copies.
(Added by Stats. 1998, Ch. 306, Sec. 3. Effective January 1, 1999.)

1569.613.

Any person who becomes an administrator of a residential care facility for the elderly on or after January 1, 1992, shall, at a minimum, comply with all of the following:
(a) Be at least 21 years of age.
(b) Have a valid certificate as an administrator of a residential care facility for the elderly as required by Section 1569.616, or have submitted the documentation required to obtain a certificate pursuant to subdivision (d) of Section 1569.616.
(c) Have a high school diploma or pass a general educational development test as described in Article 3 (commencing with Section 51420) of Chapter 3 of Part 28 of the Education Code.
(d) Obtain criminal record clearance as provided for in Sections 1569.17 and 1569.171.
(Amended by Stats. 1995, Ch. 224, Sec. 1. Effective January 1, 1996.)

1569.616.

(a) (1) An administrator of a residential care facility for the elderly shall successfully complete a department-approved administrator certification training program pursuant to subdivision (c) prior to employment.

(2) If an individual is both the licensee and the administrator of a licensed facility, or a licensed nursing home administrator, the individual shall comply with the requirements of this section unless they qualify for one of the exemptions provided for in subdivision (b).

(3) Failure to comply with this section shall constitute cause for revocation of the license of the facility where an individual is functioning as the administrator.

(4) The licensee shall notify the department within 30 days of any change in administrators.

(b) Individuals seeking exemptions under paragraph (2) of subdivision (a) shall meet the following criteria and fulfill the required portions of the certification program, as the case may be:

(1) An individual designated as the administrator of a residential care facility for the elderly who holds a valid license as a nursing home administrator issued in accordance with Chapter 2.35 (commencing with Section 1416) of Division 2 shall be required to complete the areas in the uniform core of knowledge required by this section that pertain to the law, regulations, policies, and procedural standards that impact the operations of residential care facilities for the elderly, the use, misuse, and interaction of medication commonly used by the elderly in a residential setting, and resident admission, retention, and assessment procedures, equal to 12 hours of classroom instruction. An individual meeting the requirements of this paragraph shall not be required to take an examination.

(2) If an individual was both the licensee and administrator on or before July 1, 1991, the individual shall be required to complete all the areas specified for the

administrator certification training program, but shall not be required to take the examination required by this section. Those individuals exempted from the examination shall be issued a conditional certification that is valid only for the administrator of the facility for which the exemption was granted.

(A) As a condition to becoming an administrator of another facility, the individual shall be required to pass the examination provided for in this section.

(B) As a condition to applying for a new facility license, the individual shall be required to pass the examination provided for in Section 1569.23.

(c) (1) An administrator certification training program for residential care facilities for the elderly shall require a minimum of 80 hours of coursework, which shall include at least 60 hours of classroom instruction that provides training on a uniform core of knowledge in each of the following areas:

(A) Laws, regulations, and policies and procedural standards that impact the operations of residential care facilities for the elderly.

(B) Business operations.

(C) Management and supervision of staff.

(D) Psychosocial needs of the elderly.

(E) Community and support services.

(F) Physical needs for elderly persons.

(G) Medication management, including the use, misuse, and interaction of medication commonly used by the elderly, including antipsychotics and the adverse effects of psychotropic drugs for use in controlling the behavior of persons with dementia.

(H) Resident admission, retention, and assessment procedures.

(I) Managing Alzheimer’s disease and related dementias, including nonpharmacologic, person-centered approaches to dementia care.

(J) Cultural competency and sensitivity in issues relating to the underserved aging lesbian, gay, bisexual, and transgender community.

(K) Residents’ rights and the importance of initial and ongoing training for all staff to ensure that residents’ rights are fully respected and implemented.

(L) Managing the physical environment, including, but not limited to, maintenance and housekeeping.

(M) Postural supports, restricted health conditions, and hospice care.

(2) Individuals applying for administrator certification under this section shall successfully complete an approved administrator certification training program, pass an examination administered by the department within 60 days of completing the program, submit to the department an administrator certification application and the documentation required by subdivision (d) to the department within 30 days of being notified of having passed the test. The department may extend these time deadlines for good cause. The department shall notify the applicant of the results within 30 days of administering the test.

(3) The department shall ensure the test consists of at least 100 questions and allows an applicant to have access to the California Residential Care Facilities for the Elderly Act and related regulations during the test. The department, no later than July 1 of every other year, shall review and revise the test in order to ensure the rigor and quality of the test. Each year, the department shall ensure, by January 1, that the test is not in conflict with current law. The department may convene a stakeholder group to assist in developing and reviewing test questions.

(d) The department shall not begin the process of issuing an administrator certificate until receipt of all of the following:

(1) An administrator certification application.

(2) A certificate of completion of the administrator certification training program required pursuant to this section.

(3) The fee for processing an administrator certification application, including the issuance of the administrator certificate, as specified in subparagraph (A) of paragraph (1) of subdivision (l).

(4) Documentation that the applicant has passed the examination or of qualifying for an exemption pursuant to subdivision (b).

(5) Submission of fingerprints pursuant to Section 1569.17. The department and the Department of Justice shall expedite the criminal record clearance for holders of certificates of completion. The department may waive the submission for those persons who have a current criminal record clearance or exemption on file.

(e) It shall be unlawful for a person not certified under this section to hold themselves out as a certified administrator of a residential care facility for the elderly. A person willfully making a false representation as being a certified administrator is guilty of a misdemeanor.

(f) (1) An administrator certificate issued under this section shall be renewed every two years and renewal shall be conditional upon the certificate holder submitting documentation of completion of 40 hours of continuing education related to the uniform core of knowledge specified in paragraph (1) of subdivision (c). No more than one-half of the required 40 hours of continuing education necessary to renew the certificate may be satisfied through online courses. All other continuing education hours shall be completed in a classroom setting. For purposes of this section, individuals who hold a valid license as a nursing home administrator issued

in accordance with Chapter 2.35 (commencing with Section 1416) of Division 2 and meet the requirements of paragraph (1) of subdivision (b) shall only be required to complete 20 hours of continuing education.

(2) A certified administrator of a residential care facility for the elderly is required to renew their administrator certificate and shall complete the continuing education requirements of this subdivision whether the person is certified according to subdivision (a) or (b). At least eight hours of the 40-hour continuing education requirement for a certified administrator of a residential care facility for the elderly shall include instruction on serving clients with dementia, including, but not limited to, instruction related to direct care, physical environment, and admissions procedures and assessment.

(3) An administrator certificate issued under this section shall expire every two years, on the anniversary date of the initial issuance of the certificate, except that any administrator receiving their initial certification on or after January 1, 1999, shall make an irrevocable election to have the recertification date for any subsequent recertification either on the date two years from the date of issuance of the certificate or on the individual's birthday during the second calendar year following certification. The department shall send a renewal notice to the certificate holder 90 days prior to the expiration date of the certificate. If the certificate is not renewed prior to its expiration date, reinstatement shall only be permitted after the certificate holder has paid a delinquency fee specified in subparagraph (C) of paragraph (1) of subdivision (l), and has provided evidence of completion of the continuing education required.

(4) To renew an administrator certificate, the certificate holder shall, on or before the certificate expiration date, submit to the department an administrator certification renewal application and documentation of completion of the required continuing education courses and pay the renewal fee specified in subparagraph (A) of paragraph (1) of subdivision (l), irrespective of receipt of the department's notification of the renewal. A renewal request postmarked on or before the expiration of the certificate is proof of compliance with this paragraph.

(5) A suspended or revoked administrator certificate is subject to expiration as provided for in this section. If reinstatement of the certificate is approved by the department, the certificate holder, as a condition precedent to reinstatement, shall submit proof of compliance with paragraphs (1) and (2) of this subdivision, and shall pay a fee in an amount equal to the renewal fee, plus the delinquency fee, if any, as specified in subparagraphs (A) and (C) of paragraph (1) of subdivision (l), accrued at the time of its revocation or suspension.

(6) An administrator certificate that is not renewed within four years after its expiration shall not be renewed, restored, reissued, or reinstated except upon completion of an administrator certification training program, passing any test that may be required of an applicant for a new certificate at that time, and paying the fee specified in subparagraph (A) of paragraph (1) of subdivision (l).

(7) The department shall charge a fee for the reissuance of a lost administrator certificate, as specified in subparagraph (B) of paragraph (1) of subdivision (l).

(8) A certificate holder shall inform the department of their employment status within 30 days of any change.

(g) The department may revoke a certificate issued under this section for any of the following:

(1) Procuring a certificate by fraud or misrepresentation.

(2) Knowingly making or giving any false statement or information in conjunction with the application for issuance of a certificate.

(3) Criminal conviction, unless an exemption is granted pursuant to Section 1569.17.

(h) Unless otherwise ordered by the department, an administrator certificate shall be considered forfeited under either of the following conditions:

(1) The administrator has had a license revoked, suspended, or denied as authorized under Section 1569.50.

(2) The administrator has been denied employment, residence, or presence in a facility based on action resulting from an administrative hearing pursuant to Section 1569.58.

(i) (1) The department shall establish, by regulation, the program content, the testing instrument, the process for approving administrator certification training programs, and criteria to be used in authorizing individuals, organizations, or educational institutions as vendors to conduct administrator certification training programs and continuing education courses. These regulations shall be developed in consultation with provider and consumer organizations, and shall be made available at least six months prior to the deadline required for certification. The department may deny vendor approval to any agency or person that has not provided satisfactory evidence of their ability to meet the requirements of vendorization set out in the regulations adopted pursuant to subdivision (j).

(2) (A) A vendor of online programs for continuing education shall ensure that each online course contains all of the following:

(i) An interactive portion where the participant receives feedback, through online communication, based on input from the participant.

(ii) Required use of a personal identification number or personal identification information to confirm the identity of the participant.

(iii) A final screen displaying a printable statement, to be signed by the participant, certifying that the identified participant completed the course. The vendor shall obtain a copy of the final screen statement with the original signature of the participant prior to the issuance of a certificate of completion. The signed statement of completion shall be maintained by the

vendor for a period of three years and be available to the department upon demand. A person who certifies as true any material matter pursuant to this section that the person knows to be false is guilty of a misdemeanor.

(B) This section does not prohibit the department from approving online programs for continuing education that do not meet the requirements of subparagraph (A) if the vendor demonstrates to the department's satisfaction that, through advanced technology, the course and the course delivery meet the requirements of this section.

(3) The department may authorize vendors to conduct the administrator certification training program and continuing education courses pursuant to this section. The department shall conduct the examination pursuant to regulations adopted by the department.

(4) The department shall prepare and maintain an updated list of approved training vendors.

(5) The department may inspect administrator certification training programs and continuing education courses, including online courses, at no charge to the department, in order to determine if content and teaching methods comply with paragraphs (1) and (2), if applicable, and with regulations. If the department determines that a vendor is not complying with the requirements of this section, the department shall take appropriate action to bring the program into compliance, which may include removing the vendor from the approved training vendor list.

(6) The department shall establish reasonable procedures and timeframes, not to exceed 30 days, for the approval of vendor training programs.

(7) The department shall charge a fee for an administrator certification training program vendor application or renewal, as specified in subparagraph (A) of paragraph (3) of subdivision (l).

(8) The department shall charge a fee for processing a continuing education training program vendor application or renewal, as specified in subparagraph (B) of paragraph (3) of subdivision (l).

(9) The department shall charge a fee for processing a continuing education training course, as specified in paragraph (4) of subdivision (l).

(j) This section shall be operative upon regulations being adopted by the department to implement the administrator certification training program as provided for in this section.

