

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



Regulation Package #0505-08

CDSS MANUAL LETTER NO. CCL-08-01

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

Regulation Package #0505-08**Effective 3/5/08****Entire Manual**

These nonsubstantive changes reorganize and renumber existing requirements into logical sequence making regulatory requirements easier to find. These regulations also remove expired requirements. The Community Care Licensing Division Senior Care Program has determined that these changes to existing regulations are necessary and the changes are without regulatory effect, as defined in the California Code of Regulations, Title 1, Section 100(b). These changes do not alter any requirement, right, responsibility, condition, prescription, or other regulatory element of the California Code of Regulations provisions.

Since these regulations are nonsubstantive, a public hearing was not held.

FILING INSTRUCTIONS

The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Community Care Licensing changes was Manual Letter No. CCL-07-07. The latest prior manual letter containing Residential Care Facilities for the Elderly changes was Manual Letter No. CCL-06-02. This is a completely new manual. Please replace all pages.

Attachments

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Manual of Policies and Procedures
COMMUNITY CARE LICENSING DIVISION

RESIDENTIAL CARE
FACILITIES
FOR THE ELDERLY

Title 22
Division 6
Chapter 8



STATE OF CALIFORNIA
Arnold Schwarzenegger, Governor
HEALTH AND HUMAN SERVICES AGENCY
Kimberly Belshe, Secretary
DEPARTMENT OF SOCIAL SERVICES
John Wagner, Director

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March 2008

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This Users' Manual is issued as an operational tool.

This Manual contains:

- a) Regulations adopted by the Department of Social Services (DSS) for the governance of its agents, licensees, and/or beneficiaries.
- b) Regulations adopted by other State Departments affecting DSS programs.
- c) Statutes from appropriate Codes which govern DSS programs.
- d) Court decisions; and
- e) Operational standards by which DSS staff will evaluate performance within DSS programs.

Regulations of DSS are printed in gothic type as is this sentence.

Handbook material, which includes reprinted statutory material, other department's regulations and examples, is separated from the regulations by double lines and the phrases "**HANDBOOK BEGINS HERE**", "**HANDBOOK CONTINUES**", and "**HANDBOOK ENDS HERE**" in bold print. Please note that both other departments' regulations and statutes are mandatory, not optional.

In addition, please note that as a result of the change to a new computer system revised language in this manual letter and subsequent community care licensing changes will now be identified by a line in the left margin.

Questions relative to this Users' Manual should be directed to your usual program policy office.

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Article 1. Definitions and Forms**87100 GENERAL****87100**

The provisions of Chapter 1, Division 6, shall not apply to the provisions of Chapter 8, Residential Care Facilities for the Elderly (RCFE).

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Section 1569.2, Health and Safety Code.

87101 DEFINITIONS**87101**

- (a) (1) "Administrator" means the individual designated by the licensee to act in behalf of the licensee in the overall management of the facility. The licensee, if an individual, and the administrator may be one and the same person.
- (2) "Adult" means a person who is eighteen (18) years of age or older.
- (3) "Adult protective services agency" means a county welfare department, as defined in Welfare and Institutions Code section 15610.13.

HANDBOOK BEGINS HERE

Welfare and Institutions Code section 15610.13 provides:

"Adult protective services agency" means a county welfare department, except persons who do not work directly with elders or dependent adults as part of their official duties, including members of support staff and maintenance staff."

HANDBOOK ENDS HERE

- (4) "Advance Health Care Directive" means a written instruction that relates to the provision of health care when the individual is incapacitated. Advance directives include, but are not limited to, a Durable Power of Attorney for Health Care, an Individual Health Care Instruction, a Request to Forego Resuscitative Measures, or a Do Not Resuscitate Form. In an advance directive, a person states choices for medical treatment and/or designates who should make treatment choices if the person creating the advance directive should lose decision-making capacity.
- (5) "Allowable Health Condition" means any health condition that the licensee is allowed to care for either in accordance with a specific regulation, or with an exception approved by the licensing agency. This includes restricted health conditions as specified in Section 87612, Restricted Health Conditions.

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

- (6) "Ambulatory Person" means a person who is capable of demonstrating the mental competence and physical ability to leave a building without assistance of any other person or without the use of any mechanical aid in case of an emergency.
 - (7) "Automated External Defibrillator" (AED) means a light-weight, portable device used to administer an electric shock through the chest wall to the heart. Built-in computers assess the patient's heart rhythm, determine whether defibrillation (electrical shock) is needed and then administer the shock. Audible and/or visual prompts guide the user through the process.
 - (8) "Applicant" means any individual, firm, partnership, association, corporation, county, city, public agency or other government entity that has made application for a residential care facility for the elderly license, administrator certificate, or special permit.
 - (9) "Appropriately Skilled Professional" means an individual that has training and is licensed to perform the necessary medical procedures prescribed by a physician. This includes but is not limited to the following: Registered Nurse (RN), Licensed Vocational Nurse (LVN), Physical Therapist (PT), Occupational Therapist (OT) and Respiratory Therapist (RT). These professionals may include, but are not limited to, those persons employed by a home health agency, the resident, or facilities and who are currently licensed in California.`
- (b) (1) "Basic Rate" means the SSI/SSP established rate, which does not include that amount allocated for the recipient's personal and incidental needs.
- (2) "Basic Services" means those services required to be provided by the facility in order to obtain and maintain a license and include, in such combinations as may meet the needs of the residents and be applicable to the type of facility to be operated, the following: safe and healthful living accommodations; personal assistance and care; observation and supervision; planned activities; food service; and arrangements for obtaining incidental medical and dental care.
- (c) (1) "California Clearance" means an individual has no felony or misdemeanor convictions reported by the California Department of Justice. However, the individual may have been arrested with no criminal conviction, convicted of a minor traffic offense or adjudicated as a juvenile.
- (2) "Capacity" means that maximum number of persons authorized to be provided services at any one time in any licensed facility.

