

FINAL STATEMENT OF REASONS

- a) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Section 87101(b)(3)

Specific Purpose:

The specific purpose of this section is to define “bedridden person.”

Factual Basis:

This definition is necessary to establish the meaning of “bedridden person” for the purposes of this regulation package. It is consistent with the definition of “bedridden” in Health and Safety Code Section 1569.72(b)(1). The reference to “nonambulatory” is necessary to help clarify and amplify the definition of “bedridden person.” A person who meets the definition of “bedridden” in Health and Safety Code Section 1569.72(b)(1) automatically meets the definition of “nonambulatory” in existing Section 87101(n)(2). The definition of “nonambulatory” in existing Section 87101(n)(2) is consistent with Health and Safety Code Section 13131—part of the statute governing the Office of the State Fire Marshal (SFM).

Final Modification:

Given the passage of Assembly Bill (AB) 762, Statutes of 2009, the Department believes this definition is no longer necessary. This definition repeats the definition found in Health and Safety Code Section 1569.72, in addition to adding the requirements of "nonambulatory" as found in Section 87101(n).

Section 87101(b)(3)(Handbook)

Specific Purpose/Factual Basis:

The specific purpose/factual basis of this section is to cite the relevant part of Health and Safety Code Section 1569.72(b)(1) in handbook for clarity. This is necessary to ensure that licensing staff, licensees, providers and the public have easy access to the actual text of the statute.

Final Modification:

As noted in the Final Modification for Section 87101(b)(3), given the passage of Assembly Bill (AB) 762, Statutes of 2009, and the clarity provided in Section 87714, Care of Bedridden Residents; this handbook section is also no longer necessary.

Section 87202(a)

Specific Purpose:

The specific purpose of these amendments is to make editorial changes and to require that facilities obtain a fire clearance prior to retaining, as well as prior to accepting, a nonambulatory or bedridden person.

Factual Basis:

These amendments are necessary for clarity and consistency.

More specifically, it is necessary to specify that facilities obtain an appropriate fire clearance prior to “retaining,” as well as accepting, a nonambulatory or bedridden person and to clarify that a fire clearance is required in either case. In the case of nonambulatory persons, it is understood that if a resident becomes nonambulatory AFTER being admitted to a facility, the facility is still required to have or obtain an appropriate fire clearance in order to retain that resident. Thus, adding the term “or retaining” is, in part, a technical correction to existing regulatory language. In the case of the bedridden, Health and Safety Code Section 1569.72(c) specifically requires a Residential Care Facility for the Elderly (RCFE) to obtain an appropriate fire clearance to admit or retain a bedridden person.

In addition, it is necessary to make editorial changes to correct the terminology used to refer to the entity or entities responsible for granting fire clearances. The SFM informed the California Department of Social Services (CDSS) that “fire authority having jurisdiction” is the correct terminology to use in that context. The deleted terms—“city or county fire department, the district providing fire protection services, or the State Fire Marshal”—have been subsumed under the single term “fire authority having jurisdiction.”

Section 87202(a)(1) (Repealed)

Specific Purpose:

The specific purpose of this amendment is to repeal existing Section 87202(a)(1).

Factual Basis:

This section is being repealed because it is unnecessary. For the purposes of obtaining a fire clearance for a licensed RCFE, the pivotal factor is the nonambulatory and/or bedridden status of residents. Age alone is not necessarily a factor as long as a person is nonambulatory. Moreover, when obtaining fire clearances, the CDSS understands that many RCFEs have extra bedrooms cleared for nonambulatory occupancy in anticipation of caring for residents as they age in place and become more frail.

Section 87202(a)(1) (Renumbered)

Specific Purpose/Factual Basis:

The specific purpose/factual basis of this amendment is to renumber existing Section 87202(a)(2) to Section 87202(a)(1) to accommodate the repeal of former Section 87202(a)(1).

Section 87202(a)(2)

Specific Purpose:

The specific purpose of this section is to require facilities, prior to accepting or retaining bedridden persons, other than for a temporary illness or recovery from surgery, to obtain an appropriate fire clearance as specified in existing Section 87202(a).

Factual Basis:

This section is necessary for clarity and for consistency with Health and Safety Code Section 1569.72(c). The cross-references to proposed Sections 87714(d) and (e) are necessary to refer the reader to provisions governing the care of temporarily bedridden residents in RCFEs.

Final Modification:

The Department believes with the passage of AB 762 which for purposes of fire clearance, distinguishes between nonambulatory and bedridden, it is important to provide specific reference to "bedridden persons."

Section 87202(a)(2) (Handbook)

Specific Purpose/Factual Basis:

The specific purpose/factual basis of this section is to cite the relevant part of Health and Safety Code Section 1569.72(c) in handbook for clarity. This is necessary to ensure that licensing staff, licensees, providers and the public have easy access to the actual text of the statute.

Final Modification:

The Department believes with the passage of AB 762 which for purposes of fire clearance, distinguishes between nonambulatory and bedridden, it is necessary to ensure that licensing staff, licensees, providers and the public have easy access to the actual text of the statute defining "nonambulatory" in its entire text. Also, Handbook Section 87202(a)(2)(A) has been deleted as publicly noticed and is being incorporated into Handbook Section 87202(a)(2) referencing Health and Safety Code Sections 1569.72(h)(2)(B)(ii) and 1569.72(i) in their entirety.

Section 87202(a)(2)(A)

Specific Purpose:

The specific purpose of this section is to reference statutory provisions in the Health and Safety Code that pertain to the SFM and apply to licensed RCFEs that care for six or fewer residents.

Factual Basis:

This section is necessary for clarity and consistency. The reference to Health and Safety Code Section 1569.72(h)(2)(B)(ii) is necessary to ensure that licensees of facilities that care for six or fewer residents are aware that they can request a written opinion from the SFM concerning the interpretation of relevant SFM regulations in the case of a factual dispute. The reference to Health and Safety Code Section 1569.72(i) is necessary to ensure that licensees of facilities that care for six or fewer residents are aware of the impact of local fire safety requirements versus regulations promulgated by the Office of SFM.

Final Modification:

This section has been repealed as publicly noticed and is being incorporated into Handbook Section 87202(a)(2) referencing Health and Safety Code Sections 1569.72(h)(2)(B)(ii) and 1569.72(i) in their entirety.

Section 87202(a)(2)(A) (Handbook)

Specific Purpose/Factual Basis:

The specific purpose/factual basis of this section is to cite Health and Safety Code Sections 1569.72(h)(2)(B)(ii) and 1569.72(i) in handbook for clarity. This is necessary to ensure that licensing staff, licensees, providers and the public have easy access to the actual text of these statutes.

Final Modification:

Section 87202(a)(2)(A) was deleted and incorporated into handbook, so the numbering of the handbook language which was included in this section is now renumbered to Section 87202(2)(A).

Section 87208(a)(7)(A)

Specific Purpose:

The specific purpose of this amendment is to require a facility's floor plan to include a designation of the rooms to be used for residents who are bedridden, other than for a temporary illness or recovery from surgery.

Factual Basis:

This amendment is necessary for clarity and for consistency with the existing requirement in Section 87208(a)(7)(A), for rooms designated for nonambulatory residents. This amendment is also consistent with proposed Section 87202(a)(2), which requires that facilities contact the licensing agency about obtaining an appropriate fire clearance prior to accepting or retaining a bedridden person, other than for a temporary illness or recovery from surgery. The designation on the floor plan of which rooms will be for nonambulatory and bedridden residents allows licensing staff to see at a glance how the facility is configured and which rooms may require particular attention in terms of obtaining an appropriate fire clearance, as required in Section 87202(a).

Section 87208(d)

Specific Purpose:

The specific purpose of this section is to require a licensee who accepts or retains bedridden persons to include additional information in the plan of operation as specified in proposed Section 87714, Care of Bedridden Persons.

Factual Basis:

This section is necessary for clarity and for consistency with existing Section 87208(a), which requires that any significant changes in a facility's plan of operation be submitted to the licensing agency for approval. This section is also consistent with existing Sections 87705(b), 87705(c), and 87706(a)(2)—which require that a facility's plan of operation include services to be provided to residents with dementia, another segment of the RCFE population with significant special needs. In addition, the plan of operation is accessible to the public and represents an important way of keeping the public informed about a facility's programs.

Section 87212(b)(2)(A) (Renumbered)

Specific Purpose/Factual Basis:

The specific purpose/factual basis of this amendment is to correct the numbering in Barclays as filed on March 5, 2008 pursuant to Section 100, Title 2, California Code of Regulations (Register 2008, No. 10), by renumbering existing Section 87212(b)(3)(A) to Section 87212(b)(2)(A). This is done for clarity and consistency.

Section 87212(b)(2)(B) (Renumbered)

Specific Purpose/Factual Basis:

The specific purpose/factual basis of this amendment is to correct the numbering in Barclays as filed on March 5, 2008 pursuant to Section 100, Title 2, California Code of Regulations (Register 2008, No. 10), by renumbering existing Section 87212(b)(3)(B) to Section 87212(b)(2)(B). This is done for clarity and consistency.

Section 87212(b)(2)(C) (New)

Specific Purpose:

The specific purpose of this section is to require that facilities include in their Emergency Disaster Plan a predetermined evacuation site to assemble residents and identify that all residents have been safely accounted for.

Factual Basis:

Community Care Licensing Division's interpretation of the statute, Health and Welfare Section 1569.72, is that it gives the Department the discretion to develop regulations that protect the health and safety of residents who are in care. This discretionary requirement adds value to the protection of residents.

