

Amend Section 80001 to read:

80001        DEFINITIONS

80001

(a)    (Continued)

(5)    "Adult Residential Facility" means any facility of any capacity ~~which that~~ provides 24-hour-a-day nonmedical care and supervision to ~~adults except elderly persons.~~ the following:

(A)    persons 18 years of age through 59 years of age; and

(B)    persons 60 years of age and older only in accordance with Section 85068.4.

(6)    (Continued)

Authority Cited: Sections 1502, 1522.41(j); 1524(e), 1530, and 1530.9, Health and Safety Code.

Reference: Sections 1501, 1502, 1502(a)(7) and (8), 1502.5, 1503, 1503.5, 1505, 1507, 1508, 1509, 1511, 1520, 1522, 1524, 1524(e), 1525, 1525.5, 1526, 1527, 1530, 1530.5, 1531, 1531.1, 1533, 1534, 1536.1, 1537, 1538.5, 1550, 1551, 1556, 1569.699(a), 1797.196, and 11834.11, Health and Safety Code; Sections 5453, 5458, 11006.9, and 17736(a) and (b), Welfare and Institutions Code; ~~and~~ 29 CFR 1910.1030; Settlement Agreement of October 27, 2008 between the California Association of Mental Health Patients' Rights Advocates and the California Department of Social Services in California Association of Mental Health Patients' Rights Advocates v. Cliff Allenby, et al., Santa Clara County Superior Court, No. 106-CV061397, filed November 9, 2006.

Amend Section 85002 to read:

85002        DEFINITIONS – FORMS (Continued)

85002

- (a)    LIC 602 (10/99) – Physician's Report for Community Care Facilities
- (b)    LIC 602A (12/04) – Physician's Report for Residential Care Facilities for the Elderly (RCFE)
- (ac)   (Continued)
- (bd)   (Continued)
- (ee)   (Continued)
- (df)   (Continued)

Authority Cited: Section 1530, Health and Safety Code.

Reference:        Sections 1530 and 1562.3, Health and Safety Code; and Section 15376, Government Code; Settlement Agreement of October 27, 2008 between the California Association of Mental Health Patients' Rights Advocates and the California Department of Social Services in California Association of Mental Health Patients' Rights Advocates v. Cliff Allenby, et al., Santa Clara County Superior Court, No. 106-CV061397, filed November 9, 2006.

Amend Section 85068.4 to read:

85068.4 ACCEPTANCE AND RETENTION LIMITATIONS

85068.4

(a) (Continued)

(3) Persons who have needs ~~which~~ that are in conflict with the needs of other clients or the program of services offered. (Continued)

(b) The licensee ~~shall not~~ may admit, ~~but may~~ or retain, persons who are ~~over 59~~ 60 years of age or older whose needs are compatible with those of other clients, if they require the same level of care and supervision as ~~do~~ the other clients in the facility, and the licensee is able to meet their needs.

~~(1) Licensees are not required to obtain an exception for clients over the age of 59 as long as the number of persons over the age of 59 does not exceed 50 percent of the census in facilities with the capacity of six and under.~~

~~(2) Licensees are not required to obtain an exception for clients over the age of 59 as long as the number of persons over the age of 59 does not exceed 25 percent of the census in facilities with a capacity of over six.~~

(c) When a licensee admits or retains any person 60 years of age or older, the licensee shall ensure that all of the following information is contained in the person's file:

(1) Completed Functional Capabilities Assessment, required by Section 80069.2.

(2) Completed Needs and Services Plan, required by Section 85068.2. If one or more age-related care needs are identified by the provider or the referring source, the licensee shall ensure that the Needs and Services Plan specifies how such need(s) will be addressed.

(3) Documentation of a medical assessment, signed by a physician, made within the last year.

(4) A letter of support from the person's conservator with placement authority, if applicable.

(5) Letters of support, if any, from the person's placement officer, social worker, and/or mental health professional, if applicable, documenting that the Adult Residential Facility is the most appropriate setting for the person.

(d) The licensee shall ensure that the Needs and Services Plan for each client 60 years of age or older is updated at least annually and in accordance with Section 85068.3.

- (e) The licensee shall ensure that the medical assessment for each client 60 years of age or older is updated at least annually and in accordance with the regulations addressing medical assessments in Residential Care Facilities for the Elderly (RCFE) [California Code of Regulations, Title 22, Sections 87458(b) and (c)].
- (f) The Department may require the licensee to comply with various regulations applicable to RCFEs if the Department determines that compliance with any such specific regulations is necessary to protect the health and safety of clients 60 years of age or older. Such regulations may include, but not be limited to, those pertaining to the training of staff members who assist clients with personal activities of daily living; the regular observation of clients for changes in physical, mental, emotional, and social functioning; and the notification of the client's physician and responsible person and/or authorized representative, if any, of documented changes.
- (g) If acceptance or retention of an individual 60 years of age or older would result in the number of persons 60 years of age or older exceeding 50 percent of the census in facilities with a capacity of six or fewer clients, or 25 percent of the census in facilities with a capacity over six, the licensee must request an exception in order to accept or retain the individual. The exception request must be made in accordance with Section 80024. The documentation specified in Section 85068.4(c) must be submitted with the exception request.
- (eh) Retention of all clients shall be in accordance with ~~the~~ each client's Needs and Services Plan, required by Section 85068.2, and the criteria specified in Section 80092, Restricted Health Conditions.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1507, and 1531, Health and Safety Code; Settlement Agreement of October 27, 2008 between the California Association of Mental Health Patients' Rights Advocates and the California Department of Social Services in California Association of Mental Health Patients' Rights Advocates v. Cliff Allenby, et al., Santa Clara County Superior Court, No. 106-CV061397, filed November 9, 2006.