

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



March 20, 2002

Regulation Package #0100-01

CDSS MANUAL LETTER NO. CCL-01-22

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

Regulation Package #0100-01**Effective 10/25/01****Sections 87101 and 87593**

These regulations amend specific provisions and adopt new language in Title 22, Division 6, Chapter 8, Section 87000 et seq. Residential Care Facilities for the Elderly (RCFE). The regulations reference sections in Title 22, Division 6, Chapter 1 of the General Licensing Requirements, which regulate community care facilities.

In 1998, the legislature enacted SB 2199, Chapter 946 (Statutes of 1998) which added Chapter 13.5 (commencing with Section 15760) to Part 3 of Division 9 of the Welfare and Institutions Code relating to adult protective services (APS). Section 14 of this legislation stated that the Director of Social Services shall adopt regulations to implement the provisions of this act no later than January 31, 2000. In 1999, the legislature enacted SB 1003, Chapter 670, (Statutes of 1999) which allowed CDSS to use all-county letters to implement provisions in the act until regulations were adopted. This extended the time to develop regulations by deleting Section 14 of SB 2199, Chapter 946 (Statutes of 1998).

All-County Letter No. 99-48, dated September 22, 1999, pertaining to Emergency Placements through Adult Protective Services, provides interim procedures for county APS agencies that will be utilizing facilities licensed by CDSS, Community Care Licensing Division (CCLD) pursuant to Welfare and Institutions Code Section 15760 and 15763. The All-County Letter will become obsolete with the filing of these regulations with the Secretary of State.

In addition to providing 24-hour, 7-day a week response to abuse reports, APS is responsible for providing emergency shelter to guarantee a safe place for the victim to stay until the dangers at home can be resolved. When a dependent adult victim of abuse in need of care and supervision is removed from his/her residence, placement in a CDSS licensed facility may act as that emergency shelter. Emergency placements in licensed facilities is limited to adult residential facilities and residential care facilities for the elderly.

Existing regulations require the completion of several assessments and other information prior to admission in a facility. The regulations are being adopted to include a grace period for completing some of the documentation in order to allow emergency placements by county APS.

The regulations will ensure the protection of current facility clients while providing a safe-haven for adult/elder victims of abuse. The regulations also assist APS in accomplishing its responsibilities as set forth in SB 2199.

FILING INSTRUCTIONS

Revisions to all manuals are shown in graphic screen. 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-01-21. The latest prior manual letter Residential Care Facilities for the Elderly changes was Manual Letter No. CCL-01-20.

<u>Page(s)</u>	<u>Replace(s)</u>
3 and 4	Pages 3 and 4
6, 6.1 and 7	Pages 6 and 7
15 and 15.1	Pages 15 and 15.1
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Attachment

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Article 1. Definitions**87100 GENERAL****87100**

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**87101**

For purposes of this chapter the following definitions shall apply:

- (a) (1) Administrator. "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) Adult. "Adult" means a person who is eighteen (18) years of age or older.
- (3) "Adult protective services agency" means a county welfare department, as defined in Welfare and Institutions Code Section 15610.13.

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- (A) Welfare and Institutions Code Section 15610.13 defines "adult protective services agency" to mean 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.

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- (4) Advance Health Care Directive. "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.
- (5) Allowable Health Condition. "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 87701.1.

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87101 **DEFINITIONS (Continued)****87101**

- (6) Ambulatory Person. "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.
- (7) Applicant. "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.
- (8) 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.

87101 DEFINITIONS (Continued)**87101**

- (2) Basic Services. "Basic Services" 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.
- (c) (1) Capacity. "Capacity" means that maximum number of persons authorized to be provided services at any one time in any licensed facility.
- (2) Care and Supervision. "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 87575;
 - (C) Central storing and distribution of medications, as specified in Section 87575;
 - (D) Arrangement of and assistance with medical and dental care. This may include transportation, as specified in Section 87575;
 - (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.
- (3) Certificate holder. "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.
- (4) Certified administrator. "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.
- (5) Classroom hour. "Classroom Hour" means sixty (60) minutes of classroom instruction with or without a break. It is recommended that no more than twenty (20) minutes of break time be included in every four (4) hours of instruction. No credit is given for meal breaks.

87101 **DEFINITIONS (Continued)** **87101**

- (B) A facility which is "providing care and supervision" as defined in Section 87101c.(2) includes, but is not limited to, one in which individual has been placed by a placement agency or family members.
- (C) 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.
- (D) 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.
- (v) (1) Vendor. "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 and/or a Continuing Education Training Program.
- (2) Vendor applicant. "Vendor applicant" means any institution, association, individual(s), or other entity that submits a request for approval of an Initial Certification Training Program and/or a Continuing Education Training Program.
- (3) Voluntary. "Voluntary" means resulting from free will.
- (w) (1) Waiver. "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.