(k) The department shall establish a registry for certificate holders that shall include, at a minimum, information on employment status and criminal record clearance.

(l) The department shall charge nonrefundable fees, as follows:

(1) Commencing July 1, 2021, the fee amount in subparagraph (A) shall be incrementally increased by 10 percent each year, not to exceed 40 percent, over a four-year period. The current fee specified in subparagraph (A) will be the base for the increase each year and is effective July 1st of each year.

(A) The fee for processing an administrator certification application or renewal, including the issuance of the administrator certificate, is one hundred dollars ($100).

(B) The fee for the reissuance of a lost administrator certificate is twenty-five dollars ($25).

(C) The delinquency fee for processing a late administrator certification renewal application is three hundred dollars ($300), which shall be charged in addition to the fee specified in subparagraph (A).

(2) Commencing July 1, 2021, the fee for the administrator certification examination is one hundred dollars ($100), for up to three attempts.

(3) Commencing July 1, 2021, fee amounts in subparagraphs (A) and (B) shall be incrementally increased by 10 percent each year, not to exceed 40 percent, over a four-year period. The current fee specified in subparagraphs (A) and (B) will be the base for the increase each year and is effective July 1 of each year.

(A) The fee for processing an administrator certification training program vendor application or renewal is one hundred fifty dollars ($150) for each licensed facility type.

(B) The fee for processing a continuing education training program vendor application or renewal is one hundred dollars ($100) for each licensed facility type.

(4) Commencing July 1, 2021, the fee for processing a continuing education course is ten dollars ($10) per continuing education unit for each licensed facility type.

(5) Notwithstanding paragraphs (1) to (4), inclusive, a fee charged pursuant to this subdivision shall not exceed the reasonable costs to the department of conducting the certification training program.

(m) Notwithstanding any law to the contrary, a vendor approved by the department who exclusively provides either an administrator certification training program or continuing education courses for administrators of a residential care facility for the elderly, as defined in Section 1569.2, shall be regulated solely by the department pursuant to this chapter. No other state or local governmental entity shall be responsible for regulating the activity of those vendors.

(Amended by Stats. 2021, Ch. 85, Sec. 14. (AB 135) Effective July 16, 2021.)

1569.617.

(a) (1) There is hereby created in the State Treasury, the Certification Fund from which moneys, upon appropriation of the Legislature, shall be expended by the department for the purpose of administering the administrator certification training programs for residential care facilities for the elderly pursuant to Sections 1569.23 and 1569.616, for adult residential facilities pursuant to Section 1562.3, and for group homes and short-term residential therapeutic programs pursuant to Section 1522.41.

(2) All money contained in the Residential Care Facility for the Elderly Fund on the operative date of this paragraph shall be retained in the Certification Fund for appropriation for the purposes specified in paragraph (1).

(b) The Certification Fund shall consist of specific appropriations that the Legislature sets aside for use by the fund and all fees, penalties, and fines collected pursuant to Sections 1522.41, 1562.3, 1569.23, and 1569.616.

(Amended by Stats. 2021, Ch. 85, Sec. 15. (AB 135) Effective July 16, 2021.)

1569.618.

(a) The administrator designated by the licensee pursuant to paragraph (11) of subdivision (a) of Section 1569.15 shall be present at the facility during normal working hours. A facility manager designated by the licensee with notice to the department, shall be responsible for the operation of the facility when the administrator is temporarily absent from the facility.

(b) At least one administrator, facility manager, or designated substitute who is at least 21 years of age and has qualifications adequate to be responsible and accountable for the management and administration of the facility pursuant to Title 22 of the California Code of Regulations shall be on the premises 24 hours per day. The designated substitute may be a direct care staff member who shall not be required to meet the educational, certification, or training requirements of an administrator. The designated substitute shall meet qualifications that include, but are not limited to, all of the following:

(1) Knowledge of the requirements for providing care and supervision appropriate to each resident of the facility.

(2) Familiarity with the facility’s planned emergency procedures.

(3) Training to effectively interact with emergency personnel in the event of an emergency call, including an ability to provide a resident’s medical records to emergency responders.

(c) The facility shall employ, and the administrator shall schedule, a sufficient number of staff members to do all of the following:

(1) Provide the care required in each resident’s written record of care as described in Section 1569.80.

(2) Ensure the health, safety, comfort, and supervision of the residents.

(3) Ensure that at least one staff member who has cardiopulmonary resuscitation (CPR) training and first aid training is on duty and on the premises at all times. This paragraph shall not be construed to require staff to provide CPR.

(4) Ensure that the facility is clean, safe, sanitary, and in good repair at all times.

(d) "Facility manager" means a person on the premises with the authority and responsibility necessary to manage and control the day-to-day operation of a residential care facility for the elderly and supervise the clients. The facility manager, licensee, and administrator, or any combination thereof, may be the same person provided he or she meets all applicable requirements. If the administrator is also the facility manager for the same facility, he or she shall be limited to the administration and management of only one facility.
(Amended by Stats. 2015, Ch. 628, Sec. 7. (AB 601) Effective January 1, 2016.)

1569.62.

(a) The director shall ensure that licensees, administrators, and staff of residential care facilities for the elderly have appropriate training to provide the care and services for which a license or certificate is issued.
(b) The department shall develop jointly with the California Department of Aging requirements for a uniform core of knowledge for the required initial certification and continuing education for administrators, and their designated substitutes, and for recertification of administrators of residential care facilities for the elderly. This knowledge base shall include, as a minimum, basic understanding of the psychosocial and physical care needs of elderly persons, applicable laws and regulations, residents' rights, and administration. This training shall be developed in consultation with individuals or organizations with specific expertise in residential care facilities for the elderly or assisted living services, or by an outside source with expertise in residential care facilities for the elderly or assisted living services.
(1) The initial certification training for administrators shall consist of at least 80 hours.

(2) The continuing education requirement for administrators is at least 40 hours of training during each two-year certification period, as specified in paragraph (1) of subdivision (f) of Section 1569.616.

(c) (1) The department shall develop a uniform resident assessment tool to be used by all residential care facilities for the elderly. The assessment tool shall, in lay terms, help to identify resident needs for service and assistance with activities of daily living.
(2) The departments shall develop a mandatory training program on the utilization of the assessment tool to be given to administrators and their designated substitutes.

(d) This section shall become operative on January 1, 2016.
(Repealed (in Sec. 5) and added by Stats. 2014, Ch. 705, Sec. 6. (SB 911) Effective January 1, 2015. Section operative January 1, 2016, by its own provisions.)

1569.625.

(a) The Legislature finds that the quality of services provided to residents of residential care facilities for the elderly is dependent upon the training and skills of staff. It is the intent of the Legislature in enacting this section to ensure that direct-care staff have the knowledge and proficiency to carry out the tasks of their jobs.
(b) (1) The department shall adopt regulations to require staff members of residential care facilities for the elderly who assist residents with personal activities of daily living to receive appropriate training. This training shall consist of 40 hours of training. A staff member shall complete 20 hours, including six hours specific to dementia care, as required by subdivision (a) of Section 1569.626 and four hours specific to postural supports, restricted health conditions, and hospice care, as required by subdivision (a) of Section 1569.696, before working independently with residents. The remaining 20 hours shall include six hours specific to dementia care and shall be completed within the first four weeks of employment. The training coursework may utilize various methods of instruction, including, but not limited to, lectures, instructional videos, and interactive online courses. The additional 16 hours shall be hands-on training.

(2) In addition to paragraph (1), training requirements shall also include an additional 20 hours annually, eight hours of which shall be dementia care training, as required by subdivision (a) of Section 1569.626, and four hours of which shall be specific to postural supports, restricted health conditions, and hospice care, as required by subdivision (a) of Section 1569.696. This training shall be administered on the job, or in a classroom setting, or both, and may include online training.

(3) The department shall establish, in consultation with provider organizations, the subject matter required for the training required by this section.

(c) The training shall include, but not be limited to, all of the following:

(1) Physical limitations and needs of the elderly.

(2) Importance and techniques for personal care services.

(3) Residents' rights.

(4) Policies and procedures regarding medications.

(5) Psychosocial needs of the elderly.

(6) Building and fire safety and the appropriate response to emergencies.

(7) Dementia care, including the use and misuse of antipsychotics, the interaction of drugs commonly used by the elderly, and the adverse effects of psychotropic drugs for use in controlling the behavior of persons with dementia.

(8) The special needs of persons with Alzheimer's disease and dementia, including nonpharmacologic, person-centered approaches to dementia care.

(9) Cultural competency and sensitivity in issues relating to the underserved, aging, lesbian, gay, bisexual, and transgender community.

(d) This section shall not apply to certified nurse assistants, certified pursuant to Article 9 (commencing with Section 1337) of Chapter 2, licensed vocational nurses, licensed pursuant to Chapter 6.5 (commencing with Section 2840) of Division 2 of the Business and Professions Code, and registered nurses, licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code, except both of the following shall apply:

(1) A licensed or certified health professional with valid certification shall receive eight hours of training on resident characteristics, resident records, and facility practices and procedures prior to providing direct care to residents.

(2) In addition to paragraph (1), a certified nurse assistant shall also receive the 12 hours of dementia care training specified in Section 1569.626 and the annual training specified in paragraph (2) of subdivision (b).

(e) This section shall become operative on January 1, 2016.

(Repealed (in Sec. 2.5) and added by Stats. 2014, Ch. 701, Sec. 2.7. (AB 2044) Effective January 1, 2015. Section operative January 1, 2016, by its own provisions.)

1569.626.

(a) All residential care facilities for the elderly shall meet the following training requirements, as described in Section 1569.625, for all direct care staff:

(1) Twelve hours of dementia care training, six of which shall be completed before a staff member begins working independently with residents, and the remaining six hours of which shall be completed within the first four weeks of employment. All 12 hours shall be devoted to the care of persons with dementia. The facility may utilize various methods of instruction, including, but not limited to, preceptorship, mentoring, and other forms of observation and demonstration. The orientation time shall be exclusive of any administrative instruction.

(2) Eight hours of in-service training per year on the subject of serving residents with dementia. This training shall be developed in consultation with individuals or organizations with specific expertise in dementia care or by an outside source with expertise in dementia care. In formulating and providing this training, reference may be made to written materials and literature on dementia and the care and treatment of persons with dementia. This training requirement may be satisfied in one day or over a period of time. This training requirement may be provided at the facility or offsite and may include a combination of observation and practical application.

(b) This section shall become operative on January 1, 2016.

(Repealed (in Sec. 5) and added by Stats. 2014, Ch. 698, Sec. 6. (AB 1570) Effective January 1, 2015. Section operative January 1, 2016, by its own provisions.)

1569.627.

Any residential care facility for the elderly that advertises or promotes special care, special programming, or a special environment for persons with dementia shall disclose to the department the special features of the facility in its plan of operation. This information shall be provided to the public by the facility upon request. The information shall include a brief narrative description of all of the following facility features:
(a) Philosophy, including, but not limited to, program goals.
(b) Preadmission assessment.
(c) Admission.
(d) Assessment.
(e) Program.
(f) Staff.
(g) Staff training.
(h) Physical environment.
(i) Changes in condition, including, but not limited to, when and under what circumstances are changes made to a participant's care plan.
(j) Success indicators.
(Added by Stats. 2000, Ch. 434, Sec. 6. Effective January 1, 2001.)

1569.628.