Section 87212(b)(2)(D) (Renumbered)

Specific Purpose/Factual Basis:

The specific purpose/factual basis of this amendment is to correct the numbering in Barclays as filed on March 5, 2008 pursuant to Section 100, Title 2, California Code of Regulations (Register 2008, No. 10), by renumbering existing Section 87212(b)(3)(C) to Section 87212(b)(2)(D). This is done for clarity and consistency.

Section 87212(b)(2)(E) (Renumbered)

Specific Purpose/Factual Basis:

The specific purpose/factual basis of this amendment is to correct the numbering in Barclays as filed on March 5, 2008 pursuant to Section 100, Title 2, California Code of Regulations (Register 2008, No. 10), by renumbering existing Section 87212(b)(3)(D) to Section 87212(b)(2)(E). This is done for clarity and consistency.

Section 87212(b)(2)(F) (Renumbered)

Specific Purpose/Factual Basis:

The specific purpose/factual basis of this amendment is to correct the numbering in Barclays as filed on March 5, 2008 pursuant to Section 100, Title 2, California Code of Regulations (Register 2008, No. 10), by renumbering existing Section 87212(b)(3)(E) to Section 87212(b)(2)(F). This is done for clarity and consistency.

Section 87212(b)(2)(G) (Renumbered)

Specific Purpose/Factual Basis:

The specific purpose/factual basis of this amendment is to correct the numbering in Barclays as filed on March 5, 2008 pursuant to Section 100, Title 2, California Code of Regulations (Register 2008, No. 10), by renumbering existing Section 87212(b)(3)(F) to Section 87212 (b)(2)(G). This is done for clarity and consistency.

Sections 87455(b)(6) and (b)(7)

Specific Purpose:

The specific purpose of Section 87455(b)(6) is to establish that bedridden persons may be accepted and retained in an RCFE provided specified criteria are met. Section 87455(b)(7) is renumbered to accommodate the addition of Section 87455(b)(6).

Factual Basis:

This section is necessary for clarity and for consistency with Health and Safety Code Section 1569.72, which permits RCFEs to accept and retain bedridden persons if certain criteria are met. This section is also necessary to provide a cross-reference to proposed Section 87714, Care of Bedridden Persons, which contains the actual criteria for the care of bedridden persons in RCFEs. The renumbering is included for clarity and consistency.

Section 87455(c)(2)

Specific Purpose:

The specific purpose of this section is to provide the citation for the statutory prohibition against accepting or retaining residents who require 24-hour, skilled nursing or intermediate care.

Factual Basis:

This amendment is necessary to clarify that the prohibition against an RCFE accepting or retaining residents who require 24-hour, skilled nursing or intermediate care is based on statute. Currently, without the reference to statute, it appears to the reader that this is a regulatory prohibition only. Making the distinction between statutory and regulatory provisions is important because waivers and exceptions can be granted to regulatory requirements, but not to statutory requirements. As defined in existing Section 87101(w)(1), a waiver is a variance to a specific regulation based on a facility-wide need or circumstance. As defined in existing Section 87101(e)(6), an exception is a variance to a specific regulation based on the unique needs or circumstance of a specific resident or staff person.

Thus, this amendment is necessary to clarify for licensees and the public that the licensing agency cannot grant waivers or exceptions to the prohibition against accepting or retaining residents who require 24-hour, skilled nursing or intermediate care unless statute is changed. Facilities that offer 24-hour, skilled nursing or intermediate care are licensed by the California Department of Public Health.

Section 87455(c)(2) (Handbook)

Specific Purpose/Factual Basis:

The specific purpose/factual basis of this section is to cite the relevant parts of Health and Safety Code Sections 1569.72(a) and (a)(1) in handbook for clarity. This is necessary to ensure that licensing staff, licensees, providers and the public have easy access to the actual text of the statute.

Section 87455(c)(4) (Repealed)

Specific Purpose:

The specific purpose of this amendment is to repeal this section.

Factual Basis:

It is necessary to repeal this section because it has been superseded by statute. Health and Safety Code Section 1569.72 now permits RCFEs to accept and retain bedridden persons if certain criteria are met.

Sections 87455(d), (d)(1) and (d)(2) (Repealed)

Specific Purpose:

The specific purpose of these amendments is to repeal these sections.

Factual Basis:

It is necessary to repeal these sections because the definition of “bedridden” that appears in Health and Safety Code Section 1569.72—which supersedes the regulatory definition in these sections—has been incorporated into proposed Section 87101(b)(3).

Section 87455(e) (Repealed)

Specific Purpose:

The specific purpose of this amendment is to repeal this section.

Factual Basis:

It is necessary to repeal this section because it is a duplication of Health and Safety Code Section 1569.72(d)(1), which has been cited and incorporated into handbook in proposed Section 87714(d).

Sections 87455(f) through (f)(3) (Repealed)

Specific Purpose:

The specific purpose of these amendments is to repeal these sections.

Factual Basis:

It is necessary to repeal these sections because they constitute a duplication of Health and Safety Code Sections 1569.72(e), (e)(1), (e)(2) and (e)(3), which have been cited and incorporated into handbook in proposed Section 87714(e).

Section 87455(g) (Repealed)

Specific Purpose:

The specific purpose of this amendment is to repeal this section.

Factual Basis:

It is necessary to repeal this section because it is a duplication of Health and Safety Code Section 1569.72(f), which has been cited and incorporated into handbook in proposed Section 87714(b).

Sections 87455(d) through (f) (Renumbered)

Specific Purpose/Factual Basis:

These sections are being renumbered because of the repeal of Sections 87455(d) through (g). This is done for clarity and consistency.

Section 87508(a)(1)

Specific Purpose:

The specific purpose of this amendment is to require facilities to develop a categorical list that identifies the room location used for bedridden and nonambulatory residents. This amendment is also necessary for clarity and for consistency with the amendment in Section 87208(a)(7)(A).

Factual Basis:

The categorical list identifying which rooms will be for bedridden and nonambulatory residents allows licensing staff to see at a glance how the facility is configured and which residents may require particular attention in terms of obtaining an appropriate fire clearance, as required in Section 87202(a).

Final Modification:

Based on public comment, the Department has considered the suggestion and agreed to restore the original language for this section. Please see Section 87714(f)(4) which has been further defined regarding the register of residents.

Section 87508(a)(4)

Specific Purpose:

The specific purpose of this amendment is to require licensees who accept or retain bedridden and nonambulatory persons to maintain a categorical list of the name and room number of these residents which shall be made available immediately. This list shall be made available to licensing or emergency personnel upon request, or in the event of any emergency requiring the assistance of emergency personnel as specified in proposed Section 87714, Care of Bedridden Persons.

Factual Basis:

It is necessary to add this section for clarity and for consistency with existing Section 87208, which requires that any significant change in a facility's plan of operation be submitted to the licensing agency for approval. This section is also consistent with existing Sections 87705(b), 87705(c), and 87706(a)(2)—which require that a facility's plan of operation include services to be provided to residents with dementia, another segment of the RCFE population with significant special needs. Additionally, having a current register of resident names and ambulatory status readily available, particularly for bedridden and nonambulatory residents will expedite knowing immediately where assistance is needed during an emergency.

Final Modification:

Based on public comment, the Department has considered the suggestion and agreed to restore the original language of Section 87508(a)(1) and to remove Section 87508(a)(4).

Section 87633(1)

Specific Purpose:

The specific purpose of these amendments is to correct a cross-reference, to delete language that is no longer necessary, and to refer the reader to other relevant sections of the regulations.

Factual Basis:

These amendments are necessary for clarity and for consistency with other proposed changes being made to the regulations. More specifically, these amendments are necessary to accomplish the following:

- Section 87455(d) has been repealed. Please see the justification for Sections 87455(d), (d)(1) and (d)(2). The new cross-section is necessary to refer the reader to the definition of "bedridden person" in proposed Section 87101(b)(3).

- As already noted, this regulation package creates proposed Section 87714 to consolidate requirements relating to the care of the bedridden in RCFEs. Thus, it is necessary to incorporate a cross-reference to that section to clarify that the requirements in proposed Section 87714 apply to all bedridden residents, even those on hospice. The requirement relating to notification of the local fire authority that is being deleted in existing Section 87633(l) is now contained in proposed Section 87714(b).

Final Modification:

The cross reference to Section 87101(b)(3) has been repealed as the Department feels it is duplicative to define what already exists in Statute regarding the definition of bedridden as found in Health and Safety Code Section 1569.72, and to address the concerns noted following public comment to correct the section title: Bedridden Residents, not Patients.

Section 87633(l)(1)

Specific Purpose:

The specific purpose of this section is to establish that the provisions in the care plan required for each bedridden resident in proposed Section 87714(g)(1) shall be incorporated into the hospice care plan required in existing Section 87633(b).

Factual Basis:

This section is necessary for clarity, and to avoid redundancy. Hospice residents may be bedridden during the end stage of life, and related care is currently included in the resident's hospice care plan.

Final Modification:

This section has been repealed as the Department feels it is duplicative to information already established in regulation, and to address concerns noted following public comment.

Section 87705(b)(3)

Specific Purpose/Factual Basis:

The specific purpose/factual basis of this section is to clarify that the needs of bedridden residents who have dementia must be included in a facility's plan of operation; and to add a related cross-reference to proposed Section 87714.

Final Modification:

This section has been repealed as the Department feels it is duplicative to information already established in regulation, and incorporated in this new section for care of residents who are bedridden.

Sections 87714 and 87714(a)

Specific Purpose:

The specific purpose of these amendments is two-fold: 1) to adopt a new Section 87714, Care of Bedridden Residents; and 2) to establish that this section applies to licensees who wish to accept or retain bedridden persons.