87101 DEFINITIONS (Continued)**87101**

- (3) "Care and Supervision" means those activities which if provided shall require the facility to be licensed. It involves assistance as needed with activities of daily living and the assumption of varying degrees of responsibility for the safety and well-being of residents. "Care and Supervision" shall include, but not be limited to, any one or more of the following activities provided by a person or facility to meet the needs of the residents:
- (A) Assistance in dressing, grooming, bathing and other personal hygiene;
 - (B) Assistance with taking medication, as specified in Section 87465, Incidental Medical and Dental Care Services;
 - (C) Central storing and distribution of medications, as specified in Section 87465, Incidental Medical and Dental Care Services;
 - (D) Arrangement of and assistance with medical and dental care. This may include transportation, as specified in Section 87465, Incidental Medical and Dental Care Services;
 - (E) Maintenance of house rules for the protection of residents;
 - (F) Supervision of resident schedules and activities;
 - (G) Maintenance and supervision of resident monies or property;
 - (H) Monitoring food intake or special diets.
- (4) "Certificate holder" means a person who has a current administrator's certificate issued by the Department regardless of whether the person is employed as an administrator in a residential care facility for the elderly.
- (5) "Certified administrator" means an administrator who has been issued a residential care facility for the elderly administrator certificate by the Department and whose certificate is current.
- (6) "Classroom Hour" means sixty (60) minutes of classroom instruction with or without a break. It is recommended that no more than twenty (20) minutes of break time be included in every four (4) hours of instruction. No credit is given for meal breaks.
- (7) "Close friend" means a person who is attached to another by feelings of personal regard as indicated by both parties involved.

87101 DEFINITIONS (Continued)**87101**

- (8) "Co-locate" means that a vendor applicant is approved for more than one program type, i.e., ARF, RCFE, GH, and has received approval to teach specific continuing education courses at the same time and at the same location. Co-location is allowed for Continuing Education Training Program vendors only.
- (9) "Community Care Facility" means any facility, place or building providing nonmedical care and supervision, as defined in Section 87101(c)(2).
- (10) "Complete request" means the vendor applicant has submitted, and the Department has received, all required information and materials necessary to approve or deny the request for certification program and/or course approval.
- (11) "Conservator" means a person appointed by the Superior Court pursuant to Probate Code section 1800 et. seq. or Welfare and Institutions Code section 5350, to care for the person, or estate, or person and estate, of an adult.
- (12) "Consultant" means a person professionally qualified by training and experience to provide expert information on a particular subject.
- (13) "Continuing Care Contract" is defined in Health and Safety Code section 1771(c)(8).

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Health and Safety Code section 1771(c)(8) provides:

"Continuing care contract' means a contract that includes a continuing care promise made, in exchange for an entrance fee, the payment of periodic charges, or both types of payments. A continuing care contract may consist of one agreement or a series of agreements and other writings incorporated by reference."

HANDBOOK ENDS HERE

- (14) "Continuing Education Training Program Vendor" means a vendor approved by the Department to provide continuing education training courses to residential care facility for the elderly administrators and certificate holders to qualify them for renewal of their residential care facility for the elderly administrator certificate.

87101 DEFINITIONS (Continued)**87101**

- (15) "Control of Property" means the right to enter, occupy, and maintain the operation of the facility property within regulatory requirements. Evidence of control of property shall include, but is not limited to, the following:
- (A) A Grant Deed showing ownership; or
 - (B) The Lease Agreement or Rental Agreement; or
 - (C) A court order or similar document which shows the authority to control the property pending outcome of probate proceeding or estate settlement.
- (16) "Conviction" means:
- (A) A criminal conviction in California; or
 - (B) Any criminal conviction of another state, federal, military or other jurisdiction, which if committed or attempted in California, would have been punishable as a crime in California.
- (17) "Course" means either, (1) a quarter- or semester-long structured sequence of classroom instruction covering a specific subject, or (2) a one-time seminar, workshop, or lecture of varying duration.
- (18) "Criminal Record Clearance" means an individual has a California clearance and a FBI clearance.
- (d) (1) "Day" means calendar day unless otherwise specified.
- (2) "Deficiency" means any failure to comply with any provision of the Residential Care Facilities Act for the Elderly and regulations adopted by the Department pursuant to the Act.
- (3) "Delayed Egress Device" means a special egress-control device of the time delay type as specified in Health and Safety Code section 1569.699(a).

HANDBOOK BEGINS HERE

Health and Safety Code section 1569.699(a) provides:

"When approved by the person responsible for enforcement as described in Section 13146, exit doors in facilities classified as Group R, Division 2 facilities under the California Building Standards Code, licensed as residential care facilities for the elderly, and housing clients with Alzheimer's disease or dementia, may be equipped with approved listed special egress-control devices of the time-delay type, provided the building is protected throughout by an approved automatic sprinkler system and an approved automatic smoke-detection system. The devices shall conform to all of the following requirements:

- (1) Automatic deactivation of the egress-control device upon activation of either the sprinkler system or the detection system.
- (2) Automatic deactivation of the egress-control device upon loss of electrical power to any one of the following: The egress-control device; the smoke-detection system; exit illumination as required by Section 1012 of the California Building Code.
- (3) Be capable of being deactivated by a signal from a switch located in an approved location.
- (4) Initiate an irreversible process that will deactivate the egress-control device whenever a manual force of not more than 15 pounds (66.72N) is applied for two seconds to the panic bar or other door-latching hardware. The egress-control device shall deactivate within an approved time period not to exceed a total of 15 seconds, except that the person responsible for enforcement as described in Section 13146 may approve a delay not to exceed 30 seconds in residential care facilities for the elderly serving patients with Alzheimer's disease. The time delay established for each egress-control device shall not be field adjustable.
- (5) Actuation of the panic bar or other door-latching hardware shall activate an audible signal at the door.
- (6) The unlatching shall not require more than one operation.