A licensee of a residential care facility for the elderly that advertises or promotes special care, programming, or environments for persons with a health related condition, except as specified in Section 1569.72, shall provide to each prospective resident an accurate narrative description of these programs and services. The description shall be provided in writing prior to admission. All reasonable efforts shall be made to communicate the information in the narrative description to a person who is unable to read it himself or herself, including, but not limited to, reading the description out loud.
(Added by Stats. 2003, Ch. 322, Sec. 1. Effective January 1, 2004.)

1569.63.

The director shall insure that licensing personnel at the department have appropriate training to properly carry out this chapter.
(Added by Stats. 1985, Ch. 1127, Sec. 3.)

1569.64.

The department shall institute a staff development and training program within the organization structure to develop among staff the knowledge and understanding necessary to successfully carry out this chapter. Specifically, the department shall do all of the following:

(a) Provide staff with 36 hours of training per year that reflect the unique needs of the elderly.
(b) Give priority to applications from individuals with experience as care providers to the elderly.
(c) Provide new staff with comprehensive training within the first six months of employment. This training shall, at a minimum, include the following core areas: administrative action process, client populations, conducting facility visits, cultural awareness, documentation skills, facility operations, human relation skills, interviewing techniques, investigation processes, and regulation administration. This training shall also provide new staff who have earned fewer than 16 semester units in gerontology or geriatric education from an accredited college at least 40 hours of preservice training in the aging process and the psycho-social and health care needs of elderly persons.
(Amended by Stats. 1992, Ch. 1319, Sec. 2. Effective January 1, 1993.)

1569.65.

(a) On or before January 1, 1987, the department shall publish a comprehensive consumer guideline brochure to assist persons in the evaluation and selection of a licensed residential care facility for the elderly. The department shall develop the brochure for publication with the advice and assistance of the Advisory Committee on Community Care Facilities and the State Department of Aging.
(b) The consumer guideline brochure shall include, but not be limited to, guidelines highlighting resident health and safety issues to be considered in the selection of a residential care facility for the elderly, locations of the licensing offices of the State Department of Social Services where facility records may be reviewed, types of local organizations which may have additional information on specific facilities, and a list of recommended inquiries to be made in the selection of a residential care facility for the elderly.
(c) Upon publication, the consumer guideline brochures shall be distributed to statewide resident advocacy groups, statewide consumer advocacy groups, state and local ombudsmen, and all licensed residential care facilities for the elderly. The brochure shall be made available on request to all other interested persons.
(Added by Stats. 1985, Ch. 1127, Sec. 3.)

1569.651.

(a) A licensee of a residential care facility for the elderly shall not require any form of preadmission fee or deposit from a recipient under the State Supplementary Program for the Aged, Blind and Disabled (Article 5 (commencing with Section 12200) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code) who applies for admission to the facility.
(b) If a licensee charges a preadmission fee, the licensee shall provide the applicant or his or her representative with a written general statement describing all costs associated with the preadmission fee charges and stating that the preadmission fee is refundable. The statement shall describe the conditions for the refund as

specified in subdivision (g). A licensee shall only charge a single preadmission fee as defined in subdivision (e) per resident admission.
(c) A licensee of a residential care facility for the elderly shall not require, request, or accept any funds from a resident or a resident's representative that constitutes a deposit against any possible damages by the resident.
(d) Any fee charged by a licensee of a residential care facility for the elderly, whether prior to or after admission, shall be clearly specified in the admission agreement.
(e) For the purposes of this section, "preadmission fee" means an application fee, processing fee, admission fee, entrance fee, community fee, or other fee, however designated, that is requested or accepted by a licensee of a residential care facility for the elderly prior to admission.
(f) This section shall not apply to licensees of residential care facilities for the elderly that have obtained a certificate of authority to offer continuing care contracts, as defined in paragraph (8) of subdivision (c) of Section 1771.
(g) If the applicant decides not to enter the facility prior to the facility's completion of a preadmission appraisal or if the facility fails to provide full written disclosure of the preadmission fee charges and refund conditions, the applicant or the applicant's representative shall be entitled to a refund of 100 percent of the preadmission fee.
(h) Unless subdivision (g) applies, preadmission fees in excess of five hundred dollars ($500) shall be refunded according to the following:

(1) If the applicant does not enter the facility after a preadmission appraisal is conducted, the applicant or the applicant's representative shall be entitled to a refund of at least 80 percent of the preadmission fee amount in excess of five hundred dollars ($500).

(2) If the resident leaves the facility for any reason during the first month of residency, the resident shall be entitled to a refund of at least 80 percent of the preadmission fee amount in excess of five hundred dollars ($500).

(3) If the resident leaves the facility for any reason during the second month of residency, the resident shall be entitled to a refund of at least 60 percent of the preadmission fee amount in excess of five hundred dollars ($500).

(4) If the resident leaves the facility for any reason during the third month of residency, the resident shall be entitled to a refund of at least 40 percent of the preadmission fee amount in excess of five hundred dollars ($500).

(5) The facility may, but is not required to, make a refund of the preadmission fee for residents living in the facility for four or more months.

(i) (1) Notwithstanding subdivision (g), if a resident is evicted by a facility pursuant to subdivision (a) of Section 1569.682, the resident or the resident's legal representative shall be entitled to a refund of preadmission fees in excess of five hundred dollars ($500) in accordance with all of the following:

(A) A 100-percent refund if preadmission fees were paid within six months of notice of eviction.

(B) A 75-percent refund if preadmission fees were paid more than six months but not more than 12 months before notice of eviction.

(C) A 50-percent refund if preadmission fees were paid more than 12 months but not more than 18 months before notice of eviction.

(D) A 25-percent refund if preadmission fees were paid more than 18 months but less than 25 months before notice of eviction.

(2) No preadmission refund is required if preadmission fees were paid 25 months or more before the notice of eviction.

(3) The preadmission refund required by this subdivision shall be paid within 15 days of issuing the eviction notice.

(Amended by Stats. 2007, Ch. 686, Sec. 1. Effective January 1, 2008.)

1569.652.

(a) A residential care facility for the elderly shall not require advance notice for terminating an admission agreement upon the death of a resident. No fees shall accrue once all personal property belonging to the deceased resident is removed from the living unit.
(b) Upon the death of a resident, a licensee shall not impede the removal of the resident's personal property from the facility during reasonable hours by an individual or individuals authorized by the resident or the resident's responsible person, as identified in the admission agreement or attachment, or by a court-appointed executor or administrator of the decedent's estate, if applicable.
(c) A refund of any fees paid in advance covering the time after the resident's personal property has been removed from the facility shall be issued to the individual, individuals, or entity contractually responsible for the fees or, if the deceased resident paid the fees, to the resident's estate, within 15 days after the personal property is removed.
(d) If fees are assessed while a resident's personal property remains in a unit after the resident is deceased, a licensee shall, within three days of becoming aware of the resident's death, provide to the resident's responsible person, or other individual or individuals as identified in the admission agreement or attachment, written notice of the facility's policies regarding contract termination upon death and refunds.
(e) This section shall not apply to fees charged by a continuing care equity project as defined in paragraph (6) of subdivision (e) of Section 1771 or amounts deducted from entrance fee refunds or repayments described in paragraph (2) of subdivision (r) of Section 1771.
(Added by Stats. 2013, Ch. 290, Sec. 1. (AB 261) Effective January 1, 2014.)

1569.655.

(a) If a licensee of a residential care facility for the elderly increases the rates of fees for residents or makes increases in any of its rate structures for services, the licensee shall provide no less than 60 days' prior written notice to the residents or the residents' representatives setting forth the amount of the increase, the reason for the increase, and a general description of the additional costs, except for an increase in the rate due to a change in the level of care of the resident. This subdivision shall not apply to optional services that are provided by individuals, professionals, or organizations under a separate fee-for-service arrangement with residents.
(b) No licensee shall charge nonrecurring lump-sum assessments. The notification requirements contained in subdivision (a) shall apply to increases specified in this subdivision. For purposes of this subdivision, "nonrecurring lump-sum assessments" mean rate increases due to unavoidable and unexpected costs that financially obligate the licensee. In lieu of the lump-sum payment, all increases in rates shall be to the monthly rate amortized over a 12-month period. The prohibition against a lump-sum assessment shall not apply to charges for specific goods or services provided to an individual resident.
(c) If a licensee increases rates for a recipient under the State Supplementary Program for the Aged, Blind and Disabled, described in Article 5 (Commencing with Section 12200) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code, the licensee shall meet the requirements for SSI/SSP rate increases, as prescribed by law.
(d) This section shall not apply to licensees of residential care facilities for the elderly that have obtained a certificate of authority to offer continuing care contracts, as defined in paragraph (5) of subdivision (c) of Section 1771.
(Added by Stats. 2002, Ch. 557, Sec. 2. Effective January 1, 2003.)

1569.657.

(a) For any rate increase due to a change in the level of care of the resident, the licensee shall provide the resident and the resident's representative, if any, written notice of the rate increase within two business days after initially providing services at the new level of care. The notice shall include a detailed explanation of the additional services to be provided at the new level of care and an accompanying itemization of the charges.
(b) This section shall not apply to any resident of the facility who is a recipient of benefits pursuant to Article 5 (commencing with Section 12200) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code under the State Supplementary Program for Aged, Blind and Disabled.
(c) This section shall not apply to a provider who has entered into one or more continuing care contracts at a licensed residential care facility for the elderly pursuant to a certificate of authority, as defined in paragraph (5) of subdivision (c) of Section 1771.
(Added by Stats. 2004, Ch. 401, Sec. 1. Effective January 1, 2005.)

1569.658.

(a) On or before January 31 of each year, the licensee of a licensed residential care facility for the elderly shall prepare a document disclosing its average monthly rate increases, inclusive of rates for living units and service fees, for each of the previous 3 years. For purposes of this section, "service fees" do not include fees for optional services or services provided by a third party. The licensee shall disclose the average amount of the increase, as well as the average percentage of increase. Newly licensed facilities without three years of resident rate increase history shall disclose the average increase for the years during which the facility has been serving residents. This section does not apply to newly licensed facilities with no current residents.
(b) The licensee shall provide a written copy of the disclosure required by this section to every resident or resident's representative, upon signing an admission agreement to receive residential or other services from the facility. The resident or resident's representative shall sign a confirmation of receipt of the disclosure, which shall be maintained by the facility in the resident's file.
(c) The licensee shall provide a copy of the most recent disclosure required by this section to any prospective resident, or his or her representative.
(d) This section shall not apply to a licensee of a residential care facility for the elderly that has obtained a certificate of authority to offer a continuing care contract, as defined in paragraph (5) of subdivision (c) of Section 1771.
(Added by Stats. 2008, Ch. 478, Sec. 1. Effective January 1, 2009.)

1569.66.

At least annually, the director shall publish and make available to interested persons a list or lists covering all licensed residential care facilities for the elderly and the services for which each facility has been licensed. A list or lists containing changes shall be published and made available periodically, as determined by the director.
(Amended by Stats. 1986, Ch. 844, Sec. 8.)

1569.67.

(a) The department shall develop a written notice for the purpose of informing any individual who requests information regarding admission to a residential care facility for the elderly that the department's licensing analysts' inspection reports on all residential care facilities for the elderly are on file and are available for public review in the department's community care licensing district office nearest to each residential care facility for the elderly.
(b) The department shall adopt regulations requiring that each residential care facility provide this notice, as well as the address of the nearest departmental community care licensing district office, to any individual who requests information regarding admission to a residential care facility for the elderly and to any resident of the facility.
(Added by Stats. 1989, Ch. 911, Sec. 1.)

1569.68.

All residential care facilities shall be required to include their current license number in any public advertisement or correspondence.
(Added by Stats. 1989, Ch. 465, Sec. 1.)

