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Regulation Package #1011-08

CDSS MANUAL LETTER NO. CCL-12-06

TO: HOLDERS OF THE COMMUNITY CARE LICENSING MANUAL, TITLE 22, DIVISION 6, CHAPTER 8, RESIDENTIAL CARE FACILITIES FOR THE ELDERLY

Regulation Package #1011-08 **Effective 9/19/2012**

Section 87224

This manual letter has been posted on the Office of Regulations Development website at http://www.cdss.ca.gov/ord/PG646.htm.

Current Residential Care Facilities for the Elderly regulations allow licensees to evict a resident upon thirty (30) days written notice for specified reasons, such as:

- Nonpayment for basic services within ten (10) days of the due date.
- Failure to comply with state or local law after receiving written notice.
- Failure to comply with general policies of the facility.
- After reappraisal, it is determined the facility is not appropriate for the resident.

The licensee must provide in the eviction notice the reasons relied upon for the eviction with specific facts to permit determination of the date, place, witnesses, and circumstances concerning those reasons.

These regulations correct a cross-reference and make specific provisions of the law, Health and Safety Code section 1569.683, which updates appropriate eviction procedures to protect the elderly as follows:

- Ensure that residents are clear on the effective date of their eviction.
- Provide residents with resources to assist in locating other housing options.
- Notice of right to contest the eviction in writing and through a hearing with contact information.
- Ensure the resident's responsible person is notified and/or is mailed a copy of the eviction notice.

These regulations were considered at the Department's public hearings held on February 15, 2012.

FILING INSTRUCTIONS

Revisions to all manuals are indicated by a vertical line in the left margin. The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Community Care Licensing changes was Manual Letter No. CCL-12-05. The latest prior manual letter containing Residential Care Facilities for the Elderly regulation changes was Manual Letter No. CCL-10-07.

Page(s)	Replace(s)
71 through 72	71 and 72

Attachments

KJ

87224 EVICTION PROCEDURES 87224

(a) The licensee may, upon thirty (30) days written notice to the resident, evict the resident for one or more of the following reasons:

(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.

(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 thirty (30) 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.

(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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HANDBOOK BEGINS HERE

The following list is a sample of resource options:

(1) California Advocates for Nursing Home Reform: Residential Care Guide
http://www.residentialcareguide.org
(415) 974-5171

(2) Elder Care Locator
www.eldercare.gov
1-800-677-1116

(3) California Health Care Foundation
www.calqualitycare.org

(4) Community Care Licensing Division Facility Search
http://www.ccld.ca.gov/PG477.htm

(5) California Department of Aging: local services
http://www.aging.ca.gov/call_for_services.asp#ombudsman

(6) The Alzheimer's Association – http://www.alz.org/

(7) National Association of Professional Geriatric Care Managers
http://www.caremanager.org/

(8) Jewish Family Services Association
http://www.acronymfinder.com/Jewish-Family-Service-Association-(various-locations)-(JFSA).html

(9) California Registry – http://calregistry.com/

(10) The statewide Senior Information Hotline (800-510-2020)

(11) Licensees may contact vendors, advocacy organizations and provider associations to assist in developing a list of resources;

HANDBOOK ENDS HERE

(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.

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(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.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.2, 1569.31, 1569.312, 1569.315, 1569.54, 1569.683, and 1569.73, Health and Safety Code.

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