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- (7) A sign shall be provided on the door located above and within 12 inches (305mm) of the panic bar or other door-latching hardware reading:

KEEP PUSHING, THIS DOOR WILL OPEN IN ____ SECONDS, ALARM WILL SOUND.

Sign letters shall be at least one inch (25mm) in height and shall have a stroke of not less than 1/8 inch (3.3mm).

- (8) Regardless of the means of deactivation, relocking of the egress-control device shall be by manual means only at the door."

HANDBOOK ENDS HERE

- (4) "Dementia" means the loss of intellectual function (such as thinking, remembering, reasoning, exercising judgment and making decisions) and other cognitive functions, sufficient to interfere with an individual's ability to perform activities of daily living or to carry out social or occupational activities. Dementia is not a disease itself, but rather a group of symptoms that may accompany certain conditions or diseases, including Alzheimer's Disease. Symptoms may include changes in personality, mood, and/or behavior. Dementia is irreversible when caused by disease or injury, but may be reversible when caused by depression, drugs, alcohol, or hormone/vitamin imbalances.
- (5) "Department" is defined in Health and Safety Code section 1569.2(c).

HANDBOOK BEGINS HERE

Health and Safety Code section 1569.2(c) provides:

"'Department' means the State Department of Social Services."

HANDBOOK ENDS HERE

- (6) "Dietitian" means a person who is eligible for registration by the American Dietetic Association.
- (7) "Direct care staff" means the licensee, or those individuals employed by the licensee, who provide direct care to the residents, including, but not limited to, assistance with activities of daily living.
- (8) "Director" is defined in Health and Safety Code section 1569.2(d).

HANDBOOK BEGINS HERE

Health and Safety Code section 1569.2(d) provides:

"'Director' means the Director of the State Department of Social Services."

HANDBOOK ENDS HERE

- (9) "Do-Not-Resuscitate (DNR) Form" means the pre-hospital do-not-resuscitate forms developed by the California Emergency Medical Services Authority and by other local emergency medical services agencies. These forms, when properly completed by a resident or (in certain instances) a resident's Health Care Surrogate Decision Maker, and by a physician, alert pre-hospital emergency medical services personnel to the resident's wish to forego resuscitative measures in the event of the resident's cardiac or respiratory arrest.
- (10) "Documentation" means written supportive information including but not limited to the Licensing Report (Form LIC 809).
- (e) (1) "Egress Alert Device" means a wrist band or other device which may be worn by a resident or carried on a resident's person, which triggers a visual or auditory alarm when the resident leaves the facility building or grounds.
- (2) "Elderly Person" means, for purposes of admission into a residential care facility for the elderly, a person who is sixty (60) years of age or older.
- (3) "Emergency Approval to Operate" (EAO) means a temporary approval to operate a facility for no more than 60 days pending the issuance or denial of a license by the licensing agency.
- (4) "Evaluator" means any person who is a duly authorized officer, employee or agent of the Department including any officer, employee or agent of a county or other public agency authorized by contract to license community care facilities.
- (5) "Evidence of Licensee's Death" shall include, but is not limited to, a copy of the death certificate, obituary notice, certification of death from the decedent's mortuary, or a letter from the attending physician or coroner's office verifying the death of the licensee.
- (6) "Exception" means a variance to a specific regulation based on the unique needs or circumstances of a specific resident or staff person. Requests for exceptions are made to the licensing agency by an applicant or licensee. They may be granted for a particular facility, resident or staff person, but cannot be transferred or applied to other individuals.

87101 DEFINITIONS (Continued)**87101**

- (7) "Existing Facility" means any facility operating under a valid license on the date of application for a new license.
- (f) (1) "Facility Hospice Care Waiver" means a waiver from the limitation on retention of residents who require more care and supervision than other residents and residents who are bedridden other than for a temporary illness. The Hospice Care Waiver granted by the Department will permit the retention in a facility of a designated maximum number of terminally ill residents who are receiving hospice services from a hospice agency. The Facility Hospice Care Waiver will apply only to those residents who are receiving hospice care in compliance with a hospice care plan meeting the requirements of Section 87633, Hospice Care for Terminally Ill Residents.
- (2) "Federal Bureau of Investigation (FBI) Clearance" means an individual has no felony or misdemeanor convictions reported by the FBI. The individual may also have been arrested with no criminal conviction, convicted of a minor traffic offense or adjudicated as a juvenile.
- (g) (1) "Guardian" means a person appointed by the Superior Court pursuant to Probate Code section 1500 et seq. to care for the person, or person and estate, of a child.
- (h) (1) "Healing wounds" include cuts, stage one and two dermal ulcers as diagnosed by a physician, and incisions that are being treated by an appropriate skilled professional with the affected area returning to its normal state. They may involve breaking or laceration of the skin and usually damage to the underlying tissues.
- (2) "Health Care Provider" means those persons described in Probate Code section 4621: "an individual licensed, certified, or otherwise authorized or permitted by the law of this state to provide health care in the ordinary course of business or practice of a profession."
- (3) "Health Care Surrogate Decision Maker" means an individual who participates in health care decision making on behalf of an incapacitated resident. Health care surrogate decision maker may be formally appointed (e.g., by the resident in a Durable Power of Attorney for Health Care or by a court in a conservatorship proceeding) or, in the absence of a formal appointment, may be recognized by virtue of a relationship with the resident (e.g., the resident's next of kin). The licensee or any staff member of the facility shall not be appointed health care surrogate decision maker.
- (4) "Health Condition Relocation Order" means written notice by the Department to a licensee requiring the relocation of a resident from a residential care facility for the elderly because the resident has a health condition which cannot be cared for within the limits of the license, requires inpatient care in a health facility or has a prohibited health condition as specified in Section 87615, Prohibited Health Conditions.