Factual Basis:

These amendments are necessary to create a new section that applies to the care of bedridden residents in RCFEs. This section is necessary for clarity, consistency and ease of use. It will consolidate or cross-reference regulations pertaining to the care of the bedridden, making it easier for licensees and the public to access this information, and for licensing staff to monitor facilities for compliance with bedridden requirements. The creation of this separate section is consistent with existing Section 87705, which consolidates requirements for the care of persons with dementia, and existing Section 87633, which consolidates requirements for hospice care of terminally ill residents.

Final Modification:

Section 87714(a) is revised to provide a clear and consistent directive that applies to licensees who accept or retain bedridden persons.

Final Modification

Section 87714(a) (Handbook)

Specific Purpose/Factual Basis:

This section incorporates Health and Safety Code Section 1569.72(b)(1) into handbook for clarity. This is necessary to ensure that licensing staff, licensees, providers and the public have easy access to the actual text of the statute.

Section 87714(b)

Specific Purpose:

The specific purpose of this section is to establish that a facility must notify the local fire jurisdiction within 48 hours of accepting or retaining any bedridden person.

Factual Basis:

This section is necessary for clarity and for consistency with Health and Safety Code Section 1569.72(f). The provisions of this section were previously contained in Section 87455(g), which was repealed because it was a duplication of Health and Safety Code Section 1569.72(f). In addition, this section was moved and incorporated into newly created Section 87714 in order to consolidate requirements regarding the care of the bedridden for clarity and ease of use.

Section 87714(b) (Handbook)

Specific Purpose/Factual Basis:

The specific purpose/factual basis of this section is to incorporate Health and Safety Code Section 1569.72(f) into handbook for clarity. This is necessary to ensure that licensing staff, licensees, providers and the public have easy access to the actual text of the statute.

Section 87714(c)

Specific Purpose/Factual Basis:

The specific purpose/factual basis of this section is to provide a cross-reference to Section 87202(a) for clarity and consistency. Section 87202(a) cites the fire-clearance requirements in Health and Safety Code Section 1569.72(c) and in handbook Section 87202(c) for facilities that want to accept and retain bedridden persons.

Final Modification:

This section is revised to make editorial corrections to duplicative information and to correct cross references. These modifications are necessary for clarity and ease of use.

Section 87714(d)

Specific Purpose:

The specific purpose of this section is to define “temporary illness” for the purposes of this regulation package—and for clarity and for consistency with Health and Safety Code Section 1569.72(d)(1).

Factual Basis:

The definition of “temporary illness” was previously contained in Section 87455(c)(4), which was repealed because it was a duplication of Health and Safety Code Section 1569.72(d)(1). In addition, this definition was moved and incorporated into newly created Section 87714 in order to consolidate requirements regarding the care of the bedridden for clarity and ease of use.

Section 87714(d) (Handbook)

Specific Purpose/Factual Basis:

The specific purpose/factual basis of this section is to incorporate Health and Safety Code Section 1569.72(d)(1) into handbook for clarity. This is necessary to ensure that licensing staff, licensees, providers and the public have easy access to the actual text of the statute.

Section 87714(e)

Specific Purpose:

The specific purpose of this section is to establish the criteria under which a resident who is bedridden for more than 14 days may be retained in an RCFE.

Factual Basis:

This section is necessary for clarity and for consistency with Health and Safety Code Sections 1569.72(e) through (e)(4).

The requirements in Health and Safety Code Sections 1569.72(e) through (e)(3) were previously contained in Sections 87455(f) through (f)(3), which were repealed because they were a duplication of statute. In addition, these requirements were moved and incorporated into newly created Section 87714 in order to consolidate requirements regarding the care of the bedridden for clarity and ease of use.

Section 87714(e) (Handbook)

Specific Purpose/Factual Basis:

The specific purpose/factual basis of this section is to incorporate Health and Safety Code Sections 1569.72(e) through (e)(4) into handbook for clarity. This is necessary to ensure that licensing staff, licensees, providers and the public have easy access to the actual text of the statute.

Section 87714(e)(1)

Specific Purpose:

The specific purpose of this section is to require the facility, in the case of a resident that will be bedridden for more than 14 days, to notify the fire authority having jurisdiction of the revised estimated length of time that the resident will be bedridden.

Factual Basis:

This section is necessary for clarity and to ensure that the facility complies on an ongoing basis with the notification requirements in proposed Section 87714(b) and Health and Safety Code Section 1569.72(f).

Section 87714(f) et seq.

Specific Purpose:

The specific purpose of this section is to require that the facility's plan of operation address the needs of bedridden residents.

Factual Basis:

These sections are necessary for clarity and consistency, and to ensure that the plan of operation addresses the specific needs of bedridden residents, a particularly vulnerable segment of the RCFE population. Proposed Sections 87714(f) et seq. are consistent with the following: existing Section 87202(a), which requires that any significant changes to the plan of operation be submitted to the licensing agency for approval; existing Section 87202(a)(1), which requires the plan of operation to include a statement of purposes and program goals; and existing Sections 87705(b)(1) and (b)(2), which require the plan of operation to address the care of residents with dementia, another particularly vulnerable segment of the RCFE population. Please also see the justification for proposed Section 87208(d).

Section 87714(f)(1) is necessary to ensure that the plan of operations describes the type of care that will be provided to bedridden residents in the facility, including goals and objectives.

Section 87714(f)(2) is necessary to ensure that the licensee describes how the requirements of Section 87714(g) et seq. will be met. These requirements are designed to ensure the health and safety of bedridden residents in care. Please also see the justifications below for each of the requirements in Section 87714(g) et seq.

Section 87714(f)(3) is necessary to ensure that the appropriate parties are notified when the resident's condition changes including the resident's physician and family or other responsible parties. This proposed section is consistent with existing Section 87705(b)(1) for the care of persons with dementia.

Final Modification

Sections 87714(f) through (j) et seq.

Sections 87714(f) and (g) have been amended; however, Sections 87714(h) through (j) are being repealed due to duplicative information. The cross references that are listed as requirements are already established in regulation. These revisions are necessary for clarity and ease of use, as identified in public comment.

Final Modification

Section 87714(f)(4)(D)

As a result of public testimony, the Department accepts the recommendation to correct a typing error in the use of "faculty" which should have been "facility."

Section 87714(g)

Specific Purpose:

The specific purpose of this section is to specify that licensees who wish to accept or retain bedridden persons must meet certain criteria.

Factual Basis:

This section is necessary for clarity and to establish that the licensee must meet the specific requirements that follow.

Final Modification:

Please see final modification for Sections 87714(f) through (j) et seq.

Section 87714(g)(1) et seq.

Specific Purpose:

The specific purpose of these sections is to require that a care plan that meets certain criteria is developed for each bedridden resident.

Factual Basis:

These sections are necessary for clarity; and for consistency with existing Section 87467, among other statutory and regulatory provisions. A care plan for each bedridden resident is critical to ensuring that the resident receives adequate care—and that everyone involved in caring for the resident understands what needs to be done to reach that goal. The requirement for a bedridden care plan is consistent with Health and Safety Code Section 1569.80, which requires that specified parties, including the resident when possible,

prepare a written record of the care the resident is to receive in an RCFE. It is also consistent with the following existing regulation sections:

- Existing Section 87465(a), which requires that each facility develop a plan for providing incidental medical and dental care to residents.
- Existing Section 87457(c), which requires that a pre-admission appraisal of each prospective resident's individual service needs be conducted.
- Existing Section 87467, mentioned above, which requires—consistent with Health and Safety Code Section 1569.80—that specified parties prepare a written record of the care the resident is to receive in the facility.
- Existing Section 87459, which requires a facility to assess a resident's or prospective resident's need for personal assistance and care by determining his/her ability to perform specified activities of daily living.
- Existing Section 87463, which requires that pre-admission appraisals be updated in subsequent reappraisals to note any changes in the resident's condition.
- Existing Section 87505, which contains documentation requirements for pre-admission appraisals and any reappraisals.
- Existing Section 87466, which requires that residents be regularly observed for any changes in their condition.

Section 87714(g)(1)(A) is necessary to ensure that medical consultation is obtained during the process of developing a bedridden resident's care plan. Bedridden residents may have needs that only a licensed health care professional can adequately identify and address, in terms of planning for the ongoing care of the resident in the facility. This requirement is an enhancement over the requirement in existing Section 87467(a)(2) for the general RCFE population, which specifies only that a resident's written care plan be sent to the resident's regular physician. It is warranted because of the greater health care needs that bedridden residents generally have.

Section 87714(g)(1)(B) is necessary to ensure that a bedridden resident receives the care he or she is supposed to receive as delineated in the care plan. This section is consistent with existing Section 87633(d), which requires that hospice care plans meet the same requirements.

Final Modification:

Please see final modification for Sections 87714(f) through (j) et seq.

Section 87714(g)(2)

Specific Purpose:

The specific purpose of this section is to require that a bedridden resident receive an updated medical assessment if necessary and ongoing reappraisals as frequently as necessary.

Factual Basis:

This section is necessary for clarity and for consistency with existing Sections 87458 and 87463.

Final Modification:

Please see final modification for Sections 87714(f) through (j) et seq.

Section 87714(g)(2)(A)

Specific Purpose:

The specific purpose of this section is to require that any updated medical assessment or reappraisal include an assessment or reassessment of the resident's bedridden care needs.

Factual Basis:

This section is necessary for clarity and to protect the resident by ensuring that any changes in the resident's condition as a result of being bedridden are noted on any medical assessments and reappraisals. This section is consistent in spirit with existing Section 87705(c)(5), which requires that medical assessments and reappraisals include a reassessment of the resident's dementia care needs.

Final Modification:

Please see final modification for Sections 87714(f) through (j) et seq.