1569.681.

(a) Each residential care facility for the elderly licensed under this chapter shall reveal its license number in all advertisements, publications, or announcements made with the intent to attract clients or residents.
(b) Advertisements, publications, or announcements subject to the requirements of subdivision (a) referred to herein include, but are not limited to, those contained in the following:

(1) Newspaper or magazine.

(2) Consumer report.

(3) Announcement of intent to commence business.

(4) Telephone directory yellow pages.

(5) Professional or service directory.

(6) Radio or television commercial.

(Added by renumbering Section 1569.314 (as added by Stats. 1989, Ch. 458) by Stats. 1990, Ch. 1137, Sec. 1.)

1569.682.

(a) A licensee of a licensed residential care facility for the elderly shall, prior to transferring a resident of the facility to another facility or to an independent living arrangement as a result of the forfeiture of a license, as described in subdivision (a), (b), or (f) of Section 1569.19, or a change of use of the facility pursuant to the department's regulations, take all reasonable steps to transfer affected residents safely and to minimize possible transfer trauma, and shall, at a minimum, do all of the following:

(1) Prepare, for each resident, a relocation evaluation of the needs of that resident, which shall include both of the following:

(A) Recommendations on the type of facility that would meet the needs of the resident based on the current service plan.

(B) A list of facilities, within a 60-mile radius of the resident's current facility, that meet the resident's present needs.

(2) Provide each resident or the resident's responsible person with a written notice no later than 60 days before the intended eviction. The notice shall include all of the following:

(A) The reason for the eviction, with specific facts to permit a determination of the date, place, witnesses, and circumstances concerning the reasons.

(B) A copy of the resident's current service plan.

(C) The relocation evaluation.

(D) A list of referral agencies.

(E) The right of the resident or resident's legal representative to contact the department to investigate the reasons given for the eviction pursuant to Section 1569.35.

(F) The contact information for the local long-term care ombudsman, including address and telephone number.

(3) Discuss the relocation evaluation with the resident and the resident's legal representative within 30 days of issuing the notice of eviction.

(4) Submit a written report of any eviction to the licensing agency within five days.

(5) Upon issuing the written notice of eviction, a licensee shall not accept new residents or enter into new admission agreements.

(6) (A) For paid preadmission fees in excess of five hundred dollars ($500), the resident is entitled to a refund in accordance with all of the following:

(i) A 100-percent refund if preadmission fees were paid within six months of notice of eviction.

(ii) A 75-percent refund if preadmission fees were paid more than six months but not more than 12 months before notice of eviction.

(iii) A 50-percent refund if preadmission fees were paid more than 12 months but not more than 18 months before notice of eviction.

(iv) A 25-percent refund if preadmission fees were paid more than 18 months but less than 25 months before notice of eviction.

(B) No preadmission refund is required if preadmission fees were paid 25 months or more before the notice of eviction.

(C) The preadmission refund required by this paragraph shall be paid within 15 days of issuing the eviction notice. In lieu of the refund, the resident may

request that the licensee provide a credit toward the resident's monthly fee obligation in an amount equal to the preadmission fee refund due.

(7) If the resident gives notice five days before leaving the facility, the licensee shall refund to the resident or the resident's legal representative a proportional per diem amount of any prepaid monthly fees at the time the resident leaves the facility and the unit is vacated. Otherwise the licensee shall pay the refund within seven days from the date that the resident leaves the facility and the unit is vacated.

(8) Within 10 days of all residents having left the facility, the licensee, based on information provided by the resident or resident's legal representative, shall submit a final list of names and new locations of all residents to the department and the local ombudsman program.

(b) If seven or more residents of a residential care facility for the elderly will be transferred as a result of the forfeiture of a license or change in the use of the facility pursuant to subdivision (a), the licensee shall submit a proposed closure plan to the department for approval. The department shall approve or disapprove the closure plan, and monitor its implementation, in accordance with the following requirements:

(1) Upon submission of the closure plan, the licensee shall be prohibited from accepting new residents and entering into new admission agreements for new residents.

(2) The closure plan shall meet the requirements described in subdivision (a), and describe the staff available to assist in the transfers. The department's review shall include a determination as to whether the licensee's closure plan contains a relocation evaluation for each resident.

(3) Within 15 working days of receipt, the department shall approve or disapprove the closure plan prepared pursuant to this subdivision, and, if the department approves the plan, it shall become effective upon the date the department grants its written approval of the plan.

(4) If the department disapproves a closure plan, the licensee may resubmit an amended plan, which the department shall promptly either approve or disapprove, within 10 working days of receipt by the department of the amended plan. If the department fails to approve a closure plan, it shall inform the licensee, in writing, of the reasons for the disapproval of the plan.

(5) If the department fails to take action within 20 working days of receipt of either the original or the amended closure plan, the plan, or amended plan, as the case may be, shall be deemed approved.

(6) Until the department has approved a licensee's closure plan, the facility shall not issue a notice of transfer or require any resident to transfer.

(7) Upon approval by the department, the licensee shall send a copy of the closure plan to the local ombudsman program.

(c) A licensee shall inform the city and county in which the facility is located of a proposed closure, including whether the licensee intends to sell the property or business, no later than 180 days before the proposed closure, or as soon as practicably possible.

(d) (1) If a licensee fails to comply with the requirements of this section, or if the director determines that it is necessary to protect the residents of a facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety, the department shall take any necessary action to minimize trauma for the residents, including caring for the residents through the use of a temporary manager or receiver as provided for in Sections 1569.481 and 1569.482 when the director determines the immediate relocation of the residents is not feasible based on transfer trauma or other considerations such as the unavailability of alternative placements. The department shall contact any local agency that may have assessment, placement, protective, or advocacy responsibility for the residents, and shall work together with those agencies to locate alternative placement sites, contact relatives or other persons responsible for the care of these residents, provide onsite evaluation of the residents, and assist in the transfer of residents.

(2) The participation of the department and local agencies in the relocation of residents from a residential care facility for the elderly does not relieve the licensee of any responsibility under this section. A licensee that fails to comply with the requirements of this section shall be required to reimburse the department and local agencies for the cost of providing the relocation services or the costs incurred in caring for the residents through the use of a temporary manager or receiver as provided for in Sections 1569.481 and 1569.482. If the licensee fails to provide the relocation services required in this section, then the department may request that the Attorney General's office, the city attorney's office, or the local district attorney's office seek injunctive relief and damages in the same manner as provided for in Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code, including restitution to the department of any costs incurred in caring for the residents through the use of a temporary manager or receiver as provided for in Sections 1569.481 and 1569.482.

(e) A licensee who fails to comply with requirements of this section shall be liable for the imposition of civil penalties in the amount of one hundred dollars ($100) per violation per day for each day that the licensee is in violation of this section, until such time that the violation has been corrected. The civil penalties shall be issued immediately following the written notice of violation. However, if the violation does not present an immediate or substantial threat to the health or safety of residents and the licensee corrects the violation within three days after receiving the notice of violation, the licensee shall not be liable for payment of any civil penalties pursuant to this subdivision related to the corrected violation.

(f) A licensee, on and after January 1, 2015, who fails to comply with this section and abandons the facility and the residents in care resulting in an immediate and substantial threat to the health and safety of the abandoned residents, in addition

to forfeiture of the license pursuant to Section 1569.19, shall be excluded from licensure in facilities licensed by the department without the right to petition for reinstatement.
(g) A resident of a residential care facility for the elderly covered under this section may bring a civil action against any person, firm, partnership, or corporation who owns, operates, establishes, manages, conducts, or maintains a residential care facility for the elderly who violates the rights of a resident, as set forth in this section. Any person, firm, partnership, or corporation who owns, operates, establishes, manages, conducts, or maintains a residential care facility for the elderly who violates this section shall be responsible for the acts of the facility's employees and shall be liable for costs and attorney's fees. Any such residential care facility for the elderly may also be enjoined from permitting the violation to continue. The remedies specified in this section are in addition to any other remedy provided by law.
(h) This section does not apply to a licensee that has obtained a certificate of authority to offer continuing care contracts, as defined in paragraph (8) of subdivision (c) of Section 1771.
(Amended by Stats. 2020, Ch. 11, Sec. 11. (AB 79) Effective June 29, 2020.)

1569.683.

(a) In addition to complying with other applicable regulations, a licensee of a residential care facility for the elderly who sends a notice of eviction to a resident shall set forth in the notice to quit the reasons relied upon for the eviction, with specific facts to permit determination of the date, place, witnesses, and circumstances concerning those reasons. In addition, the notice to quit shall include all of the following:

(1) The effective date of the eviction.

(2) Resources available to assist in identifying alternative housing and care options, including public and private referral services and case management organizations.

(3) Information about the resident's right to file a complaint with the department regarding the eviction, with the name, address, and telephone number of the nearest office of community care licensing and the State Ombudsman.

(4) The following statement: "In order to evict a resident who remains in the facility after the effective date of the eviction, the residential care facility for the elderly must file an unlawful detainer action in superior court and receive a written judgment signed by a judge. If the facility pursues the unlawful detainer action, you must be served with a summons and complaint. You have the right to contest the eviction in writing and through a hearing."

(b) The licensee, in addition to either serving a 30-day notice, or seeking approval from the department and serving three days notice, on the resident, shall notify, or mail a copy of the notice to quit to, the resident's responsible person.
(Added by Stats. 2009, Ch. 617, Sec. 2. (SB 781) Effective January 1, 2010.)

1569.686.

(a) A licensee shall notify the department, the State Long-Term Care Ombudsman, all residents, and, if applicable, their legal representatives, in writing, within two business days, and shall notify all applicants for potential residence, and, if applicable, their legal representatives, prior to admission, of any of the following events, or knowledge of the event:

(1) A notice of default, notice of trustee's sale, or any other indication of foreclosure is issued on the property.

(2) An unlawful detainer action is initiated against the licensee.

(3) The licensee files for bankruptcy.

(4) The licensee receives a written notice of default of payment of rent described in Section 1161 of the Code of Civil Procedure.

(5) A utility company has sent a notice of intent to terminate electricity, gas, or water service on the property within not more than 15 days of the notice.

(b) Upon receipt of the notice required pursuant to subdivision (a), the department shall initiate a compliance plan, noncompliance conference, or other appropriate action.

(c) A licensee who fails to comply with this section may be liable for civil penalties in an amount not to exceed one hundred dollars ($100) for each day of the failure to provide notification required in this section. The total civil penalty shall not exceed two thousand dollars ($2,000). If a resident is relocated without the notification required by this section, and suffers transfer trauma or other harm to his or her health or safety, the department may also suspend or revoke the licensee's license and issue a permanent revocation of the licensee's ability to operate or act as an administrator of a facility anywhere in the state. Suspension or revocation proceedings pursuant to this subdivision shall be conducted in compliance with Section 1569.51.

(d) For purposes of this section, "property" means the land or building in which a residential care facility for the elderly is located.

(e) This section shall not apply to licensees of residential care facilities for the elderly that have obtained a certificate of authority, as defined in paragraph (5) of subdivision (c) of Section 1771, to offer continuing care contracts, as defined in paragraph (8) of subdivision (c) of Section 1771.

(Added by Stats. 2011, Ch. 376, Sec. 3. (SB 897) Effective January 1, 2012.)

1569.69.