87101 DEFINITIONS (Continued)**87101**

- (5) "Home Economist" means a person who holds a baccalaureate or higher degree in home economics and who specialized in either food and nutrition or dietetics.
- (6) "Hospice or Hospice Agency" means an entity which provides hospice services to terminally ill persons, is Medicare certified for hospice, and holds either a Hospice license or a Home Health Agency license from the California Department of Health Services. Any organizations, appropriately skilled professionals, or other professional persons or entities that are subcontracted by the hospice or hospice agency for the provision of specified hospice services to the resident are included within the definition. The hospice agency providing services in an RCFE shall not subcontract with the licensee or any facility staff for the provision of services.
- (7) "Hospice Care Plan" means the hospice agency's written plan of care for a terminally ill resident. The hospice shall retain overall responsibility for the development and maintenance of the plan and quality of hospice services delivered.
- (i) (1) "Immediate Need" means a situation where prohibiting the operation of the facility would be detrimental to a resident's physical health, mental health, safety, or welfare. Examples of immediate need include but are not limited to:
 - (A) A change in facility location when residents are in need of services from the same operator at the new location;
 - (B) A change of facility ownership when residents are in need of services from the new operator.
- (2) "Initial Certification Training Program Vendor" means a vendor approved by the Department to provide the initial forty (40) hour certification training program to persons who do not possess a valid residential care facility for the elderly administrator certificate.
- (3) "Initial Vendor Application" means the application form, LIC 9141, used to request approval from the Department to become a vendor for the first time.
- (4) "Instruction" means to furnish an individual with knowledge or to teach, give orders, or direction of a process or procedure.

87101 DEFINITIONS (Continued)**87101**

- (5) "Interdisciplinary Team" means a team that shall assist the Department in evaluating the need for relocating a resident of a residential care facility for the elderly when the resident has requested a review of the Department's health-condition relocation order. This team shall consist of the Department's nurse consultant and a social worker, designated by the Department, with experience in the needs of the elderly. Persons selected for an interdisciplinary team review shall not have been involved in the initial decision to issue a relocation order for the resident in question.
- (j) (Reserved)
- (k) (Reserved)
- (l) (1) "License" is defined in Health and Safety Code section 1569.2(g).

HANDBOOK BEGINS HERE

Health and Safety Code section 1569.2(g) reads:

"License" means a basic permit to operate a residential care facility for the elderly.

HANDBOOK ENDS HERE

- (2) "Licensed Professional" means a person who is licensed in California to provide medical care or therapy. This includes physicians and surgeons, physician assistants, nurse practitioners, registered nurses, licensed vocational nurses, psychiatric technicians, physical therapists, occupational therapists and respiratory therapists, who are operating within his/her scope of practice.
- (3) "Licensee" means the individual, firm, partnership, corporation, association or county having the authority and responsibility for the operation of a licensed facility.
- (4) "Licensing Agency" means a state, county or other public agency authorized by the Department to assume specified licensing, approval or consultation responsibilities pursuant to Health and Safety Code section 1569.13.
- (m) (1) "Medical Professional" means an individual who is licensed or certified in California to perform the necessary medical procedures within his/her scope of practice. This includes, but is not limited to, Medical Doctor (MD), Registered Nurse (RN) and Licensed Vocational Nurse (LVN).

87101 DEFINITIONS (Continued)**87101**

- (2) "Mild cognitive impairment" (MCI) refers to people whose cognitive abilities are in a "conditional state" between normal aging and dementia. Normal age-related memory changes can include forgetting a person's name or the location of an object, however, individuals with MCI have difficulty with short-term memory loss. MCI is a state in which at least one cognitive function, usually short-term memory, is impaired to an extent that is greater than would be anticipated in the normal aging process. MCI is characterized by short-term memory problems, but no other symptoms of dementia (e.g., problems with language, judgment, changes in personality or behavior) that affect a person's daily functioning. Individuals with MCI may experience some difficulty with intellectually demanding activities, but lack the degree of cognitive and functional impairment required to meet diagnostic criteria for dementia.
- (n) (1) "New Facility" means any facility applying for an initial license whether newly constructed or previously existing for some other purpose.
- (2) "Nonambulatory Person" means a person who is unable to leave a building unassisted under emergency conditions. It includes, but is not limited to, those persons who depend upon mechanical aids such as crutches, walkers, and wheelchairs. It also includes persons who are unable, or likely to be unable, to respond physically or mentally to an oral instruction relating to fire danger and, unassisted, take appropriate action relating to such danger.
- (3) "Non-Compliance Conference" means a meeting initiated by the Department that takes place between the licensing agency and the licensee to afford the licensee an opportunity to correct licensing violations other than those that pose an immediate danger to residents and that may result in a corrective plan of action. Its purpose is to review the existing deficiencies and to impress upon the licensee the seriousness of the situation prior to the agency requesting administrative action to revoke the license. The Department may initiate administrative action without a non-compliance conference.
- (4) "Nutritionist" means a person holding a master's degree in food and nutrition, dietetics, or public health nutrition, or who is employed by a county health department in the latter capacity.
- (o) (Reserved)
- (p) (1) "Physician" means a person licensed as a physician and surgeon by the California Board of Medical Examiners or by the California Board of Osteopathic Examiners.
- (2) "Placement Agency" as defined in Health and Safety Code section 1569.47(a), means any county welfare department, county social services department, county mental health department, county public guardian, general acute care hospital discharge planner or coordinator, state-funded program or private agency providing placement or referral services, and regional center for persons with developmental disabilities which is engaged in finding homes or other places for the placement of elderly persons for temporary or permanent care.