Section 87714(g)(2)(B)

Specific Purpose:

The specific purpose of this section is to require that, when any medical assessment, reappraisal or observation indicates that a resident's bedridden care needs have changed, corresponding changes are made in the resident's care and supervision, and that these changes are reflected in the resident's care plan.

Factual Basis:

This section is necessary for clarity and to protect the resident by ensuring that changes are made in the care provided to the resident when his/her bedridden care needs change. This section is consistent with existing Section 87705(c)(5)(A), which carries the same provisions with respect to the care of persons with dementia.

Final Modification:

Please see final modification for Sections 87714(f) through (j) et seq.

Section 87714(g)(3) et seq.

Specific Purpose:

The specific purpose of these sections is to specify training requirements for direct care staff that care for bedridden residents.

Factual Basis:

These sections are necessary for clarity and for consistency with existing training requirements. They are also necessary to protect the health and safety of bedridden residents in RCFEs by ensuring that direct care staff who care for them are properly trained.

Section 87714(g)(3) is necessary to ensure that, in addition to the on-the-job training required in existing Section 87411(d), direct care staff who care for bedridden residents also meet the training requirements of existing Section 87613, General Requirements for Restricted Health Conditions. Examples of restricted health conditions in RCFEs include the need for administration of oxygen, the need for catheter care, diabetes, incontinence, pressure sores (dermal ulcers), and wound care. The CDSS considers that the condition of being bedridden is analogous to these restricted conditions, and that a resident who is bedridden may also suffer from one or more of the restricted health conditions identified in existing Section 87612.

This section is also necessary to ensure that direct care staff caring for bedridden residents are trained by a licensed health care professional, as specified in existing Section 87613(a)(2). This training includes hands-on instruction in both general procedures and resident-specific procedures. In addition, if the condition of the resident changed, direct care staff caring for the resident would have to complete any additional training necessary to meet the resident's new needs, as determined by the resident's physician or a licensed health care professional designated by the physician (existing Section 87613(b)). Given the health complications that bedridden residents may suffer, or be prone to suffer, the CDSS considers it necessary and appropriate for direct care staff caring for them to be trained by a licensed health care professional.

Section 87714(g)(3)(A) is necessary to ensure that training for direct care staff includes specific topics pertinent to the care of the bedridden. Licensed health care professionals with the California Department of Health Care Services and the California Department of Public Health suggested and/or concurred with these training topics.

Section 87714(g)(3)(A)1. is necessary to ensure that direct care staff receive training in proper procedures for repositioning residents, when necessary, to help prevent the development of pressure sores (dermal ulcers).

Section 87714(g)(3)(A)2. is necessary to ensure that direct care staff receive training in the evaluation of skin integrity, so that they can recognize the beginning of any breakdown in the skin and thereby help prevent pressure sores or other skin problems.

Section 87714(g)(3)(A)3. is necessary to ensure that direct care staff receive training in infection control. This is especially necessary because bedridden residents, with their limited mobility and generally frailer health, may be more vulnerable to contracting skin or other infections.

Section 87714(g)(3)(A)4. is necessary to ensure that direct care staff receive training in proper nutrition and fluid intake for bedridden residents, whose needs in these areas may differ from those of other residents because of their restricted mobility.

Section 87714(g)(3)(A)5. is necessary to ensure that direct care staff know how to use appropriate assistive devices and equipment for the bedridden, so that bedridden residents in their care can be as safe and comfortable as possible.

Section 87714(g)(3)(A)6. is necessary to ensure that direct care staff are aware of the need for sensory stimulation for bedridden residents and learn some simple techniques to provide it when necessary (e.g., by reading aloud to bedridden residents).

Section 87714(g)(3)(A)7. is necessary to ensure, first of all, that direct care staff are aware of respiratory, gastrointestinal, and bladder complications for which bedridden residents may be at increased risk because of their mobility issues. Secondly, this section is necessary to ensure that direct care staff are made aware of any steps they can take to prevent or alleviate these complications without violating nursing scope of practice.

Section 87714(g)(3)(A)8. is necessary to ensure that direct care staff know how to recognize when a bedridden resident is in distress so that they can obtain the assistance of licensed health care professionals in a timely manner.

Section 87714(g)(3)(A)9. is necessary to ensure that direct care staff are familiar with and have received training on their duties and responsibilities for bedridden residents in the event an emergency or disaster.

Section 87714(g)(4)

Specific Purpose:

The specific purpose of this section is to require that documentation of the bedridden-related staff training required in proposed Sections 87714(g)(3) and (g)(3)(A) be maintained in the personnel files.

Factual Basis:

This section is necessary for clarity, and for consistency with current requirements for maintaining documentation on staff training in existing Sections 87411(c)(5) and 87412(c)(2). Although there is a reference to existing Section 87412(c)(2) in existing Section 87411(c)(5), the reference to existing Section 87412(c)(2) is reiterated in this section for clarity.

Final Modification:

Please see final modification for Sections 87714(f) through (j) et seq.

Section 87714(g)(5)

Specific Purpose:

The specific purpose of this section is to establish and reinforce personnel staffing requirements for caring for bedridden residents.

Factual Basis:

This section is necessary to ensure that there is an adequate number of direct care staff to meet each bedridden resident's needs, as identified in the resident's current bedridden care plan. This is consistent with existing Section 87411(a), which requires that RCFEs have a sufficient number of competent staff to meet the needs of residents in care.

Final Modification:

Please see final modification for Sections 87714(f) through (j) et seq.

Section 87714(g)(6)

Specific Purpose:

The specific purpose of this section is to require that awake night staff on duty or on call in facilities that care for more than 16 residents, as specified in existing Section 87415, are capable of meeting the repositioning and any other needs of bedridden residents, as necessary.

Factual Basis:

This section is necessary to ensure that bedridden residents are adequately cared for at night. For example, licensed health care staff of the California Department of Health Care Services have informed the Department that bedridden residents generally need to be repositioned every two hours to prevent pressure sores (dermal ulcers).

Final Modification:

Please see final modification for Sections 87714(f) through (j) et seq.

Section 87714(g)(6)(A)

Specific Purpose:

The specific purpose of this section is to establish the criteria for awake night staff in facilities with fewer than 16 residents that care for bedridden residents.

Factual Basis:

This section is necessary to ensure that bedridden residents are adequately cared for at night in facilities with fewer than 16 residents. Currently, as specified in existing Section 87415(a)(1), facilities caring for fewer than 16 residents are only required to have a “qualified” person on call on the premises at night. So as not to be overly burdensome to small facilities and still meet the needs of bedridden residents, this section ties the need for awake night supervision to the care needs identified in a resident’s current bedridden care plan. For example, a temporarily bedridden resident may not need awake night supervision at all; however, a bedridden resident with more intense needs may require awake night supervision, either constantly or at intervals, on a regular basis throughout the night.

Final Modification:

Please see final modification for Sections 87714(f) through (j) et seq.

Section 87714(g)(7)

Specific Purpose:

The specific purpose of this section is to require facilities licensed for fewer than 16 residents that care for a bedridden resident(s) to have and utilize a signal system or other appropriate means of communication between staff and bedridden residents.

Factual Basis:

This section is necessary to protect the health and safety of bedridden residents in care by ensuring that a bedridden resident(s) of a facility licensed for fewer than 16 residents can summon facility staff immediately when needed. This section is also consistent with existing Section 87303(i), which requires that larger facilities have signal systems as specified. As is the case with proposed Section 87714(g)(6), this section attempts to protect bedridden residents in smaller facilities without being too burdensome on those facilities. By requiring smaller facilities to have and utilize “a signal system or other appropriate means of communication,” this section enables these facilities to choose a system that works well in their circumstances. For example, a facility that cares for a resident temporarily bedridden for 14 days or less may only need to use such devices as a cell phone or patient alarm, whereas a facility that cares for several permanently bedridden residents may or may not need a more sophisticated system. In all cases, the intent is to prevent a scenario in which a bedridden person in a smaller facility is isolated, needs help, and is not able to summon it in a timely manner.

Final Modification:

Please see final modification for Sections 87714(f) through (j) et seq.

Section 87714(g)(8)

Specific Purpose:

The specific purpose of this section is to require facilities that care for the bedridden to have ongoing access to licensed health care professionals.

Factual Basis:

This section is necessary to ensure that the licensee and direct care staff who care for bedridden residents have adequate access to medical backup when they need it, either in the form of consultation on bedridden issues in general, or to meet the immediate needs of an individual bedridden resident(s). This is necessary to protect bedridden residents, and is especially important for two main reasons: 1) RCFEs are not required to have nursing staff on duty (although nothing precludes them from hiring nursing staff if they choose to do so); and 2) the health-related needs of the bedridden are generally more complicated than those of other residents, and more challenging for trained lay direct care staff to meet. This medical consultation is not intended to be a substitute for actual skilled nursing or emergency medical care for the bedridden when needed.

Final Modification:

Please see final modification for Sections 87714(f) through (j) et seq.

Section 87714(g)(9) et seq.

Specific Purpose:

The specific purpose of these sections is to require that assistive devices and equipment be available and utilized as necessary to meet the needs of bedridden residents, and to specify various types of assistive devices and equipment that might be useful.

Factual Basis:

Section 87714(g)(9) is necessary to ensure that bedridden residents that reside in RCFEs have access to assistive devices and equipment that facilitate their care and improve the quality of their lives. In addition to protecting bedridden residents, the use of assistive devices and equipment may protect direct care staff as well (e.g., by making it easier to lift bedridden residents with a patient lifting system).

