

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



September 20, 2002

Regulation Package #0401-07

CDSS MANUAL LETTER NO. CCL-02-06

TO: HOLDERS OF THE COMMUNITY CARE LICENSING MANUAL, TITLE 22, DIVISION 6,
CHAPTER 8.5, RESIDENTIAL CARE FACILITIES FOR THE CHRONICALLY ILL

Regulation Package #0401-07**Effective 8/22/02****Sections 87807 and 87854**

This manual letter has been posted on the Office of Regulations Development website at http://www.dss.cahwnet.gov/ord/Residentia_634.htm.

These regulations clarify that, for any housing project for elderly or disabled persons, or both, to be exempt from licensure, they must meet the federal requirements specified in Health and Safety Code Section 1568.03(c)(5).

The new Handbook specifies the federal requirements in Health and Safety Code Section 1568.03(c)(5), i.e. that any housing project for elderly or disabled persons, or both, where supportive services are made available to residents, must comply with for exemption from licensure.

A grammatical correction has been made to cite the correct section.

These regulations were adopted on August 22, 2002 and were considered at the Department's public hearing held on March 13, 2002.

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-02-05. The latest prior manual letter containing Residential Care Facilities for the Chronically Ill regulation changes was Manual Letter No. CCL-01-16.

Page(s)16 and 17
64 and 65**Replace(s)**Pages 16 and 17
Pages 64 and 65

Attachments

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87805 LICENSE REQUIRED 87805

- (a) Unless a facility is exempt from licensure as specified in Section 87807, no adult, firm, partnership, association, corporation, county, city, public agency or other governmental entity shall operate, establish, manage, conduct or maintain a Residential Care Facility for the Chronically Ill, or hold out, advertise or represent by any means to do so, without first obtaining a current valid license from the Department.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Section 1568.03, Health and Safety Code.

87806 OPERATION WITHOUT A LICENSE 87806

- (a) An unlicensed facility, as defined in Section 87801 (u)(1), is in violation of Section 1568.03 (a) of the Health and Safety Code unless exempted from licensure pursuant to Section 87807.
- (b) If the facility is alleged to be operating without a license in violation of Section 1568.03 of the Health and Safety Code, the Department shall conduct a site visit and evaluation of the facility to determine if it is operating without a license.
- (c) If the facility is operating without a license, the Department shall issue a notice of operation in violation of law.
- (d) The Department shall have the authority to assess an immediate penalty to unlicensed operations as specified in Section 87858.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.03, 1568.072 and 1568.0821, Health and Safety Code.

87807	EXEMPTION FROM LICENSURE	87807
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- (a) The Residential Care Facility for the Chronically Ill regulations contained in this chapter shall not apply to any of the following:
- (1) Any health facility, as defined by Section 1250 of the Health and Safety Code.
 - (2) Any clinic, as defined by Section 1200 of the Health and Safety Code.
 - (3) Any house, institution, hotel, share housing project, or other similar place that supplies board and room only, or board only, which provides no element of care and supervision and no resident requires any element of care and supervision or protective supervision.
 - (4) Any arrangement for the receiving of care and supervision provided to one person with a chronic, life-threatening illness or to one family unit as defined in Section 87801(f)(1) by a relative, guardian, conservator, significant other, or close friend.
 - (5) Any arrangement for the receiving of care and supervision of one person with chronic, life-threatening illness or of one family unit as defined in Section 87801(f)(1) from only one family as respite for the relative, conservator, significant other, or a close friend, if the arrangement is not for financial profit and does not exceed 48 hours per month.
 - (6) Any housing project for elderly or disabled individuals that meets federal requirements specified in Health and Safety Code Section 1568.03(c)(5).

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(A) Health and Safety Code Section 1568.03(c)(5) 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.”

HANDBOOK ENDS HERE

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.03 and 1568.072, Health and Safety Code.

87853 FOLLOW-UP VISITS TO DETERMINE COMPLIANCE 87853

- (a) A follow-up visit shall be conducted to determine compliance with the plan of correction specified in the notice of deficiency.
 - (1) The follow-up visit shall be conducted within ten working days following the dates of corrections specified in the notice of deficiency, unless the licensee has demonstrated that the deficiency was corrected as required.
 - (2) Except as specified in Section 87854, 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 (Facility Civil Penalty Assessment - LIC 421 (10/89)).
- (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 and the correction is made while the evaluator is present, a follow-up visit is not required.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Section 1568.07 and .072, Health and Safety Code.

87854 PENALTIES 87854

- (a) A penalty of \$50 per day, per cited violation, shall be assessed for serious deficiencies that are not corrected by the date specified in the notice of deficiency, up to a maximum of \$150 per day.
- (b) An immediate penalty of \$100 per cited violation shall be assessed for failure to submit fingerprints on any individual required to be fingerprinted under Health and Safety Code Section 1568.09(b) prior to the person's employment, residence or presence in the facility.
 - (1) Progressive civil penalties specified in Sections 87854(c) and (d) below shall not apply.
- (c) 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.

87854	PENALTIES (Continued)	87854
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- (d) When a facility, that was cited for a deficiency subject to the immediate penalty assessment specified in Section 87854(c) 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 87854(c) and (d) 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 87218(a)(2) and 87218(a)(5). Sections 87218(a) and 87218(b) are not the same regulation subsection.

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- (e) 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 specified in Sections 87854(b), (c) and (d) above shall begin on the day the deficiency is cited.
- (2) If an immediate penalty is assessed and the deficiency is corrected on the same day, the penalty shall still be assessed for that day.
- (f) If a licensee or his/her representative reports to the Department that a deficiency has been corrected, the penalty shall cease as of the day the Department receives notification that the correction was made.
- (1) If necessary, a site visit shall be made immediately or within five working days to confirm that the deficiency has been corrected.
- (2) If it is verified that the deficiency has not been corrected, penalties shall continue to accrue.
- (3) If it is verified that the correction was made prior to the date of notification, the penalty shall cease as of that earlier date.
- (g) 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.
- (h) The Department 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 (g) above.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.072, 1568.0822, and 1568.09, Health and Safety Code.