87101 DEFINITIONS (Continued)**87101**

- (3) "PRN Medication" (pro re nata) means any nonprescription or prescription medication which is to be taken as needed.
- (4) "Provision" or "Provide." Whenever any regulation specifies that provision be made for or that there be provided any service, personnel or other requirement, it means that if the resident is not capable of doing so himself, the licensee shall do so directly or present evidence satisfactory to the licensing agency of the particular arrangement by which another provider in the community will do so.
- (5) "Provisional License" means a temporary, nonrenewable license, issued for a period not to exceed twelve months which is issued in accordance with the criteria specified in section 87162, Provisional License.
- (q) (Reserved)
- (r) (1) "Rehabilitation" means the effort to reestablish good character since the date of the last conviction, including, but not limited to, education, counseling or therapy, training, stable employment, restitution, remorse, changes in lifestyle, or community service.
- (2) "Relative" means spouse, parent, stepparent, son, daughter, brother, sister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin or any such person denoted by the prefix "grand" or "great", or the spouse of any of the persons specified in this definition, even if the marriage has been terminated by death or dissolution.
- (3) "Renewal Vendor Application" means the application form, LIC 9141, used to request approval from the Department to continue another two (2) years as an approved vendor.
- (4) "Request to Forego Resuscitative Measures" is defined in Probate Code section 4780.

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Probate Code section 4780 provides:

- "(a) As used in this part:
- (1) 'Request to forego resuscitative measures' means a written document, signed by
- (A) an individual, or a legally recognized surrogate health care decisionmaker, and
- (B) a physician that directs a health care provider to forego resuscitative measures for the individual.

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87101 DEFINITIONS (Continued)

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(2) 'Request to forego resuscitative measures' includes a prehospital 'do not resuscitate' form as developed by the Emergency Medical Services Authority or other substantially similar form.

(b) A request to forego resuscitative measures may also be evidenced by a medallion engraved with the words 'do not resuscitate' or the letters 'DNR', a patient identification number, and a 24-hour toll-free telephone number, issued by a person pursuant to an agreement with the Emergency Medical Services Authority."

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- (5) "Residential Care Facility for the Elderly" means a housing arrangement chosen voluntarily by the resident, the resident's guardian, conservator or other responsible person; where 75 percent of the residents are sixty years of age or older and where varying levels of care and supervision are provided, as agreed to at time of admission or as determined necessary at subsequent times of reappraisal. Any younger residents must have needs compatible with other residents.
- (6) "Responsible Person" means that individual or individuals, including a relative, health care surrogate decision maker, or placement agency, who assist the resident in placement or assume varying degrees of responsibility for the resident's well-being.
- (7) "Room and Board" means a living arrangement where care and supervision is neither provided nor available.
- (s) (1) "Serious Deficiency" means any deficiency that presents an immediate or substantial threat to the physical health, mental health, or safety of the residents or clients of a community care facility.
- (2) "Shall" means mandatory. "May" means permissive.
- (3) "Significant Other" means a person, including a person of the same gender, with whom a resident was sharing a partnership prior to his/her placement in a Residential Care Facility for the Elderly (RCFE). The partnership involves two adults who have chosen to share one another's lives in an intimate and committed relationship of mutual caring.
- (4) "Simplified Exemption" means an exemption granted on the Department's own motion, as authorized in Health and Safety Code section 1569.17(c)(4), if the individual's criminal history meets specific criteria established by Department regulation.

87101 DEFINITIONS (Continued)**87101**

- (5) "Singular-Plural." Whenever in these regulations the singular is used, it can include the plural.
- (6) "Social Worker" means a person who has a graduate degree from an accredited school of social work or who has equivalent qualifications as determined by the Department.
- (7) "SSI/SSP" means the Supplemental Security Income/State Supplemental Program.
- (8) Standard Precautions. See "Universal Precautions."
- (9) "Substantial Compliance" means the absence of any deficiencies which would threaten the physical health, mental health, safety or welfare of the residents. Such deficiencies include, but are not limited to, those deficiencies referred to in Section 87758, Serious Deficiencies - Examples, and the presence of any uncorrected serious deficiencies for which civil penalties could be assessed.
- (10) "Supervision" means to oversee or direct the work of an individual or subordinate but does not necessarily require the immediate presence of the supervisor.
- (t) (1) "Terminally Ill Resident" means that the resident has a prognosis by his/her attending physician that the resident's life expectancy is six months or less if his/her illness or condition runs its normal course.
- (2) "Transfer Trauma" means the consequences of the stress and emotional shock caused by an abrupt, involuntary relocation of a resident from one facility to another.
- (u) (1) "Universal Precautions" means an approach to infection control that treats all human blood and body fluids as if they are infectious. Generally, universal precautions consist of regular hand washing after coming into contact with another person's body fluids (mucous, saliva, urine, etc.) and includes use of gloves when handling blood or body fluids that contain blood. Specifically, universal precautions consist of the following four basic infection control guidelines:
 - (A) Hand washing - Staff should wash their hands in the following situations, but not limited to these situations:
 - 1. After assisting with incontinent care or wiping a resident's nose.
 - 2. Before preparing or eating food.