Sections 87714(g)(9)(A) through (g)(9)(K) are necessary to specify certain types of assistive devices and equipment that may be helpful to bedridden residents. For more information on such assistive devices and equipment, please see the following web sites:

- <http://www.allegromedical.com/attr-condition-Bedridden.html>
- http://ucanhealth.com/goto.php?page+bedridden_product.php
- <http://www.caremedical.com/patient-room.shtml>

Final Modification:

Please see final modification for Sections 87714(f) through (j) et seq.

Section 87714(g)(10)

Specific Purpose:

The specific purpose of this section is to require RCFEs that care for bedridden residents to have planned activities that address the needs and limitations of bedridden persons.

Factual Basis:

This section is necessary to ensure that bedridden residents of RCFEs have access to planned activities tailored to meet their particular needs. According to a nursing consultant at the California Department of Health Care Services, bedridden residents, especially long-term bedridden residents, often experience sensory deprivation and benefit greatly from several approaches to the use of sensory stimulation. The first approach is to use auditory stimulation, such as audio tapes and the radio, especially talk shows, for the quality of the human voice. This approach is favored for bedridden persons who apparently do not respond to verbal and visual cues. Another approach is to use video tapes, which is

especially useful for bedridden persons who visually connect and track. But simple human interaction is always the first and primary method of sensory stimulation (e.g., having volunteers or others talk to bedridden persons or read to them). One of the ultimate goals of this section is to try to avoid situations in which licensees or providers, out of ignorance, fail to realize that bedridden residents need human interaction and other forms of sensory stimulation on a regular basis. In addition, planned activities might also encompass such things as modified exercise routines that may be beneficial for bedridden persons.

Final Modification:

Please see final modification for Sections 87714(f) through (j) et seq.

Section 87714(h) et seq.

Specific Purpose:

The specific purpose of these sections are to establish reporting requirements for facilities that care for bedridden residents.

Factual Basis:

These sections are necessary to protect bedridden residents and any other affected residents. They expand upon the reporting requirements already contained in existing Section 87211, and are for the most part consistent with reporting requirements in existing Sections 87633(g) et seq. for residents on hospice.

Section 87714(h)(1) is necessary to ensure that the physician, home health care agency, hospice provider and authorized representative or conservator of the resident, if any, are contacted by the licensee when there is any change in a bedridden resident's health condition that threatens the health and safety of the resident.

Section 87714(h)(2) is necessary to establish reporting time frames. The initial reporting time frame it establishes (within one working day) is tighter than the time frame in existing Section 87211, but is consistent with existing Sections 87633(g) et seq. This is appropriate because bedridden residents, like hospice residents, may be significantly frailer than the general RCFE population. The sooner the licensing agency knows about any incident that adversely affects a bedridden resident, the sooner it can intervene to protect the health and safety of the bedridden resident and any other affected residents, if necessary.

Section 87714(h)(2)(A) is necessary to ensure that the report to the licensing agency includes the name, age and sex of each affected resident.

Section 87714(h)(2)(B) is necessary to ensure that the report to the licensing agency includes the date of the incident and any other pertinent information.

Section 87714(h)(2)(C) is necessary to ensure that the report to the licensing agency includes actions taken by the licensee and any other parties to resolve the incident.

Taken together, Sections 87714(h)(2)(A) through (h)(2)(C) above are necessary to ensure that the licensing agency receives enough information about a reportable incident to determine if the facility has successfully resolved the circumstances surrounding the incident, or if the licensing agency needs to intervene further or at all.

Final Modification:

Please see final modification for Sections 87714(f) through (j) et seq.

Section 87714(i)

Specific Purpose:

The specific purpose of this section is to require a facility's emergency disaster plan to address the safety needs of bedridden residents.

Factual Basis:

This section is necessary to protect bedridden residents by ensuring that a facility's emergency disaster plan takes into consideration the special needs and limitations of bedridden residents. This section is consistent with existing Section 87705(c)(2), which requires that a facility's emergency disaster plan address the safety of residents with dementia, another segment of the RCFE population with special needs and limitations.

Final Modification:

Please see final modification for Sections 87714(f) through (j) et seq.

Section 87714(j)

Specific Purpose:

The specific purpose of this section is to reiterate the right of the licensing agency to relocate a bedridden resident whose needs are not being met, or whose needs are beyond the scope of care of a licensed RCFE.

Factual Basis:

This section is necessary for clarity. It is also necessary for consistency with Health and Safety Code Sections 1569.54(a)(1) and 1569.72(e)(4); existing Section 87633(m), Hospice Care for Terminally Ill Residents; and existing Section 87637, Health Condition Relocation Order.

Final Modification

Section 87714(j) has been repealed and renumbered as Section 87714(g).

Final Modification

Sections 87714(f) through (g) et seq.

Specific Purpose/Factual Basis:

These sections are being adopted to make the requirements more clear without duplicating the language already provided. The regulations are provided for clarity and ease of use by licensing staff, licensees, providers and the public. Section 87714(f)(4) has been amended to address the requirements in Section 87508 to capture ambulatory status based on the passage of AB 762, Chapter 471, Statutes of 2009.

b) Identification of Documents Upon Which Department Is Relying

- Health and Safety Code Sections 1569.54, 1569.72, and 1569.80
- Senate Bill 1896 (Ortiz), Chapter 817, Statutes of 2000
- Assembly Bill 762, Chapter 471, Statutes of 2009

c) Local Mandate Statement

These regulations do not impose a mandate on local agencies or school districts. There are no state-mandated local costs in this order that require reimbursement under the laws of California.

d) Statement of Alternatives Considered

CDSS has determined that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

e) Statement of Significant Adverse Economic Impact On Business

CDSS has made a determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

f) Testimony and Response

These regulations were considered as Item #1 at the public hearing held on July 15, 2009 in Sacramento, California.

Oral testimony was given by Tom Cullen from Community Care Options and Bernadette Descargar. Vine, McKinnon & Hall are the certified shorthand reporters we have contracted to transcribe the public hearings. Due to a problem with the recording, the transcription was problematic. On August 6, 2009, a phone message was left for Tom

Cullen and a written letter was sent to Bernadette Descargar to let them know of the problem and to offer them additional time to resubmit any comments of their choosing. Responses from them were not received. Since the concern was present that Mr. Cullen did not receive the phone message, a letter was also sent to him on October 7, 2009 with a 14 day response request. There was no response to our request.

Written testimony was received from the following during the 45-day comment period from May 29, 2009 to July 15, 2009:

Community Residential Care Association of California (CRCAC)
California Assisted Living Association (CALA)
Aging Services of California (ASC)
Tom Cullen from Community Care Options (CCO)

The comments received and the Department's responses to those comments follow.

General Comments

1. Comment:

"The proposed regulations fail to distinguish between the two very different types of "bedridden" residents – those unable to reposition and those who need assistance transferring.

"Health and Safety Code Section 1569.72(b)(1) clearly identifies two different types of "bedridden" residents – those who need assistance repositioning (turning) in bed and those who need assistance transferring to and from bed. However, the proposed regulations treat all "bedridden" residents the same despite the fact that the needs of these two groups are very different.

"The majority of "bedridden" residents in RCFEs walk or are otherwise mobile throughout the community and do not require assistance turning and repositioning in bed. These "transfer assist bedridden" residents have lived in RCFEs since at least the early 1990's and have been considered nonambulatory until recently. The needs of these residents are very different from those who are actually confined to bed and unable to turn or reposition themselves. This distinction must be reflected in the regulations in order to avoid over-regulation, increased workload for providers and CCLD, inappropriately restricting transfer assist residents, and increased costs to providers and residents.

"CCLD made the distinction between these two types of "bedridden" residents in 1992 when it issued a memo stating that the only requirement for retaining "transfer assist bedridden" was a nonambulatory fire clearance. Residents needing transfer assistance have been living successfully in RCFEs since then without any indication of a need for the proposed regulations. Residents needing transfer assistance are not new to RCFEs. The only thing that has changed for these residents is the term they

are not labeled with. To impose the proposed regulations on these residents is inappropriate and unnecessary." (CALA)

Response:

Thank you for your comments. The Department will re-notice this package to reflect the enforcement of the law based on the passage of Assembly Bill (AB) 762. This Statute of 2009 amends Health and Safety Codes Sections 1566.45, 1568.0832, and 1569.72, relating to residential care facilities and distinguishes for purposes of fire clearance, residents who are bedridden from those who are nonambulatory and only require transfer assist. The passage of this bill resolves much of the concerns expressed by comments to the original notice of this regulation package. Additionally, the Information Release Number 2007-04, *Bedridden Residents*, will also be reissued to clarify best practices for service, delivery, and health and safety guidelines to distinguish residents that are bedridden versus residents who are "nonambulatory." AB 762, Statutes of 2009 adds language for purposes of fire clearance in RCFE facilities to clarify the definition of "nonambulatory person" as a resident who is unable to independently transfer to and from bed but who "does not need assistance turning and repositioning" in bed. We are compelled to define bedridden as it is defined in current statute. The Department cannot use or adopt a definition different from that in statute.

2. Comment:

"The proposed regulations need to better distinguish between requirements for temporarily and permanently bedridden residents, with specific clarification that residents receiving hospice services may be considered "temporarily bedridden."

"This clarification will make these regulations consistent with current policy and practice. There was never any intent to impose significant regulatory and physical plant requirements for residents who temporarily need assistance turning or transferring. The policy has always been to prevent unnecessary evictions or relocations while a resident recovers from surgery or illness.