(a) Each residential care facility for the elderly licensed under this chapter shall ensure that each employee of the facility who assists residents with the self-administration of medications meets all of the following training requirements:

(1) In facilities licensed to provide care for 16 or more persons, the employee shall complete 24 hours of initial training. This training shall consist of 16 hours

of hands-on shadowing training, which shall be completed prior to assisting with the self-administration of medications, and 8 hours of other training or instruction, as described in subdivision (f), which shall be completed within the first four weeks of employment.

(2) In facilities licensed to provide care for 15 or fewer persons, the employee shall complete 10 hours of initial training. This training shall consist of 6 hours of hands-on shadowing training, which shall be completed prior to assisting with the self-administration of medications, and 4 hours of other training or instruction, as described in subdivision (f), which shall be completed within the first two weeks of employment.

(3) An employee shall be required to complete the training requirements for hands-on shadowing training described in this subdivision prior to assisting any resident in the self-administration of medications. The training and instruction described in this subdivision shall be completed, in their entirety, within the first two weeks of employment.

(4) The training shall cover all of the following areas:

(A) The role, responsibilities, and limitations of staff who assist residents with the self-administration of medication, including tasks limited to licensed medical professionals.

(B) An explanation of the terminology specific to medication assistance.

(C) An explanation of the different types of medication orders: prescription, over-the-counter, controlled, and other medications.

(D) An explanation of the basic rules and precautions of medication assistance.

(E) Information on medication forms and routes for medication taken by residents.

(F) A description of procedures for providing assistance with the self-administration of medications in and out of the facility, and information on the medication documentation system used in the facility.

(G) An explanation of guidelines for the proper storage, security, and documentation of centrally stored medications.

(H) A description of the processes used for medication ordering, refills, and the receipt of medications from the pharmacy.

(I) An explanation of medication side effects, adverse reactions, errors, the adverse effects of psychotropic drugs for use in controlling the behavior of persons with dementia, and the increased risk of death when elderly residents with dementia are given antipsychotic medications.

(5) To complete the training requirements set forth in this subdivision, each employee shall pass an examination that tests the employee's comprehension of, and competency in, the subjects listed in paragraph (4).

(6) Residential care facilities for the elderly shall encourage pharmacists and licensed medical professionals to use plain English when preparing labels on medications supplied to residents. As used in this section, "plain English" means that no abbreviations, symbols, or Latin medical terms shall be used in the instructions for the self-administration of medication.

(7) The training requirements of this section are not intended to replace or supplant those required of all staff members who assist residents with personal activities of daily living as set forth in Sections 1569.625 and 1569.696.

(8) The training requirements of this section shall be repeated if either of the following occur:

(A) An employee returns to work for the same licensee after a break of service of more than 180 consecutive calendar days.

(B) An employee goes to work for another licensee in a facility in which he or she assists residents with the self-administration of medication.

(b) Each employee who received training and passed the examination required in paragraph (5) of subdivision (a), and who continues to assist with the self-administration of medicines, shall also complete eight hours of in-service training on medication-related issues in each succeeding 12-month period.
(c) The requirements set forth in subdivisions (a) and (b) do not apply to persons who are licensed medical professionals.
(d) Each residential care facility for the elderly that provides employee training under this section shall use the training material and the accompanying examination that are developed by, or in consultation with, a licensed nurse, pharmacist, or physician. The licensed residential care facility for the elderly shall maintain the following documentation for each medical consultant used to develop the training:
(1) The name, address, and telephone number of the consultant.

(2) The date when consultation was provided.

(3) The consultant's organization affiliation, if any, and any educational and professional qualifications specific to medication management.

(4) The training topics for which consultation was provided.

(e) Each person who provides employee training under this section shall meet the following education and experience requirements:
(1) A minimum of five hours of initial, or certified continuing, education or three semester units, or the equivalent, from an accredited educational institution, on topics relevant to medication management.

(2) The person shall meet any of the following practical experience or licensure requirements:

(A) Two years of full-time experience, within the last four years, as a consultant with expertise in medication management in areas covered by the training described in subdivision (a).

(B) Two years of full-time experience, or the equivalent, within the last four years, as an administrator for a residential care facility for the elderly, during which time the individual has acted in substantial compliance with applicable regulations.

(C) Two years of full-time experience, or the equivalent, within the last four years, as a direct care provider assisting with the self-administration of medications for a residential care facility for the elderly, during which time the individual has acted in substantial compliance with applicable regulations.

(D) Possession of a license as a medical professional.

(3) The licensed residential care facility for the elderly shall maintain the following documentation on each person who provides employee training under this section:

(A) The person's name, address, and telephone number.

(B) Information on the topics or subject matter covered in the training.

(C) The times, dates, and hours of training provided.

(f) Other training or instruction, as required in paragraphs (1) and (2) of subdivision (a), may be provided offsite, and may use various methods of instruction, including, but not limited to, all of the following:

(1) Lectures by presenters who are knowledgeable about medication management.

(2) Video recorded instruction, interactive material, online training, and books.

(3) Other written or visual materials approved by organizations or individuals with expertise in medication management.

(g) Residential care facilities for the elderly licensed to provide care for 16 or more persons shall maintain documentation that demonstrates that a consultant pharmacist or nurse has reviewed the facility's medication management program and procedures at least twice a year.

(h) Nothing in this section authorizes unlicensed personnel to directly administer medications.

(i) This section shall become operative on January 1, 2016.

(Repealed (in Sec. 7) and added by Stats. 2014, Ch. 705, Sec. 8. (SB 911) Effective January 1, 2015. Section operative January 1, 2016, by its own provisions.)

1569.695.

(a) In addition to any other requirement of this chapter, a residential care facility for the elderly shall have an emergency and disaster plan that shall include, but not be limited to, all of the following:

(1) Evacuation procedures, including identification of an assembly point or points that shall be included in the facility sketch.

(2) Plans for the facility to be self-reliant for a period of not less than 72 hours immediately following any emergency or disaster, including, but not limited to, a short-term or long-term power failure. If the facility plans to shelter in place and one or more utilities, including water, sewer, gas, or electricity, is not available, the facility shall have a plan and supplies available to provide alternative resources during an outage.

(3) Transportation needs and evacuation procedures to ensure that the facility can communicate with emergency response personnel or can access the information necessary in order to check the emergency routes to be used at the time of an evacuation and relocation necessitated by a disaster. If the transportation plan includes the use of a vehicle owned or operated by the facility, the keys to the vehicle shall be available to staff on all shifts.

(4) A contact information list of all of the following:

(A) Emergency response personnel.

(B) The Community Care Licensing Division within the State Department of Social Services.

(C) The local long-term care ombudsman.

(D) Transportation providers.

(5) At least two appropriate shelter locations that can house facility residents during an evacuation. One of the locations shall be outside of the immediate area.

(6) The location of utility shut-off valves and instructions for use.

(7) Procedures that address, but are not limited to, all of the following:

(A) Provision of emergency power that could include identification of suppliers of backup generators. If a permanently installed generator is used, the plan shall include its location and a description of how it will be used. If a portable generator is used, the manufacturer’s operating instructions shall be followed.

(B) Responding to an individual resident’s needs if the emergency call buttons are inoperable.

(C) Process for communicating with residents, families, hospice providers, and others, as appropriate, that might include landline telephones, cellular telephones, or walkie-talkies. A backup process shall also be established. Residents and their responsible parties shall be informed of the process for communicating during an emergency.

(D) Assistance with, and administration of, medications.

(E) Storage and preservation of medications, including the storage of medications that require refrigeration.

(F) The operation of assistive medical devices that need electric power for their operation, including, but not limited to, oxygen equipment and wheelchairs.

(G) A process for identifying residents with special needs, such as hospice, and a plan for meeting those needs.

(H) Procedures for confirming the location of each resident during an emergency response.

(b) A facility shall provide training on the plan to each staff member upon hire and annually thereafter. The training shall include staff responsibilities during an emergency or disaster.
(c) A facility shall conduct a drill at least quarterly for each shift. The type of emergency covered in a drill shall vary from quarter to quarter, taking into account different emergency scenarios. An actual evacuation of residents is not required during a drill. While a facility may provide an opportunity for residents to participate in a drill, it shall not require any resident participation. Documentation of the drills shall include the date, the type of emergency covered by the drill, and the names of staff participating in the drill.
(d) A facility shall review the plan annually and make updates as necessary, including changes in floor plans and the population served. The licensee or administrator shall sign and date documentation to indicate that the plan has been reviewed and updated as necessary.
(e) A facility shall have all of the following information readily available to facility staff during an emergency:
(1) A resident roster with the date of birth for each resident.

(2) An appraisal of resident needs and services plan for each resident.

(3) A resident medication list for residents with centrally stored medications.

(4) Contact information for the responsible party and physician for each resident.

(f) A facility shall have both of the following in place:
(1) An evacuation chair at each stairwell, on or before July 1, 2019.

(2) A set of keys available to facility staff on each shift for use during an evacuation that provides access to all of the following:

(A) All occupied resident units.

(B) All facility vehicles.

(C) All facility exit doors.

(D) All facility cabinets and cupboards or files that contain elements of the emergency and disaster plan, including, but not limited to, food supplies and protective shelter supplies.

(g) A facility shall make the plan available upon request to residents onsite, any responsible party for a resident, the local long-term care ombudsman, and local emergency responders. Resident and employee information shall be kept confidential.
(h) An applicant seeking a license for a new facility shall submit the emergency and disaster plan with the initial license application required under Section 1569.15.
(i) The department's Community Care Licensing Division shall confirm, during annual licensing visits, that the emergency and disaster plan is on file at the facility and includes required content.
(j) A facility is encouraged to have the emergency and disaster plan reviewed by local emergency authorities.
(k) Nothing in this section shall create a new or additional requirement for the department to evaluate the emergency and disaster plan.
(Amended by Stats. 2018, Ch. 348, Sec. 1. (AB 3098) Effective January 1, 2019.)

1569.696.

(a) All residential care facilities for the elderly shall provide training to direct care staff on postural supports, restricted conditions or health services, and hospice care as a component of the training requirements specified in Section 1569.625. The training shall include all of the following:

(1) Four hours of training on the care, supervision, and special needs of those residents, prior to providing direct care to residents. The facility may utilize various methods of instruction, including, but not limited to, preceptorship, mentoring, and other forms of observation and demonstration. The orientation time shall be exclusive of any administrative instruction.

(2) Four hours of training thereafter of in-service training per year on the subject of serving those residents.

(b) This training shall be developed in consultation with individuals or organizations with specific expertise in the care of those residents described in subdivision (a). In formulating and providing this training, reference may be made to written materials and literature. This training requirement may be provided at the facility or offsite and may include a combination of observation and practical application.

(c) This section shall become operative on January 1, 2016.
(Added by Stats. 2014, Ch. 705, Sec. 9. (SB 911) Effective January 1, 2015. Section operative January 1, 2016, by its own provisions.)

ARTICLE 6.6. Secured Perimeters [1569.698 - 1569.7]
(Article 6.6 added by Stats. 1995, Ch. 550, Sec. 2.)

1569.698.

(a) The State Fire Marshal has proposed that the California Building Standards Commission adopt building standards to provide for locked and secured perimeters in residential care facilities for the elderly that care for persons with major neurocognitive disorder:

(1) It is acknowledged that these building standards will not become effective until October 1, 1996.

(2) It is the policy of the California Building Standards Commission that building standards be adopted exclusively into the California Building Standards Code and not into state statute.

(3) However, in recognition of the immediate need of residential care facilities for the elderly caring for persons with major neurocognitive disorder to provide a secured environment, it is the intent of the Legislature that the building standards for locked and secured perimeters proposed by the State Fire Marshal for adoption in the 1994 California Building Standards Code, as set forth in Section 1569.699, be effective October 4, 1995.