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

3. After using the toilet.
 4. Before and after treating or bandaging a cut.
 5. After wiping down surfaces, cleaning spills, or any other housekeeping.
 6. After being in contact with any body fluids from another person, even if they wore gloves during contact with body fluids.
- (B) Gloves
1. Use gloves only one time, for one incident or resident.
 - (i) Air dry the hands or dry the hands on a single-use paper towel prior to putting on a new pair of gloves.
 - (ii) Dispose of used gloves immediately after use.
 2. Staff should always wear gloves in the following situations, but not limited to these situations:
 - (i) When they come into contact with blood or body fluids.
 - (ii) When they have cuts or scratches on their hands.
 - (iv) When administering first aid for a cut, a bleeding wound, or a bloody nose.
- (C) Cleaning with a disinfectant - Staff should clean with a disinfectant:
1. On all surfaces and in the resident's room and on an "as needed" basis on any surface that has come into contact with blood.
 2. Such as a basic bleach solution, made fresh daily by mixing 1/4 cup household liquid chlorine bleach in one gallon of tap water, or one tablespoon bleach in one quart of water.
- (D) Proper disposal of infectious materials - Staff should dispose of infectious materials by placing them in a plastic trash bag, tying the bag with a secure tie, and disposing of it out of reach of residents and children.

87101 DEFINITIONS (Continued)**87101**

- (2) "Unlicensed Residential Facility for the Elderly" means a facility as defined in Health and Safety Code section 1569.44.

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Health and Safety Code section 1569.44(a) provides:

"(a) A facility shall be deemed to be an 'unlicensed residential care facility for the elderly' and 'maintained and operated to provide residential care' if it is unlicensed and not exempt from licensure, and any one of the following conditions is satisfied:

- (1) The facility is providing care and supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.
- (2) The facility is held out as, or represented as, providing care and supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.
- (3) The facility accepts or retains residents who demonstrate the need for care and supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.
- (4) The facility represents itself as a licensed residential facility for the elderly."

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- (A) A facility which is "providing care and supervision" as defined in Section 87101(c)(2) includes, but is not limited to, one in which individual has been placed by a placement agency or family members.
- (B) A facility which is "held out as or represented as providing care and supervision" includes, but is not limited to:
 - (1) A facility whose license has been revoked or denied, but the individual continues to provide care for the same or different clients with similar needs.
 - (2) A facility where change of ownership has occurred and the same clients are retained.

87101 DEFINITIONS (Continued)**87101**

- (3) A licensed facility that moves to a new location.
- (4) A facility which advertises as providing care and supervision.
- (C) A facility which "accepts or retains residents who demonstrate the need for care and supervision" includes, but is not limited to:
 - (1) A facility with residents requiring care and supervision, even though the facility is providing board and room only, or board only, or room only.
 - (2) A facility where it is apparent that care and supervision are being provided by virtue of the client's needs being met.
- (v) (1) "Vendor" means a Department-approved institution, association, individual(s), or other entity that assumes full responsibility or control over a Department-approved Initial Certification Training Program or a Continuing Education Training Program.
- (2) "Vendor applicant" means any institution, association, individual(s), or other entity that submits a request for approval of an Initial Certification Training Program or a Continuing Education Training Program.
- (3) "Voluntary" means resulting from free will.
- (w) (1) "Waiver" means a variance to a specific regulation based on a facility-wide need or circumstance which is not typically tied to a specific resident or staff person. Requests for waivers are made to the licensing agency, in advance, by an applicant or licensee.
- (x) (Reserved)
- (y) (Reserved)
- (z) (Reserved)

NOTE: Authority cited: Sections 1569.23, 1569.30, 1569.616 and 1569.698, Health and Safety Code. Reference: 42 CFR 418.3; Sections 1569.1, 1569.2, 1569.5, 1569.10, 1569.145, 1569.15, 1569.153, 1569.157, 1569.158, 1569.17, 1569.19, 1569.191, 1569.193, 1569.20, 1569.21, 1569.23, 1569.31, 1569.312, 1569.33, 1569.38, 1569.44, 1569.47, 1569.54, 1569.616, 1569.626, 1569.699, 1569.73, 1569.74, 1569.82, 1771 and 1797.196, Health and Safety Code; Sections 5350 and 15610.13, Welfare and Institutions Code; Sections 1500, 1800 and 4780, Probate Code.

87102	DESCRIPTIONS OF FORMS	87102
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The following forms, which are incorporated by reference, apply to the regulations in Title 22, Division 6, Chapter 8 (Residential Care Facilities for the Elderly).

- (a) LIC 9139 (2/05) - Renewal of Continuing Education Course Approval, Administrator Certification Program.
- (b) LIC 9140 (7/04) - Request for Course Approval, Administrator Certification Program.
- (c) LIC 9140A (1/06) - Request to Add or Remove Instructor.
- (d) LIC 9141 (3/04) - Vendor Application/Renewal, Administrator Certification Program.
- (e) PUB 325 (1/04) – Your Right To Make Decisions About Medical Treatment.
- (f) Core of Knowledge Guidelines (6/01/01) - RCFE 40-Hour Initial Certification.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Section 1569.616, Health and Safety Code.