87101 DEFINITIONS (Continued)**87101**

- (x) (Reserved)
- (y) (Reserved)
- (z) (Reserved)

NOTE: Authority cited: Sections 1569.23(d), 1569.30, 1569.616(j), and 1569.698(c), Health and Safety Code. Reference: 42 CFR 418.3; Sections 1569.1, 1569.2, 1569.5, 1569.10, 1569.145, 1569.15, 1569.153, 1569.157, 1569.158, 1569.17, 1569.19, 1569.191(e), 1569.193(a) and (c), 1569.20, 1569.21, 1569.23, 1569.30, 1569.31, 1569.312, 1569.38, 1569.44, 1569.47, 1569.54, 1569.616, 1569.699(a), 1569.73, 1569.74, 1569.82, 5350, and 7185 et seq., Health and Safety Code; Section 15610.13, Welfare and Institutions Code; and Sections 1800, 4615, and 4753, Probate Code.

87102 DEFINITIONS - FORMS**87102**

The following forms, which are incorporated by reference, apply to the regulations in Title 22, Division 6, Chapter 8 (Residential Care Facilities for the Elderly).

- (a) LIC 9139 (7/00) - Renewal of Continuing Education Course Approval, Administrator Certification Program.
- (b) LIC 9140 (7/00) - Request for Course Approval, Administrator Certification Program.
- (c) LIC 9141 (7/00) - Vendor Application/Renewal, Administrator Certification Program.
- (d) PUB 325 (3/99) – Your Right To Make Decisions About Medical Treatment.
- (e) Core of Knowledge Guidelines (10/05/00) - RCFE 40-Hour Initial Certification.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1530 and 1569.616(i), Health and Safety Code; and Section 15376, Government Code.

87593

REQUIREMENTS FOR EMERGENCY ADULT PROTECTIVE SERVICES PLACEMENTS

87593

- (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 87222, 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 87583.
- 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 87593(a)(1)(C)1.] to the written request, specified in Section 87593(a)(1).
- b. The licensee must request a statement each year from the APS agency, indicating a local need still exists as specified in Section 87593(a)(1)(C)1., and submit the statement to the Department.

87593 REQUIREMENTS FOR EMERGENCY ADULT PROTECTIVE SERVICES PLACEMENTS(Continued)**87593**

- (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 87593. 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 87110.
 - (2) The licensee shall meet the requirements in Section 87220 on fire clearance if the licensee has accepted a nonambulatory resident, defined in Section 87101(n)(2).
- (d) The licensee shall not accept the following persons as APS emergency placements:
- (1) Individuals with prohibited health conditions [Section 87701].
 - (2) Individuals with restricted health conditions [Section 87701.1].
 - (A) The licensee may accept an APS emergency placement who is incontinent when the requirements in Section 87708 are met.
 - (3) Individuals who are receiving hospice care [Section 87716].
 - (4) Individuals who have active communicable tuberculosis [Section 87582(c)(1)].
 - (5) Individuals who require 24-hour, skilled nursing or intermediate care [Section 87582(c)(2)].
 - (6) Individuals whose primary need for care and supervision results from dementia or a mental disorder resulting in ongoing behavior that would upset the general resident group [Section 87582(c)(4)].
 - (7) Individuals who are bedridden, as defined in Section 87582(d).
- (e) If a licensee accepts an APS emergency placement with dementia, the licensee must meet the requirements in Section 87724 and ensure the following criterion is met.

87593 **REQUIREMENTS FOR EMERGENCY ADULT PROTECTIVE SERVICES PLACEMENTS**(Continued) **87593**

- (1) Prior to acceptance, the licensee must have a dementia waiver, pursuant to Section 87116, to accept and retain residents with dementia who are considered nonambulatory because they are unable to mentally respond to a sensory signal approved by the State Fire Marshall or an oral instruction relating to fire danger.
- (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 87570.
- (1) The resident must have a tuberculosis test [Section 87569(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 87569(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.

87593 REQUIREMENTS FOR EMERGENCY ADULT PROTECTIVE SERVICES PLACEMENTS(Continued)**87593**

- (2) If medication verification, as specified in Section 87593(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 87593(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 87593(d).
- (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 87582(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 87570(d).

NOTE: Authority cited: Sections 1569.30 and 1569.31, Health and Safety Code; Sections 15763(a), (a)(2), and (d), Welfare and Institutions Code; and Senate Bill 2199 (Chapter 946, Statutes of 1998), Section 14 uncodified. Reference: Sections 15610.13, Welfare and Institutions Code; and Sections 1569.1, 1569.2, 1569.312, 1569.315, 1569.316, 1569.47, 1569.54, 1569.698, 1569.699, 1569.71, 1569.72, 1569.73, and 13131, Health and Safety Code.