"The department's Information Release Number 2007-04 states that "the RCFE is not required to request an exception from the licensing agency to accept or retain a temporarily bedridden resident, or to request a bedridden fire clearance." It goes on to state that "Extensions of the temporarily bedridden status are allowed for terminally ill hospice residents, the same as for residents with a temporary illness or recovering from surgery." The Information Release makes it clear that the additional requirements to extend a "bedridden" resident's stay beyond 14 days apply to temporarily bedridden residents. CALA strongly urges the department to make this clearer in the regulations themselves to avoid further confusion. Specifically, CALA suggests splitting Section 87714 into two sections – one focusing on temporarily bedridden residents and the other on permanently bedridden residents." (CALA)

Response:

Thank you for your comments. Please see the response to comment #1.

3. Comment:

"Request to change the wording for the definition of bedridden back to nonambulatory for residents in an RCFE that need assistance when getting in or out of bed.

"Bedridden should be just for residents who are in the bed on a 24 hour basis.

"The interpretation of bedridden is different from the fire marshals through out the state.

"Some of the demands put on the facilities less than 15 beds by the fire marshals are as follows:

"Sprinkler System

"Monitored Sprinkler System

"One-hour fire walls

"20 minutes to two hour fire doors

"Commercial hood in the kitchen over the stove

"Swamp Cooler over the kitchen for Make-up air for the hood

"Large sliding glass doors, or big enough to take beds out of resident's room.

"Costs have been between \$20,000 to over \$100,000.00 for the small facilities."
(CCO)

Response:

Thank you for your comments. Please see the response to comment #1.

4. Comment:

"As noted above, there appears to be an inconsistency when referencing definitions in 87101. Section 87101(b)(3) references 87101(n), 87633(l) references 87101(b)(3) and 87714(a) references 87101(b)(3). Recommend when referencing definitions in 87101, note the letter, not the specific number. This will allow the expansion of the definitions section as new terms are defined without having to amend all references to the specific definition in the context of the regulation." (CRCAC)

Response:

Thank you for your comments. Reference Section 87101(b)(3) defining "Bedridden person" is being repealed as Health and Safety Code 1569.72 sufficiently defines "bedridden" for purposes of fire clearance. However, as a matter of format procedure, the identification of the section number and letter in "Regulations" is the Department standard format for regulations.

Section 87101

5. Comment:

DEFINITIONS: The proposed regulations treat residents who are unable to reposition or turn in bed in the same manner as those who simply need assistance in and out of bed, but can otherwise do so with the use of an assistive device in a case of emergency. These two classes of "bedridden" residents have very different needs and are able to react differently in the case of emergency conditions. This distinction is made clear in CCL Information Release No. 2007-04.

RECOMMENDATION: Aging Services urges the Department to better differentiate between the truly "bed-bound residents" and "transfer assist residents."" (ASC)

Response:

Thank you for your comments. Please see the response to comment #1.

Section 87202

6. Comment:

FIRE CLEARANCE: The proposed regulations would require facilities to obtain an appropriate fire clearance through the licensing agency prior to *accepting* any nonambulatory or bedridden person.

RECOMMENDATION: Due to the lag time of processing, please clarify that a bedridden resident can be *retained* while a fire clearance is pending to ensure that residents are not unnecessarily evicted." (ASC)

Response:

Thank you for your comments. No substantive changes were made to the regulation requirements with regard to "fire clearance" concerning the acceptance of nonambulatory or bedridden persons as identified in Section 87202. Additionally, current regulations in Section 87714 address the bedridden requirements for the acceptance and retention of bedridden residents.

Section 87202(a)

7. Comment:

"Please clarify that a bedridden resident can be retained while fire clearance is pending." (CALA)

Response:

Thank you for your comment. Please see response to comment #6 and Section 87714, Care of Bedridden Residents.

Section 87202(a)(2)

8. Comment:

"Please clarify that hospice can be considered a temporary condition." (CALA)

Response:

Thank you for your comments. Please see response to comment #6, Section 87714, Care of Bedridden Residents, and Health and Safety Code section 1569.72.

Section 87508(a)(1)

9. Comment:

"A list of rooms and designation of use for bedridden and nonambulatory residents is already required as part of the Plan of Operation. It is not necessary to require it again here. In addition to being unnecessarily duplicative, we question its value since the type of fire clearance granted to a specific room does not necessarily indicate the ambulatory status of the resident occupying that room – an ambulatory resident may be living in a room with a nonambulatory or bedridden clearance. CALA suggests that this proposed regulation be deleted." (CALA)

Response:

Thank you for your comment. We have considered your suggestion to Section 87508(a)(1) and have repealed the modification restoring this section to the original language. Section 87508(a)(4) has been repealed entirely.

10. Comment:

"REGISTER OF RESIDENTS: The proposed regulations call for "a list of the location and designation of the rooms to be used for bedridden and non-ambulatory residents." This is duplicative of the current requirement already set forth in §87208(7)(A) (Plan of Operation) and would be of little value to licensing staff and emergency responders because the bedridden designation does not necessarily mean that the room will be occupied by a bedridden resident.

RECOMMENDATION: Delete this provision and retain the current reference to §87208(7)(A)." (ASC)

Response:

Thank you for your comments. Please see the response to comment #9.

11. Comment:

"The proposed language has removed the requirement to list each resident's name and ambulatory status and replaces it with a requirement for a list of the location and designation of rooms to be used for bedridden and nonambulatory residents. According to Health & Safety Code Section 1569.315, a current record of residents in the facility, including each resident's name and ambulatory status, is required.

"The proposed language is in conflict with the statutory requirement and we suggest replacing the proposed language with the current regulation language. The current regulation is clearer and conforms to the law." (CRCAC)

Response:

Thank you for your comments. Please see the response to comment #9.

Sections 87508(a)(2) and (a)(3)

12. Comment:

"These requirements are in current regulations and require information on the resident's attending physician and responsible person. However, there's no longer a register in the proposed language that requires the residents' names so how would licensees list this information for each resident? Again, we suggest reinstating current regulation Section 87508(a)(1) for clarity purposes." (CRCAC)

Response:

Thank you for your comments. Please see the response to comment #9.

Section 87508(a)(4)

13. Comment:

"This requires a "categorical register" for all bedridden and nonambulatory residents. We suggest defining categorical or use another description. If the current regulation (a)(1) is reinstated, this register of all bedridden or nonambulatory residents is not needed as the requirement for the resident's ambulatory status captures this information." (CRCAC)

Response:

Thank you for your comments. Please see the response to comment #9.

14. Comment:

"This also references making the categorical register available immediately upon request to the licensing agency and/or emergency personnel to inspect upon request. According to Health & Safety Code 1569.194, only the disaster and mass casualty plan must be made available to fire department, law enforcement agency, or civil defense or other disaster authority. We believe "and/or emergency personnel" should be deleted." (CRCAC)

Response:

Thank you for your comment. Please see the response to comment #9.

15. Comment:

"The last sentence is not needed since Section 87212 already sets forth the requirements for emergency disaster plans. We also suggest amending Section 87212 to reflect the new requirements of Health and Safety Code 1569.194." (CRCAC)

Response:

Thank you for your comment. Please see response to comment #9.

16. Comment:

"REGISTER OF RESIDENTS: The proposed regulations call for "a categorical register of all bedridden or Nonambulatory residents" to be maintained and available upon request to licensing representatives and emergency personnel. "Categorical register" is undefined and a definition should be included to be of value.

RECOMMENDATION: Define "categorical register" to include bedridden and/or ambulatory status." (ASC)

Response:

Thank you for your comment. See the response to comment #9.

17. Comment:

"It is not clear what the department means by the phrase "categorical register." CALA suggests that the register distinguish between "transfer assist bedridden" and "unable to reposition bedridden" in order to be helpful to emergency responders since the two types of "bedridden" residents have different evacuation needs. For example, "transfer assist" bedridden residents are likely able to assist with their evacuation. Distinguishing between the two categories of "bedridden" will enable emergency responders to target their response. In addition, CALA suggests making it clear that this list of residents and their ambulatory status should also include their room number." (CALA)

Response:

Thank you for your comment. See the response to comment #9.

Sections 87508(b) and (b)(1) through (b)(3)

18. Comment:

"These current regulations sections set forth the requirements that the register of residents be made available to the licensing agency to inspect, audit, and copy upon demand and the licensing agency's responsibilities." (CRCAC)

Response:

Thank you for your comment. Please see response to comment #9.

19. Comment:

"Are facilities now to have two different lists available to the licensing agency?" (CRCAC)

Response:

Thank you for your comment. Please see response to comment #9.

Section 87633

20. Comment:

"CALA requests more clarity regarding the fact that hospice status may classify the resident as "temporarily bedridden" and that the 14-day temporary status may be extended. CALA also suggests that the reference to Section 87714 Care of Bedridden Patients be revised to read Care of Bedridden Residents." (CALA)

Response:

Thank you for your comments. The proposed edits to this section (87633) have been repealed based on the proposed renote of these regulations. This section will continue to read as it did prior to the public hearing.

21. Comment:

"Change "Care of Bedridden Patients" to "Care of Bedridden Residents" to be consistent with the title of Section 87714." (CRCAC)

Response:

Thank you for your comment. This correction has been accepted and made.

Section 87705(b)(3)

22. Comment:

"Please clarify that one Plan of Operation is required and that it must address the needs of residents who will be served, rather than multiple plans of operation specific to various resident conditions." (CALA)

Response:

Thank you for your response. The CDSS has considered your recommendation and respectfully repeal this requirement: Section 87705(b)(3).

Section 87714

23. Comment:

"CALA strongly urges the department to divide this section into two – one focusing on permanently bedridden residents and the other on temporarily bedridden residents. Based on history and recent conversations with department staff, we understand that only subsections (b), (d), (e) address temporarily bedridden residents, with the remainder applying to permanently bedridden residents. Section 87455(b)(6) would also need to be amended to reflect this change." (CALA)

Response:

Thank you for your comments. Please see the response to comment #1.