(b) (1) Upon the filing of emergency regulations with the Secretary of State pursuant to subdivision (c), a residential care facility for the elderly that cares for people with major neurocognitive disorder may utilize secured perimeter fences or locked exit doors if it meets the requirements for additional safeguards required by those regulations.

(2) For the purposes of this article, major neurocognitive disorder includes Alzheimer's disease and related disorders, diagnosed by a physician, that increase the tendency to wander and that decrease hazard awareness and the ability to communicate.

(3) It is the intent of the Legislature in enacting this article that residential care facilities for the elderly have options for the security of persons with major neurocognitive disorder who are residents of those facilities that are in addition to existing security exceptions made for individual residents. It is the further intent of the Legislature that these additional options shall include the use of waivers of certain building standards relating to fire safety, to be issued by the state department with the approval of the State Fire Marshal, to permit the care of a target group of persons with major neurocognitive disorder by means of secured perimeter fences, or the use of locked exterior doors. Each waiver request shall include a facility plan of operation that addresses elements of care to be identified

by the department in regulations and demonstrates the facility's ability to meet the safety needs of persons with major neurocognitive disorder.

(4) The department shall adopt regulations that ensure that staff for secured perimeter facilities receive appropriate and adequate training in the care of residents with major neurocognitive disorder.

(5) Nothing in this section is intended to prohibit residential care facilities for the elderly from accepting or retaining persons with major neurocognitive disorder whose needs can be fully met using care options permitted by existing law and regulations.

(6) It is not the intent of the Legislature to authorize an increase in the level of care provided in a residential care facility for the elderly or to establish a supplemental rate structure based on the services provided in the facility.

(7) All admissions to residential care facilities for the elderly shall continue to be voluntary on the part of the resident or with the lawful consent of the resident's legal conservator.

(c) The department shall adopt regulations to implement subdivision (b) in accordance with those provisions of the Administrative Procedure Act contained in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The initial adoption of any emergency regulations following October 4, 1995, shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Emergency regulations adopted pursuant to this subdivision shall remain in effect for no more than 180 days.
(d) In addition to the security options authorized by subdivision (b), residential care facilities for the elderly that accept or retain as residents persons with major neurocognitive disorder, and that choose to utilize the security options of egress-control devices of the time-delay type in addition to secured perimeter fences or locked exit doors, shall comply with Section 1569.699, or regulations adopted by the California Building Standards Commission, whichever is operative.
(e) A residential care facility for the elderly shall not utilize special egress-control devices of the time-delay type, secured perimeter fences, or locked exit doors unless the facility meets the requirements of Section 1569.699 or the California Building Standards Commission adopts building standards to implement this section.
(f) Any person who is not a conservatee and is entering a locked or secured perimeter facility pursuant to this section shall sign a statement of voluntary entry. The facility shall retain the original statement and shall send a copy of the statement to the department.
(Amended by Stats. 2017, Ch. 122, Sec. 1. (SB 413) Effective January 1, 2018.)

1569.699.

(a) When approved by the person responsible for enforcement, as described in Section 13146, exit doors in facilities classified as Group R, Division 2 facilities under the California Building Standards Code, licensed as residential care facilities for the elderly, and housing clients with Alzheimer's disease or major neurocognitive disorder, may be equipped with approved listed special egress-control devices of the time-delay type, provided the building is protected throughout by an approved automatic sprinkler system and an approved automatic smoke-detection system. The devices shall conform to all of the following requirements:

(1) Automatic deactivation of the egress-control device upon activation of either the sprinkler system or the detection system.

(2) Automatic deactivation of the egress-control device upon loss of electrical power to any of the following:

(A) The egress-control device.

(B) The smoke-detection system.

(C) Exit illumination as required by Section 1013 of the California Building Standards Code.

(3) Be capable of being deactivated by a signal from a switch located in an approved location.

(4) Initiate an irreversible process that will deactivate the egress-control device whenever a manual force of not more than 15 pounds (66.72 N) is applied for two seconds to the panic bar or other door-latching hardware. The egress-control device shall deactivate within an approved time period not to exceed a total of 15 seconds, except that the person responsible for enforcement, as described in Section 13146, may approve a delay not to exceed 30 seconds in residential care facilities for the elderly serving patients with Alzheimer's disease. The time delay established for each egress-control device shall not be field adjustable.

(5) Actuation of the panic bar or other door-latching hardware shall activate an audible signal at the door.

(6) The unlatching shall not require more than one operation.

(7) (A) A sign shall be provided on the door located above and within 12 inches (305mm) of the panic bar or other door-latching hardware reading:

KEEP PUSHING. THIS DOOR WILL OPEN IN ___ SECONDS. ALARM WILL SOUND.

(B) Sign letter shall be at least one inch (25mm) in height and shall have a stroke of not less than one-eighth inch (3.3mm).

(8) Regardless of the means of deactivation, relocking of the egress-control device shall be by manual means only at the door.

(b) Grounds of residential care facilities for the elderly serving persons with Alzheimer's disease or major neurocognitive disorder may be fenced, and gates therein equipped with locks, provided safe dispersal areas are located not less than 50 feet (15240mm) from the buildings. Dispersal areas shall be sized to provide an area of not less than three square feet (0.28 2) per occupant. Gates shall not be installed across corridors or passageways leading to the dispersal areas unless they comply with the exit requirements of Section 1022 of the California Building Standards Code.
(c) Exit doors may be locked in residential care facilities for the elderly that meet the requirements for Group I, Division 3 occupancies under the California Building Standards Code and that care for people with major neurocognitive disorder.
(d) This section shall become inoperative on the date the California Building Standards Commission adopts regulations regarding secured perimeters in residential care facilities for the elderly, and, as of the January 1 next following that date, is repealed, unless a later enacted statute, that becomes operative on or before that January 1, deletes or extends the dates on which it becomes inoperative and is repealed.
(Amended by Stats. 2018, Ch. 92, Sec. 134. (SB 1289) Effective January 1, 2019. Inoperative on date prescribed by its own provisions. Repealed on January 1 after inoperative date, by its own provisions.)

1569.6991.

On and after January 1, 1999, no security window bars may be installed or maintained on any residential care facility for the elderly unless the security window bars meet current state and local requirements, as applicable, for security window bars and safety release devices.
(Added by Stats. 1998, Ch. 343, Sec. 3. Effective January 1, 1999.)

1569.7.

Residential care facilities for the elderly that serve residents with Alzheimer's disease and other forms of major neurocognitive disorder should include information on sundowning as part of the training for direct care staff, and should include in the plan of operation a brief narrative description explaining activities available for residents to decrease the effects of sundowning, including, but not limited to, increasing outdoor activities in appropriate weather conditions.
(Amended by Stats. 2017, Ch. 122, Sec. 3. (SB 413) Effective January 1, 2018.)

ARTICLE 7. Levels of Care [1569.70 - 1569.74]
(Article 7 added by Stats. 1985, Ch. 1127, Sec. 3.)

1569.70.

It is the intent of the Legislature to develop and implement a plan to establish three levels of care under the residential care facility for the elderly license, subject to future Budget Act appropriations and statutory authorization to implement levels of care.

(a) The guidelines for the development of these levels of care are:

(1) Level I—Base care and supervision. Residents at this level are able to maintain a higher degree of independence and need only minimum care and supervision, as defined, and minimal personal care assistance.

(2) Level II—Nonmedical personal care. Residents at this level have functional limitations and psychosocial needs requiring not only care and supervision but frequent assistance with personal activities of daily living and active intervention to help them maintain their potential for independent living.

(3) Level III—Health related assistance. Residents at this level require the services of lower levels and rely on the facility for extensive assistance with personal activities of daily living. This level may include residents who also require the occasional services of an appropriate skilled professional due to chronic health problems and returning residents recovering from illness, injury, or treatment that required placement in facilities providing higher levels of care.

These levels are to be based on the services required by residents at each level due to their functional limitations.

(b) The levels of care plan shall include:

(1) Guidelines for meeting requirements at each level of care by utilizing appropriate community and professional services. Options shall be provided to allow facilities to meet resident needs by accessing community services or hiring appropriate staff.

(2) Assessment procedures for facility evaluation of residents' level of care needs.

(3) Process for ensuring the individual facility's ability to serve clients at each level of care they intend to provide.

(4) Recommendations for a supplemental rate structure based on the services required at Levels II and III to be provided for residents who need those levels of care and are recipients of SSI/SSP. These rates shall be in addition to the basic SSI/SSP rate for providing care supervision and shall reflect actual costs of operation for residential care facilities for the elderly.

(5) Procedures for assessment and certification of SSI/SSP recipients, by county social services departments to allow for administration of the supplemental rate structure.

(6) Procedures for evaluating and monitoring the appropriateness of the levels of care determined for SSI/SSP recipients.

(c) Implementation of the levels of care system shall consider the applicability of the 1985 level of care report developed by the California Health and Human

Services Agency, so as to ensure continuity in the residential care facility for the elderly program as outlined under this chapter.
(Amended by Stats. 2004, Ch. 183, Sec. 191. Effective January 1, 2005.)

1569.71.

In consultation with the State Fire Marshal the department shall develop and expedite implementation of regulations related to nonambulatory persons that ensure resident safety but also provide flexibility to allow residents to remain in the least restrictive environment.
Following the implementation of levels of care, regulations related to nonambulatory persons shall also provide the flexibility necessary for those levels in residential care facilities for the elderly.
(Added by Stats. 1985, Ch. 1127, Sec. 3.)

1569.72.

(a) Except as otherwise provided in subdivision (d), no resident shall be admitted or retained in a residential care facility for the elderly if any of the following apply:
(1) The resident requires 24-hour, skilled nursing or intermediate care.

(2) The resident is bedridden, other than for a temporary illness or for recovery from surgery.

(b) (1) For the purposes of this section, "bedridden" means requiring assistance in turning and repositioning in bed or being unable to independently transfer to and from bed, except in a facility with appropriate and sufficient care staff, mechanical devices, if necessary, and safety precautions, as determined by the director in regulations.
(2) The determination of the bedridden status of persons with developmental disabilities shall be made by the Director of Social Services or his or her designated representative, in consultation with the Director of Developmental Services or his or her designated representative, after consulting the resident's individual safety plan. The determination of the bedridden status of all other persons with disabilities who are not developmentally disabled shall be made by the Director of Social Services, or his or her designated representative.

(c) Notwithstanding paragraph (2) of subdivision (a), bedridden persons may be admitted to, and remain in, residential care facilities for the elderly that secure and maintain an appropriate fire clearance. A fire clearance shall be issued to a facility in which one or more bedridden persons reside if either of the following conditions are met:
(1) The fire safety requirements are met. Residents who are unable to independently transfer to and from bed, but who do not need assistance to turn or reposition in bed, shall be considered nonambulatory for purposes of this paragraph.

(2) Alternative methods of protection are approved.

(d) (1) For purposes of this section, "temporary illness" means any illness which persists for 14 days or less.
(e) A bedridden resident may be retained in a residential care facility for the elderly in excess of 14 days if all of the following requirements are satisfied:
(1) The facility notifies the department in writing regarding the temporary illness or recovery from surgery.

(2) The facility submits to the department, with the notification, a physician and surgeon's written statement to the effect that the resident's illness or recovery is of a temporary nature. The statement shall contain an estimated date upon which the illness or recovery will end or upon which the resident will no longer be confined to a bed.

(3) The department determines that the health and safety of the resident is adequately protected in that facility and that transfer to a higher level of care is not necessary.