Article 2. License**87105 LICENSE REQUIRED****87105**

- (a) Pursuant to Health and Safety Code, Section 1569.10, any individual or legal entity providing or intending to provide care and supervision to the elderly in a residential facility shall obtain a current valid license pursuant to the provisions of this chapter. This shall not require an adult residential facility to relocate a resident who becomes 60, nor to change licensing category, provided that the resident's needs remain compatible with those of other residents, and the licensing agency has approved an exception request.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.10, 1569.44 and 1569.45, Health and Safety Code.

87106 OPERATION WITHOUT A LICENSE**87106**

- (a) An unlicensed facility as defined in Section 87101(u)(2) is in violation of section 1569.10, 1569.44, and/or 1569.45 of the Health and Safety Code unless the facility is exempted from licensure under Section 87107(a).
- (b) If the facility is alleged to be in violation of section 1569.10 and/or 1569.44 and/or 1569.45 of the Health and Safety Code, the licensing agency shall conduct a site visit and/or evaluation of the facility pursuant to Health and Safety Code section 1569.35.

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Health and Safety Code section 1569.35(c) provides in part:

"Upon receipt of a complaint, other than a complaint alleging denial of a statutory right of access to a residential care facility for the elderly, the department shall make a preliminary review and, unless the department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, it shall make an onsite inspection within 10 days after receiving the complaint.... In either event, the complainant shall be promptly informed of the department's proposed course of action."

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- (c) If the facility is operating without a license, the licensing agency shall issue a Notice of Operation in Violation of Law, and shall refer the case for criminal prosecution and/or civil proceedings.
- (d) The licensing agency shall issue an immediate civil penalty pursuant to Section 87768, Unlicensed Facility Penalties and Health and Safety Code section 1569.485.

87106 OPERATION WITHOUT A LICENSE (Continued)**87106**

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Health and Safety Code sections 1569.485(a) and (b) provides in part:

"(a) Notwithstanding any other provision of this chapter, any person who violates section 1569.10 or 1569.44, or both, shall be assessed by the department an immediate civil penalty in the amount of one hundred dollars (\$100) per resident each day of violation....

(b) The civil penalty... shall be doubled if an unlicensed facility is operated and the operator refuses to seek licensure or the operator seeks licensure and the licensure application is denied and the operator continues to operate the unlicensed facility...."

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- (e) Sections 87106(c) and (d) shall be applied in any combination deemed appropriate by the licensing agency.
- (f) The licensing agency shall notify the appropriate local or state Ombudsman, placement, or adult protective service agency if either of the following conditions exist:
- (1) There is an immediate threat to the residents' health and safety.
 - (2) The facility does not submit an application for licensure within 15 calendar days of being served a Notice of Operation in Violation of Law.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.10, 1569.19, 1569.335, 1569.35, 1569.40, 1569.405, 1569.41, 1569.42, 1569.43, 1569.44, 1569.45, 1569.47, 1569.485 and 1569.495, Health and Safety Code.

87107 EXEMPTION FROM LICENSURE**87107**

- (a) The following shall be allowed to operate without being licensed as a residential care facility for the elderly:
- (1) Any health facility, as defined by Health and Safety Code section 1250.
 - (2) Any clinic, as defined by Health and Safety Code section 1202.

87107 EXEMPTION FROM LICENSURE (Continued)**87107**

- (3) Any facility conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend on prayer or spiritual means for healing in the practice of the religion of such church or denomination. Such facilities shall be limited to those facilities or portions thereof which substitute prayer for medical/nursing services which would otherwise be provided for or required by residents in a health facility, as defined by section 1200 or 1250 of the Health and Safety Code.
- (4) Any house, institution, hotel or other similar place that supplies board and room only, or room only, or board only, if no element of care and/or supervision, as defined by this chapter, is provided, made available, or contractually promised, such as in a life care agreement or program agreement with a facility. However, this shall not preclude care and/or supervision provided for brief and irregular periods of time for reasons such as temporary illnesses or emergencies provided that such is determined to be minor and temporary and does not require twenty-four (24) hours supervision of the resident(s).
- (5) Recovery houses or other similar facilities providing group living arrangements for persons recovering from alcoholism or drug addiction where the facility provides no care and supervision.
- (6) Any alcoholism recovery facility as defined by Health and Safety Code section 11834.02(a) relating to alcohol programs.

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Health and Safety Code section 11834.02(a) provides:

An "alcoholism or drug abuse recovery or treatment facility' or 'facility' means any premises, place, or building that provides 24-hour residential nonmedical to adults who are recovering from problems related to alcohol, drug, or alcohol and drug misuse or abuse, and who need alcohol, drug or alcohol and drug recovery treatment or detoxification services."

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- (7) Any care and supervision of persons by a family member. For purposes of this section "family member" means any spouse, by marriage or otherwise, child or stepchild, by natural birth or by adoption, parent, brother, sister, half-brother, half-sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or any person denoted by the prefix "grand" or "great", or the spouse of any of these persons, even if the marriage has been terminated by death or dissolution.

87107 EXEMPTION FROM LICENSURE (Continued)**87107**

- (8) Any arrangement for the care and supervision of a person or persons from only one family by a close friend who is not a licensee or current employee of a Residential Care Facility for the Elderly or of an Adult Residential Facility, and whose friendship pre-existed a provider/recipient relationship, and all of the following conditions are met:
- (A) The care and supervision is provided in a home or residence chosen by the recipient, regardless of who owns the home or residence.
 - (B) The arrangement is not of a business nature, in that the provider does not represent himself or herself as being in the business of provision of care, and any compensation that may be paid to the provider is only for the value of the services rendered.
 - (C) The arrangement occurs and continues only as long as the needs for care and supervision of the recipient are being adequately met.
- (9) Any housing project for elderly or disabled individuals that meets federal requirements as specified in Health and Safety Code section 1569.145(g).