24. Comment:

"CALA strongly urges the department to distinguish between the two categories of "bedridden" residents, since their needs are so different. If these regulations were to be applied to "transfer assist bedridden" residents, they would constitute extensive new requirements that while arguably appropriate for "unable to reposition bedridden" residents, are not at all appropriate for the majority of "bedridden" residents. This overregulation would result in increased costs to providers and residents, as well as increased workload for providers and CCLD." (CALA)

Response:

Thank you for your comments. Please see the response to comment #1.

25. Comment:

CARE OF BEDRIDDEN RESIDENTS: This section is problematic in that it does not distinguish between the two classes of bedridden residents. Many of the provisions if applied to both would be burdensome on facilities and unnecessary to impose on "transfer assist bedridden" residents.

RECOMMENDATION: Section 87714 should be revised to distinguish between the two types of bedridden residents and apply only those provisions necessary to those residents unable to turn or reposition in bed." (ASC)

Response:

Thank you for your comment. Please see the response to comment #1.

Section 87714(a)

26. Comment:

"Section 87101(b)(3), the definition of bedridden refers only to Section 87101(n) for the definition of nonambulatory. For consistency, recommend amending this to read: "This section applies to licensees who accept or retain bedridden persons, as defined in Section 87101(b)." (CRCAC)

Response:

Thank you for your comment. Please see response to comment #1.

Section 87714(b)

27. Comment:

"Since this requirement predated the "bedridden" file clearance, why is it necessary to notify the fire authority that a bedridden resident is residing there if licensee already has the appropriate fire clearance and a list of residents and their ambulatory status is maintained on-site?" (CALA)

Response:

Thank you for your comment. The specific purpose of this section is to establish that a facility must notify the local fire jurisdiction within 48 hours of accepting or retaining any bedridden person. The provision of this section was previously contained in Section 87455(g), which was repealed because it was duplication of Health and Safety Code Section 1569.72(f).

Section 87714(e)

28. Comment:

"Please clarify that this procedure applies to temporarily bedridden residents when the facility does not have an approved fire clearance for permanently bedridden residents. In other words, this section does not apply if the facility has an approved bedridden clearance and the total bedridden census is within the approved clearance number. Without this clarification, it is conceivable that this section could be misinterpreted to mean that every bedridden resident who has a bedridden status past 14 days has to go through this procedure. The clarification CALA seeks is consistent with current department interpretation and practice." (CALA)

Response:

Thank you for your comment. The Department believes the language in this section is specific to "temporarily" bedridden residents and therefore deems the intent to be clear.

Section 87714(f)

29. Comment:

"Delete the word "necessarily" to be consistent with current regulations." (CRCAC)

Response:

Thank you for your comment. The CDSS has considered your recommendation and made editorial changes. This language has been repealed and renoticed.

Section 87714(g)(1)

30. Comment:

"This section is extremely problematic since the proposed regulations do not distinguish between the two types of "bedridden" residents nor do they clearly distinguish between temporarily and permanently bedridden residents (see #1 and #2 above).

"Specifically, a "consult" with the resident's physician on the development of the care plan is not appropriate or necessary for "transfer assist bedridden" residents. These residents have been living safely in RCFEs without such a requirement since at least the early 1990's and have different needs from truly bedridden residents (unable to reposition). Requiring physician consultation on the care plan is not appropriate and will only serve to increase paperwork and costs. It is also highly likely that requests for such consultation will likely go unanswered by physicians.

"CALA suggest that this section be amended to apply to bedridden residents who are unable to reposition, not those who need transfer assistance. It should also be made clear that this applies to permanently bedridden, not temporarily bedridden residents." (CALA)

Response:

Thank you for your comments. CDSS has made substantial editorial changes to this section, amending Sections 87114(f) through (g). We have repealed Sections 87714(h) through (j).

Section 87714(g)(1)(B)

31. Comment:

"This is already a requirement for all residents and is redundant." (CALA)

Response:

Thank you for your comment. Please see response to comment #30.

Section 87714(g)(2)(A)

32. Comment:

"The LIC 602 does not provide a good place for the physician to record "an assessment of the resident's bedridden care needs." The form should also be revised because it clearly says that a bedridden resident may not be retained other than a temporary illness." (CALA)

Response:

Thank you for your comment. Please see response to comment #30.

Section 87714(g)(2)(B)

33. Comment:

"How is this different than what is required for all residents?" (CALA)

Response:

Thank you for your comment. Please see response to comment #30.

Section 87714(g)(3)

34. Comment:

"This training is geared to meet the needs of permanently bedridden residents who are unable to reposition and would be over-regulating the care of "transfer assist bedridden" residents and unnecessarily increasing costs (see #1 above). CALA strongly urges that this subsection apply only to bedridden residents who are unable to reposition." (CALA)

Response:

Thank you for your comments. Please see response to comment #30.

Section 87714(g)(3)(A)7.

35. Comment:

"This regulation is awkward in its structure, suggest changing this into a list for clarify. See suggestion below:

- "7. Any techniques that a trained layperson can perform to help prevent the following:
- i. respiratory complications such as pneumonia,
 - ii. gastrointestinal motility disorders such as constipation, and
 - iii. bladder problems in bedridden residents;" (CRCAC)

Response:

Thank you for your comment. Please see response to comment #30.

Section 87714(g)(5)

36. Comment:

"Regulations already require providers to have sufficient staff to meet the resident needs." (CALA)

Response:

Thank you for your comment. Please see response to comment #30.

Section 87714(g)(7)

37. Comment:

"The wording of the regulation appears to require that a facility licensed for fewer than 16 resident must meet requirement in addition to those in Section 87303(l), the requirements for a signal system. Believe what is intended is for facilities with fewer than 16 residents to have either a signal (sic) system or other means of communication for the bedridden resident(s). For clarity, suggest the following:

"Facilities licensed for fewer than 16 residents that care for a bedridden resident(s) have and utilize a signal system that meets the requirements specified in Section 87303(i), or other appropriate means of communication that enables the bedridden resident(s) to summon facility staff immediately when needed." (CRCAC)

Response:

Thank you for your comment. Please see response to comment #30.

Section 87714(g)(8)

38. Comment:

"This section is not necessary for residents who simply need assistance transferring (see #1). Other than the change in how these residents are labeled, CALA is not aware of any evidence supporting a need to impose this type of medical requirement. Is this a requirement for nursing staff? Would access to the resident's physician or on-call doctor, and 9-1-1 in an emergency meet the proposed standard?" (CALA)

Response:

Thank you for your comments. Please see response to comment #30.

Section 87714(g)(10)

39. Comment:

"This regulation should distinguish between the two types of "bedridden" residents (see #1). "transfer assist bedridden" residents participate in community activities and have been for many years." (CALA)

Response:

Thank you for your comments. Please see response to comment #1.

40. Comment:

"Amend this to read: "In addition to Section 87219, Planned Activities, activities that address the needs and limitations of bedridden residents, including the need for sensory stimulation."" (CRCAC)

Response:

Thank you for your comments. Please see response to comment #30.

Section 87714(h)

41. Comment:

"For grammatical correctness, the licensee should not be referred to as the "its". Suggest amending this to read: "In addition to the reporting requirements specified in Section 87211, the licensee shall ensure the following for bedridden residents:"" (CRCAC)

Response:

Thank you for your comments. Please see response to comment #30.

Section 87714(h)(1)

42. Comment:

"Delete – Duplicative of 87714(f)(3)." (CRCAC)

Response:

Thank you for your comments. Please see response to comment #30.

43. Comment:

"CALA is concerned that this regulation would over-regulate and lead to over-reporting for "transfer assist bedridden" residents. Any minor illness, such as congestion or a bad cold could be considered to "threaten the health" of a resident. This regulation would significantly increase paperwork for the licensee and CCLD and impose a new requirement on a group of residents whose label, not status has changed. We believe that the current reporting regulations are sufficient for "transfer assist bedridden" residents.

"Also, how would this requirement work for a resident receiving hospice services whose condition is deteriorating as is expected? This should not be a reportable event and the provider should not be expected to develop actions to prevent similar occurrences – such an occurrence in these cases is expected." (CALA)

Response:

Thank you for your comments. Please see response to comment #30.

Transcription of Public Hearing Comments

"(Please note: The recording was defective; sections where the tape appeared to skip are marked with *)

"**MS. ORTEGA:** -- public hearing is being held by the Department of Social Services in accordance with the provisions of Government Code Section 11346.5 and .8.

"We gave notice that this hearing would be held on this date, July 15th, 2009, at 10:00 a.m., in the CDSS Office Building Number 8, 744 "P" street, Room 105, Sacramento, California.

"My name is Sandra Ortega, Manager of the Office of Regulations Development, and I will be conducting this hearing.

"The purpose of this hearing is to receive testimony concerning the items on the agenda. We will not be responding directly to any questions or comments at today's hearing.

"However, all testimony received at today's hearing and testimony received through the mail, via fax, and from e-mail will be fully considered by the Department.

"Copies of the proposed regulations are available here. Anyone wishing to testify is asked to complete an interest card indicating he or she wishes to offer testimony.

"We may impose reasonable limitations on oral presentations. The Department may modify the regulations after public hearing. If changes are made, the text of any regulations as modified will be mailed at least 15 days prior to adoption by the Department to all persons who have testified, all who have submitted written comments during the public comment period, including today, and those who have requested notification.

"If you are not presenting oral testimony but would like to be notified if the regulations are modified, please fill out an interest card at the registration table.

"The following item is on today's public hearing agenda: ORD number 0109-01, SB 1896, Requirements for Bedridden Persons in RCFEs.