(4) This section does not expand the scope of care and supervision of a residential care facility for the elderly.

(f) Notwithstanding the length of stay of a bedridden resident, every facility admitting or retaining a bedridden resident, as defined in this section, shall, within 48 hours of the resident's admission or retention in the facility, notify the local fire authority with jurisdiction in the bedridden resident's location of the estimated length of time the resident will retain his or her bedridden status in the facility.
(g) Nothing in this section shall be used for purposes of Section 1569.70 to determine the appropriateness of residents being admitted or retained in a residential care facility for the elderly on the basis of health-related conditions and the need for these services until the three levels of care set forth in Section 1569.70 are fully implemented. This section shall not prohibit the Community Care Licensing Division of the State Department of Social Services from continuing to implement the regulations of Article 8 (commencing with Section 87700) of Chapter 8 of Division 6 of Title 22 of the California Code of Regulations, as promulgated and approved on February 13, 1990.
(h) (1) The department and the Office of the State Fire Marshal, in consultation with the State Department of Developmental Services, shall each promulgate regulations that meet all of the following conditions:
(A) Are consistent with subdivisions (a) to (f), inclusive.

(B) Are applicable to facilities regulated under this chapter, consistent with the regulatory requirements of the California Building Standards Code for fire and life safety for the respective occupancy classifications into which the State Department of Social Services' community care licensing classifications fall.

(C) Permit residents to remain in home-like settings.

(2) At a minimum, these regulations shall do both of the following with regard to a residential care facility that provides care for six or fewer residents, at least one of whom is bedridden:

(A) Clarify the fire and life safety requirements for a fire clearance for the facility.

(B) (i) Identify procedures for requesting the approval of alternative means of providing equivalent levels of fire and life safety protection.

(ii) Either the facility, the resident or resident's representative, or local fire official may request from the Office of the State Fire Marshal a written opinion concerning the interpretation of the regulations promulgated by the State Fire Marshal pursuant to this section for a particular factual dispute. The State Fire Marshal shall issue the written opinion within 45 days following the request.

(i) For facilities that care for six or fewer clients, a local fire official may not impose fire safety requirements stricter than the fire safety regulations promulgated for the particular type of facility by the Office of the State Fire Marshal or the local fire safety requirements imposed on any other single family dwelling, whichever is more strict.
(j) This section and any regulations promulgated thereunder shall be interpreted in a manner that provides flexibility to allow bedridden persons to avoid institutionalization and be admitted to, and safely remain in, community-based residential care facilities.
(Amended by Stats. 2009, Ch. 471, Sec. 3. (AB 762) Effective January 1, 2010.)

1569.725.

(a) A residential care facility for the elderly may permit incidental medical services to be provided through a home health agency, licensed pursuant to Chapter 8 (commencing with Section 1725), when all of the following conditions are met:
(1) The facility, in the judgment of the department, has the ability to provide the supporting care and supervision appropriate to meet the needs of the resident receiving care from a home health agency.

(2) The home health agency has been advised of the regulations pertaining to residential care facilities for the elderly and the requirements related to incidental medical services being provided in the facility.

(3) There is evidence of an agreed-upon protocol between the home health agency and the residential care facility for the elderly. The protocol shall address areas of responsibility of the home health agency and the facility and the need for communication and the sharing of resident information related to the home health care plan. Resident information may be shared between the home health agency and the residential care facility for the elderly relative to the resident's medical condition and the care and treatment provided to the resident by the

home health agency including, but not limited to, medical information, as defined by the Confidentiality of Medical Information Act, Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code.

(4) There is ongoing communication between the home health agency and the residential care facility for the elderly about the services provided to the resident by the home health agency and the frequency and duration of care to be provided.

(b) Nothing in this section is intended to expand the scope of care and supervision for a residential care facility for the elderly, as prescribed by this chapter.
(c) Nothing in this section shall require any care or supervision to be provided by the residential care facility for the elderly beyond that which is permitted in this chapter.
(d) The department shall not be responsible for the evaluation of medical services provided to the resident of the residential care facility for the elderly by the home health agency.
(e) Any regulations, policies, or procedures related to sharing resident information and development of protocols, established by the department pursuant to this section, shall be developed in consultation with the State Department of Health Services and persons representing home health agencies and residential care facilities for the elderly.
(Amended by Stats. 1998, Ch. 831, Sec. 6. Effective January 1, 1999.)

1569.73.

(a) Notwithstanding Section 1569.72 or any other provision of law, a residential care facility for the elderly may obtain a waiver from the department for the purpose of allowing a resident who has been diagnosed as terminally ill by his or her physician and surgeon to remain in the facility, or allowing a person who has been diagnosed as terminally ill by his or her physician and surgeon to become a resident of the facility if that person is already receiving hospice services and would continue to receive hospice services without disruption if he or she became a resident, when all the following conditions are met:
(1) The facility agrees to retain the terminally ill resident, or accept as a resident the terminally ill person, and to seek a waiver on behalf of the individual, provided the individual has requested the waiver and is capable of deciding to obtain hospice services.

(2) The terminally ill resident, or the terminally ill person to be accepted as a resident, has obtained the services of a hospice certified in accordance with federal medicare conditions of participation and licensed pursuant to Chapter 8 (commencing with Section 1725) or Chapter 8.5 (commencing with Section 1745).

(3) The facility, in the judgment of the department, has the ability to provide care and supervision appropriate to meet the needs of the terminally ill resident or the terminally ill person to be accepted as a resident, and is in substantial

compliance with regulations governing the operation of residential care facilities for the elderly.

(4) The hospice has agreed to design and provide for care, services, and necessary medical intervention related to the terminal illness as necessary to supplement the care and supervision provided by the facility.

(5) An agreement has been executed between the facility and the hospice regarding the care plan for the terminally ill resident or terminally ill person to be accepted as a resident. The care plan shall designate the primary caregiver, identify other caregivers, and outline the tasks the facility is responsible for performing and the approximate frequency with which they shall be performed. The care plan shall specifically limit the facility's role for care and supervision to those tasks allowed under this chapter.

(6) The facility has obtained the agreement of those residents who share the same room with the terminally ill resident, or any resident who will share a room with the terminally ill person to be accepted as a resident, to allow the hospice caregivers into their residence.

(b) At any time that the licensed hospice, the facility, or the terminally ill resident determines that the resident's condition has changed so that continued residence in the facility will pose a threat to the health and safety to the terminally ill resident or any other resident, the facility may initiate procedures for a transfer.

(c) A facility that has obtained a hospice waiver from the department pursuant to this section need not call emergency response services at the time of a life-threatening emergency if the hospice agency is notified instead and all of the following conditions are met:

(1) The resident is receiving hospice services from a licensed hospice agency.

(2) The resident has completed an advance directive, as defined in Section 4605 of the Probate Code, requesting to forego resuscitative measures.

(3) The facility has documented that facility staff have received training from the hospice agency on the expected course of the resident's illness and the symptoms of impending death.

(d) Nothing in this section is intended to expand the scope of care and supervision for a residential care facility for the elderly as defined in this act, nor shall a facility be required to alter or extend its license in order to retain a terminally ill resident or allow a terminally ill person to become a resident of the facility as authorized by this section.

(e) Nothing in this section shall require any care or supervision to be provided by the residential care facility for the elderly beyond that which is permitted in this chapter.

(f) Nothing in this section is intended to expand the scope of life care contracts or the contractual obligation of continuing care retirement communities as defined in Section 1771.

(g) The department shall not be responsible for the evaluation of medical services provided to the resident by the hospice and shall have no liability for the independent acts of the hospice.
(h) Nothing in this section shall be construed to relieve a licensed residential care facility for the elderly of its responsibility to notify the appropriate fire authority of the presence of a bedridden resident in the facility as required under subdivision (f) of Section 1569.72, and to obtain and maintain a fire clearance as required under Section 1569.149.
(Amended by Stats. 2003, Ch. 312, Sec. 2. Effective January 1, 2004.)

1569.74.

(a) Licensed residential care facilities for the elderly that employ health care providers may establish policies to honor a request to forego resuscitative measures as defined in Section 4780 of the Probate Code.
(b) Any policy established pursuant to subdivision (a) shall meet all of the following conditions:

(1) The policy shall be in writing and specify procedures to be followed in implementing the policy.

(2) The policy and procedures shall, at all times, be available in the facility for review by the department.

(3) The licensee shall ensure that all staff are aware of the policy as well as the procedures to be followed in implementing the policy.

(4) A copy of the policy shall be given to each resident who makes a request to forego resuscitative measures and to the resident's primary physician.

(5) A copy of the resident's request to forego resuscitative measures shall be maintained in the facility and shall be immediately available for review by facility staff, the licensed health care provider, and the department.

(6) Facility staff are prohibited, on behalf of any resident, from signing any directive document as a witness or from being the legally recognized surrogate decisionmaker.

(7) The facility shall provide the resident's physician with a copy of the resident's request to forego resuscitative measures form.

(c) Any action by a facility that has established policies pursuant to subdivision (a), to honor a resident's request to forego resuscitative measures as provided for in subdivision (a) may only be taken in either of the following ways:

(1) By a licensed health care provider who is employed by the facility and on the premises at the time of the life threatening emergency.

(2) By notifying, under those conditions specified in subdivision (c) of Section 1569.73, the hospice agency that is caring for a resident receiving hospice services.

(d) Licensed residential care facilities for the elderly that have not established policies pursuant to subdivision (a), may keep an executed request to forego resuscitative measures form in the resident's file and present it to an emergency medical technician or paramedic when authorized to do so in writing by the resident or his or her legally recognized surrogate decisionmaker. The request may be honored by an emergency medical technician or by any health care provider as defined in Section 4621 of the Probate Code, who, in the course of professional or volunteer duties, responds to emergencies.
(Amended by Stats. 2003, Ch. 312, Sec. 3. Effective January 1, 2004.)

ARTICLE 7.5. Resident Participation in Decisionmaking [1569.80- 1569.80.]
(Article 7.5 added by Stats. 1998, Ch. 660, Sec. 2.)

1569.80.

(a) A resident of a residential care facility for the elderly, or the resident's representative, or both, shall have the right to participate in decisionmaking regarding the care and services to be provided to the resident. Accordingly, prior to, or within two weeks after, the resident's admission, the facility shall coordinate a meeting with the resident and the resident's representative, if any, an appropriate member or members of the facility's staff, if the resident is receiving home health services in the facility, a representative of the home health agency involved, and any other appropriate parties. The facility shall ensure that participants in the meeting prepare a written record of the care the resident will receive in the facility, and the resident's preferences regarding the services provided at the facility.
(b) Once prepared, the written record described in subdivision (a) shall be used by the facility, and, if applicable pursuant to Section 1569.725, the home health agency, to determine the care and services provided to the resident. If the resident has a regular physician, the written record shall be sent by the facility to that physician.
(c) The written record described in subdivision (a) shall be reviewed, and, if necessary, revised, at least once every 12 months, or upon a significant change in the resident's condition, as defined by regulations, whichever occurs first. The review shall take place at a meeting coordinated by the facility, and attended by the resident, the resident's representative, if any, an appropriate member or members of the facility's staff, and, if the resident is receiving home health services in the facility, a representative from the home health agency involved.
(d) This section shall not preclude a residential care facility for the elderly or home health agency from satisfying other state or federal obligations at a meeting required by subdivision (a) or (c).
(e) If the residential care facility for the elderly is a continuing care retirement community, as defined in paragraph (10) of subdivision (c) of Section 1771, this

section shall apply only to residents who require care and supervision, as defined in subdivision (b) of Section 1569.2.
(Added by Stats. 1998, Ch. 660, Sec. 2. Effective January 1, 1999.)

ARTICLE 8. Local Regulation [1569.82 - 1569.87]
(Article 8 added by Stats. 1986, Ch. 844, Sec. 11.)

1569.82.

The Legislature hereby declares that it is the policy of this state that each county and city shall permit and encourage the development of sufficient numbers of residential care facilities for the elderly as are commensurate with local need.
This article shall apply equally to any chartered city, general law city, county, city and county, district, and any other local public entity.
For the purposes of this article, "six or fewer persons" does not include the licensee or members of the licensee's family or persons employed as facility staff.
(Added by Stats. 1986, Ch. 844, Sec. 11.)

1569.83.

Any person licensed under this chapter who operates, or proposes to operate a residential care facility for the elderly, the department or other public agency authorized to license the facility, or any public or private agency which uses or may use the services of the facility to place its clients, may invoke this article.
This section shall not be construed to prohibit any interested party from bringing suit to invoke this article.
(Added by Stats. 1986, Ch. 844, Sec. 11.)

1569.84.

A residential care facility for the elderly, which serves six or fewer persons shall not be subject to any business taxes, local registration fees, use permit fees, or other fees to which other family dwellings of the same type in the same zone are not likewise subject. Nothing in this section shall be construed to forbid the imposition of local property taxes, fees for water service and garbage collection, fees for inspections not prohibited by Section 1569.85, local bond assessments, and other fees, charges, and assessments to which other family dwellings of the same type in the same zone are likewise subject. Neither the State Fire Marshal nor any local public entity shall charge any fee for enforcing fire inspection regulations pursuant to state law or regulation or local ordinance, with respect to residential care facilities for the elderly which service six or fewer persons.
For the purposes of this section, "family dwelling," includes, but is not limited to, single-family dwellings, units in multifamily dwellings, including units in duplexes and units in apartment dwellings, mobilehomes, including mobilehomes located in mobilehome parks, units in cooperatives, units in condominiums, units in townhouses, and units in planned unit developments.

(Amended by Stats. 1987, Ch. 1092, Sec. 4. Effective September 24, 1987.)

1569.85.

(a) Whether or not unrelated persons are living together, a residential care facility for the elderly that serves six or fewer persons shall be considered a residential use of property for the purposes of this article. In addition, the residents and operators of the facility shall be considered a family for the purposes of any law or zoning ordinance that relates to the residential use of property pursuant to this article.
(b) For the purpose of all local ordinances, a residential care facility for the elderly that serves six or fewer persons shall not be included within the definition of a boarding house, rooming house, institution or home for the care of the aged, guest home, rest home, community residence, or other similar term that implies that the residential care facility for the elderly is a business run for profit or differs in any other way from a family dwelling.
(c) This section shall not be construed to forbid a city, county, or other local public entity from placing restrictions on building heights, setback, lot dimensions, or placement of signs of a residential care facility for the elderly that serves six or fewer persons as long as the restrictions are identical to those applied to other family dwellings of the same type in the same zone.
(d) This section shall not be construed to forbid the application to a residential care facility for the elderly of any local ordinance that deals with health and safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local public entity if the ordinance does not distinguish residential care facilities for the elderly that serve six or fewer persons from other family dwellings of the same type in the same zone and if the ordinance does not distinguish residents of the residential care facilities for the elderly from persons who reside in other family dwellings of the same type in the same zone.
(e) No conditional use permit, zoning variance, or other zoning clearance shall be required of a residential care facility for the elderly that serves six or fewer persons that is not required of a family dwelling of the same type in the same zone.
(f) Use of a family dwelling for purposes of a residential care facility for the elderly serving six or fewer persons shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 or local building codes. However, nothing in this section is intended to supersede Section 13143 or 13143.6, to the extent these sections are applicable to residential care facilities for the elderly providing care for six or fewer residents.
(g) For the purposes of this section, "family dwelling," includes, but is not limited to, single-family dwellings, units in multifamily dwellings, including units in duplexes and units in apartment dwellings, mobilehomes, including mobilehomes located in mobilehome parks, units in cooperatives, units in condominiums, units in townhouses, and units in planned unit developments.
(Amended by Stats. 2014, Ch. 144, Sec. 35. (AB 1847) Effective January 1, 2015.)

1569.86.

No fire inspection clearance or other permit, license, clearance, or similar authorization shall be denied to a residential care facility for the elderly because of a failure to comply with local ordinances from which the facilities are exempt under Section 1569.85, provided that the applicant otherwise qualifies for the fire clearance, license, permit, or similar authorization.
(Added by Stats. 1986, Ch. 844, Sec. 11.)

1569.87.

For the purposes of any contract, deed, or covenant for the transfer of real property executed on or after January 1, 1979, a residential facility for the elderly which serves six or fewer persons shall be considered a residential use of property and a use of property by a single family, notwithstanding any disclaimers to the contrary.
(Added by Stats. 1986, Ch. 844, Sec. 11.)

ARTICLE 9. Admission Agreements [1569.880 - 1569.889]

(Article 9 added by Stats. 2003, Ch. 409, Sec. 2.)

1569.880.

(a) For purposes of this section, an "admission agreement" includes all documents that a resident or his or her representative must sign at the time of, or as a condition of, admission to a residential care facility for the elderly licensed under this chapter.
(b) The admission agreement shall not include any written attachment containing any provision that is prohibited from being included in the admission agreement.
(Added by Stats. 2003, Ch. 409, Sec. 2. Effective January 1, 2004.)

1569.881.

(a) Every residential care facility for the elderly shall make blank complete copies of its admission agreement available to the public immediately, subject to time required for copying or mailing, at cost, upon request.
(b) Every residential care facility for the elderly shall conspicuously post in a location accessible to the public view within the facility either a complete copy of the admission agreement, or a notice of its availability from the facility.
(Added by Stats. 2003, Ch. 409, Sec. 2. Effective January 1, 2004.)

1569.882.

(a) The admission agreement shall be printed in black type of not less than 12-point type size, on plain white paper. The print shall appear on one side of the paper only.

(b) The admission agreement shall be written in clear, coherent, and unambiguous language, using words with common and everyday meanings. It shall be appropriately divided, and each section shall be appropriately captioned.
(Added by Stats. 2003, Ch. 409, Sec. 2. Effective January 1, 2004.)

1569.883.

(a) The admission agreement shall not include unlawful waivers of facility liability for the health and safety or personal property of residents.
(b) The admission agreement shall not include any provision that the facility knows or should know is deceptive, or unlawful under state or federal law.
(Added by Stats. 2003, Ch. 409, Sec. 2. Effective January 1, 2004.)

1569.884.

The admission agreement shall include all of the following:
(a) A comprehensive description of any items and services provided under a single fee, such as a monthly fee for room, board, and other items and services.
(b) A comprehensive description of, and the fee schedule for, all items and services not included in a single fee. In addition, the agreement shall indicate that the resident shall receive a monthly statement itemizing all separate charges incurred by the resident.
(c) A facility may assess a separate charge for an item or service only if that separate charge is authorized by the admission agreement. If additional services are available through the facility to be purchased by the resident that were not available at the time the admission agreement was signed, a list of these services and charges shall be provided to the resident or the resident's representative. A statement acknowledging the acceptance or refusal to purchase the additional services shall be signed and dated by the resident or the resident's representative and attached to the admission agreement.
(d) An explanation of the use of third-party services within the facility that are related to the resident's service plan, including, but not limited to, ancillary, health, and medical services, how they may be arranged, accessed, and monitored, any restrictions on third-party services, and who is financially responsible for the third-party services.
(e) A comprehensive description of billing and payment policies and procedures.
(f) The conditions under which rates may be increased pursuant to Section 1569.655.
(g) The facility's policy concerning family visits and other communication with residents, pursuant to Section 1569.313.
(h) The facility's policy concerning refunds, including the conditions under which a refund for advanced monthly fees will be returned in the event of a resident's death, pursuant to Section 1569.652.
(i) Conditions under which the agreement may be terminated.
(j) An explanation of the facility's responsibility to prepare a relocation evaluation, for each resident and a closure plan and to provide notice in the case of an eviction pursuant to Section 1569.682.

(Amended by Stats. 2013, Ch. 290, Sec. 2. (AB 261) Effective January 1, 2014.)

1569.885.

(a) When referring to a resident's obligation to observe facility rules, the admission agreement shall indicate that the rules must be reasonable, and that there is a facility procedure for suggesting changes in the rules. A facility rule shall not violate any right set forth in this article or in other applicable laws and regulations.
(b) The admission agreement shall specify that a copy of the facility grievance procedure for resolution of resident complaints about facility practices shall be made available to the resident or his or her representative.
(c) The admission agreement shall inform a resident of the right to contact the State Department of Social Services, the long-term care ombudsman, or both, regarding grievances against the facility.
(d) A copy of any applicable resident's rights specified by law or regulation shall be an attachment to all admission agreements.
(e) The statement of resident's rights attached to admissions agreements by a residential care facility for the elderly shall include information on the reporting of suspected or known elder and dependent adult abuse, as set forth in Section 1569.889.
(Amended by Stats. 2005, Ch. 456, Sec. 1. Effective January 1, 2006.)

1569.886.

(a) The admission agreement shall not include any ground for involuntary transfer or eviction of the resident unless those grounds are specifically enumerated under state law or regulation.
(b) The admission agreement shall list the justifications for eviction permissible under state law or regulation, exactly as they are worded in the applicable law or regulation.
(c) The admission agreement shall include an explanation of the resident's right to notice prior to an involuntary transfer, discharge, or eviction, the process by which the resident may appeal the decision and a description of the relocation assistance offered by the facility.
(d) The admission agreement shall state the responsibilities of the licensee and the rights of the resident when a facility evicts residents pursuant to Section 1569.682.
(Amended by Stats. 2007, Ch. 686, Sec. 4. Effective January 1, 2008.)

1569.887.

(a) The admission agreement shall be signed and dated, acknowledging the contents of the document, by the resident or the resident's representative.
(b) The licensee shall retain in the resident's file the original signed and dated initial agreement and all subsequent modifications.
(c) The licensee shall provide a copy of the signed and dated admission agreement to the resident or the resident's representative, if any.

(d) The admission agreement shall be reviewed at the time of the compliance visit and in response to a complaint involving the admission agreement.
(Added by Stats. 2003, Ch. 409, Sec. 2. Effective January 1, 2004.)

1569.888.

(a) The requirements of this article relating to admission agreements for residential care facilities for the elderly are intended to be in addition to, and not exclusive of, any other requirements established by state law or regulation.
(b) This article shall not apply to licensees of residential care facilities for the elderly that have obtained a certificate of authority to offer continuing care contracts, as defined in paragraph (5) of subdivision (c) of Section 1771.
(Added by Stats. 2003, Ch. 409, Sec. 2. Effective January 1, 2004.)

1569.889.

(a) The personal rights form made available by the department's Community Care Licensing Division to residential care facilities for the elderly shall include a statement regarding procedures for reporting known or suspected elder and dependent adult abuse, including the toll-free telephone number of the State Long-Term Care Ombudsman's CRISISline and a blank space for the telephone number of the nearest approved organization for long-term care ombudsperson activities. A residential care facility for the elderly shall insert in the form's blank space the telephone number of the nearest approved organization for long-term care ombudsperson activities.
(b) The department's Community Care Licensing Division shall adopt or amend any regulation and revise any document or policy as necessary to implement this section.
(Added by Stats. 2005, Ch. 456, Sec. 2. Effective January 1, 2006.)