"As indicated in the notice of hearing, written versions of your oral testimony are not required but are helpful to us.

"* (First skip in recording; further skips will be marked with a *)

"*(inaudible), I understand that you have some testimony that you would like to offer and I would like you, for the record, to state your name.

"**MR. CULLEN:** *Tom.

"**MS. ORTEGA:** Thank you. Please speak directly to the issue you are concerned with. If – well, it doesn't matter if you agree with other testimony. There isn't any. Please go ahead and state your concerns.

"**MR. CULLEN:** I want to talk about the bedridden. * how bedridden is has been very confusing. * marshals haven't asked, they don't have to do anything at all *

"* get them out, so some of them * encourage licensing to change that wording to just say that it's not applicable.

"*

"**MS. ORTEGA:** Testimony?

"**UNIDENTIFIED VOICE:** No, I (inaudible).

"**MS. ORTEGA:** Oh. Oh, okay. Okay. * Well, thank you very much, Mr. Cullen. We're going to stay here for a little bit longer and you're welcome to stay or leave as you please.

"* not interactive. It's no debate or discussion, but just *

"**UNIDENTIFIED VOICE:** (Inaudible). Thank you for this, yes.

"**MR. ORTEGA:** I have your card *.

"**UNIDENTIFIED VOICE:** (Inaudible).

"**MS. ORTEGA:** * It really is, yeah, considering that everybody's struggling, and these little six-bed facilities – oh, I'm sorry, I'll turn it off.

"(Pause).

"**MS. ORTEGA:** As your name is called, please come to the front and state your name for the record and speak directly to the issue you are concerned with. If you *

"**MS. DESCARGAR:** Actually *Bernadette Descargar * is considered bedridden. * after that. So that's a big thing, and as a small six-bed facility, considering the requirements that we will now have to * something the fire marshal wants is to * being possible, and then what would happen * because I'm not adhering to their – their * you know, it puts us in a precarious position, and I'm * alternative ways that I believe as a small six-bed facility that I can accommodate and make sure my residents are safe * that's my concern.

"(Recording stops here.)"

Response:

Thank you for your comments. Because of the defective recording, we are unable to respond to these statements. Please see responses to comments above.

g) 15-Day Renotice Statement

Pursuant to Government Code Section 11346.8, a 15-day renotice and complete text of modifications made to the regulations following the public hearing were made available to the public following the public hearing from April 23, 2010 to May 10, 2010. The following written testimony was received from the California Assisted Living Association (CALA) and the Community Residential Care Association of California (CRCAC) as a result of the renotice.

Section 87202(a)

1. Comment:

"Please clarify that a bedridden resident can be retained while fire clearance is pending. This is current department policy and should be reflected in the regulation." (CALA)

Response:

Thank you for your comment. The Department's interpretation of the statute is bedridden residents are allowed to be admitted to and remain in residential care facilities that maintain an appropriate fire clearance. Health and Safety Code Section 1569.72(f) in part states "...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.... As noted in the public comment and 45-day notice, there are no substantive changes made to the regulation requirements with regard to "fire clearance."

Section 87202(a)(2)

2. Comment:

"Please clarify that hospice can be considered a temporary condition." (CALA)

Response:

Thank you for your comment. Please see response to comment #1 above, and the response previously provided to the public comment received during the 45-day notice. The Department believes this comment is outside the scope of regulations and has been provided for in Section 87714 and Health and Safety Code section 1569.72.

Section 87714(b)

3. Comment:

"The statute on which this section is based predated the "bedridden" fire clearance and now carries a different meaning in the context of the revised statute. Additional clarification in the regulation is needed in order to avoid confusing licensees, fire inspectors, and LPAs. Specifically, the regulation should clarify that the notification to the fire authority is required when the licensee does not have the appropriate fire clearance for the type of resident being admitted or retained. It was never the intent to require a licensee to secure the necessary fire clearance and then require individual notifications to the same fire authority each time they have a resident within the already approved category. This would be an unnecessary workload on local fire authorities and licensees. In other words, if a licensee has a fire clearance for 50 non-ambulatory (including transfer assist) residents and 10 bedridden residents (unable to reposition), they are not required to notify the fire authority of each time they have a bedridden resident under that clearance. The statute was intended to require notification to the fire authority when there was a resident outside the approved fire clearance. This should be made clear in the regulations.

"In addition, the regulations should make clear that the "bedridden" residents referred to in this section are residents who are considered "bedridden" for purposes of fire clearance (HSC 1569.72(c)(1)) and not those who are nonambulatory for fire clearance purposes.

"CALA Recommendation:

87714(b) A facility shall notify the local fire jurisdiction within 48 hours of accepting or retaining any bedridden person ***as defined in 1569.72(c)(1), as specified in Health and Safety Code Section 1569.72(f), if the appropriate fire clearance has not been obtained.***" (CALA)

Response:

Thank you for your comment. AB 762 changes the law so that residents in RCFEs who need assistance in transferring to and from bed (**but who do not need assistance in turning or repositioning in bed**), shall be considered nonambulatory for purposes of the fire clearance.

Section 87714(f)

4. Comment:

"The proposed language introduces specific requirements that must be "ensured." For accountability, in this case, "facility" should be replaced with "licensee." Amend to read:

"(f) To accept or retain a bedridden person, a licensee shall ensure the following:" (CRCAC)

Response:

Thank you for your comment. The Department appreciates your observation and recommendation, however, the use of the term "facility" versus "licensee" is frequently used synonymously throughout the regulations, and in statute as it relates to accountability. No change was made to the regulation based on this comment.

Section 87714(f)(1)(A) - (C)

5. Comment:

"The letters of subparagraphs (A), (B) and (C) should be capitalized to be structurally correct." (CRCAC)

Response:

Thank you for your comment. The Department has made non-substantive changes for the purpose of clarity.

Section 87714(f)(1)(B)

6. Comment:

"The reference to "Care of Persons with Dementia" should be accompanied by the Section number in which its located. Amend to read:

"(f) (1) (B) In addition to the requirements specified in Section 87705, Care of Persons with Dementia, the needs of residents with dementia who are bedridden, shall be met." (CRCAC)

Response:

Thank you for your comment. The section number is not going to be referenced, as referencing the section title is sufficient. No change was made to the regulation based on this comment.

Section 87714 (f)(2)

7. Comment:

"We recommend deleting the word "sufficient." What is "sufficient" to one individual may not be "sufficient" to another based on past experiences, etc. The requirement to include documentation to demonstrate that the facility is meeting the needs of the individual resident conveys what information needs to be in the resident's file.

"Also, recommend including the title of the section referenced at the end of (2) to be consistent with current regulations. Amend to read:

"(2) Each bedridden resident's record includes documentation to demonstrate that the facility is meeting the needs of the individual resident as specified in Section 87506, Resident Records." (CRCAC)

Response:

Thank you for your comment. The Department appreciates your observation, however, please note that "sufficient" has been used throughout regulations without being defined to allow for the broadest of application when using prudence and due diligence as it relates to all parties involved in the care of the residents. The Department makes no change at this time.

Section 87714(f)(3)

8. Comment:

"Recommend removing capitalization of "Care of Bedridden Residents." This subparagraph is referring to staff training, not to a specific section of regulations." (CRCAC)

Response:

Thank you for your comment. The Department would like to keep it capitalized and is not making a change at this time.

Section 87714(f)(4)

9. Comment:

"This subsection is in Section 87714 that is specific to Care of Bedridden Residents. Is the intent that this subsection apply only to bedridden residents? If so, the requirements of subparagraphs (b), (c) and (d) apply only to that portion of the Register for bedridden residents.

"If it is only the portion of the Register for bedridden residents that is required to: (1) be made available to emergency personnel, (2) have information related to resident room locator, etc., is the intent to have a separate register for bedridden residents?"

"This regulation is structurally incorrect. Each of the subparagraphs, (a) through (d), when coupled with the introductory statement, "The facility's Register of Residents shall include:" should be a complete, grammatically correct sentence. Subparagraphs (a) through (d) need to be rewritten for this purpose." (CRCAC)

Response:

Thank you for your comment. Please be advised that Section 87714 is specific to the Care of Bedridden Residents. However, facilities are also required to comply with Section 87508, Register of Residents, as noted in Section 87714(f)(4)(a), in addition to Section 87714(f)(4) subsections (b), (c), and (d). As responded to during the 45-day public comment period, facilities are not required to have two separate register of residents. The Department agreed to restore the original regulation language in Section 87508. The Department believes that the regulation is structurally correct with the exception of capitalization as noted in comment #10. The regulation is clear on what the licensee is required to do.

Sections 87714(f)(4)(A) and (B)

10. Comment:

"Again, subparagraphs (a) and (b) should be capitalized to be structurally correct." (CRCAC)

Response:

Thank you for your comment. The Department has made non-substantive changes for the purpose of clarity.

Section 87714(f)(4)(B)

11. Comment:

"This proposed language requires information related to "resident room locator". What does this mean? Is the Register to include the room number, or something more detailed? (CRCAC)

Response:

Thank you for your comment. This regulation was written broadly to accommodate the different types of locating the resident. No change was made to the regulation based on this comment.

Sections 87714(f)(4)(C) and (D)

12. Comment:

"We recommend numbering these subparagraphs as (5) and (6). These requirements cannot be included in each Register." (CRCAC)

Response:

Thank you for your comment. We are keeping the numbering as originally shown. No change was made to the regulation based on this comment.

Section 87714(f)(4)(D)

13. Comment:

"The word "faculty" should be replaced with "facility." (CRCAC)

Response:

Thank you for your comment. The Department accepts your non-substantive recommendation and the regulations will be corrected accordingly.