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Health and Safety Code section 1569.145(g) provides:

"Any housing for elderly or disabled persons, or both, that is approved and operated pursuant to Section 202 of Public Law 86-372 (12 U.S.C.A. Sec. 1701q), or Section 811 of Public Law 101-625 (42 U.S.C.A. Sec 8013), or whose mortgage is insured pursuant to Section 236 of Public Law 90-448 (12 U.S.C.A. Sec. 1715z), or that receives mortgage assistance pursuant to Section 221d(3) of Public Law 87-70 (12 U.S.C.A. Sec.17151), where supportive services are made available to residents at their option, as long as the project owner or operator does not contract for or provide the supportive services. The project owner or operator may coordinate, or help residents gain access to, the supportive services, either directly, or through a service coordinator."

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- (10) Any similar facility as determined by the Director.

NOTE: Authority cited: Sections 1569.145 and 1569.30, Health and Safety Code. Reference: Sections 1505, 1569.145 and 11834.02, Health and Safety Code; and Grimes v. CDSS (1999) 70 Cal.App.4th 1065.

87108 INTEGRAL FACILITIES**87108**

- (a) Upon written application, the licensing agency may issue a single license to integral facilities conducting multiple, related programs which would otherwise require separate licenses provided all of the following requirements are met:
- (1) Separate buildings or portions of the facility shall be integral components of a single program.
 - (2) All components of the program shall be managed by the same licensee.
 - (3) All components of the program shall be conducted at a single site.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Section 1569.30, Health and Safety Code.

87109 TRANSFERABILITY OF LICENSE**87109**

- (a) The license shall not be transferable.
- (b) The licensee shall notify the licensing agency and all residents receiving services, or their responsible persons, in writing as soon as possible and in all cases at least sixty (60) days prior to the effective date that any change in ownership of the facility occurs as required by Health and Safety Code section 1569.191(a)(1).
- (c) In all other instances, including a change in licensee, type of license, or location of the facility, the licensee shall notify the licensing agency and all residents receiving services, or their responsible persons, in writing as soon as possible and in all cases at least thirty (30) days prior to the effective date of that change.
- (d) In the case of change of ownership or licensee a new application for license shall be submitted by the prospective new licensee.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.11 and 1569.191, Health and Safety Code.

**87111 CONTINUATION OF LICENSE UNDER EMERGENCY
CONDITIONS OR SALE OF PROPERTY****87111**

- (a) The licensing agency may consent to a change of location and continuation of the existing license of any facility for a reasonable period of time when the change is requested because of the accidental destruction of the licensed premises or similar emergency conditions, so long as the new location or place of performance conforms to building, fire and life safety standards.
- (b) In the event of a licensee's death, an adult who has control of the property, and had been designated by the licensee as the party responsible to continue operation of the facility upon a licensee's death shall:
 - (1) notify the Department by the next working day of the licensee's death;
 - (2) inform the Department within 5 working days if the designee decides not to apply for licensure.
 - (A) If the designee decides not to apply, the Department will help the designee develop and implement a relocation plan for facility residents.
- (c) The Department may permit a designee to continue operation of a previously licensed facility, and grant an Emergency Approval to Operate (EAO) to a facility for up to 60 days pending issuance or denial of a license, provided the following requirements of Health and Safety Code section 1569.193 are met:
 - (1) The designee notifies the Department during the next working day following the death of the licensee, that he/she will continue to operate the facility.
 - (2) A notarized designation of the adult, authorized by the licensee, to continue operation of the facility in the event of the licensee's death, was filed by the licensee with the Department.
 - (A) The notarized statement was signed by the designee, and indicated acceptance of the designation.
 - (B) The notarized statement contains, or is accompanied by a declaration under penalty of perjury, regarding any criminal convictions of the designee.
 - (3) The designee is able to operate the facility to the satisfaction of the Department.
 - (4) The designee files an application for licensure, and provides a copy of the licensee's death certificate, obituary notice, certification of death from the decedent's mortuary, or a letter from the attending physician or coroner's office verifying the death of the licensee, within 20 calendar days of the licensee's death.

**87111 CONTINUATION OF LICENSE UNDER EMERGENCY
CONDITIONS OR SALE OF PROPERTY (Continued)****87111**

- (5) The applicant who is issued an EAO shall perform all the duties, functions, and responsibilities required of a licensee.
 - (A) Failure to comply with licensing laws and regulations under Section 87111(b) as determined by the licensing agency, shall result in the denial of the application for license. This denial shall also constitute termination of the EAO.
 - (B) The licensing agency shall provide written notification of the denial and this notice shall be effective immediately upon receipt.
- (d) The Department shall determine, within 60 days, after receipt of the completed application, whether a license will be issued.
- (e) Following receipt of a completed application, the designee shall not be considered to be operating an unlicensed facility while the Department decides whether to grant the license.
- (f) In the event of the sale and transfer of property and business, the applicant (buyer) shall be issued an EAO if the applicant (buyer) complies with Health and Safety Code section 1569.191.

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Health and Safety Code, section 1569.191 provides in part:

“(a) Notwithstanding section 1569.19, in the event of a sale of a licensed facility where the sale will result in a new license being issued, the sale and transfer of property and business shall be subject to both of the following:

- (1) The licensee shall provide written notice to the department and to each resident or his or her legal representative of the licensee's intent to sell the facility at least 30 days prior to the transfer of property or business, or at the time that a bona fide offer is made, whichever period is longer.
- (2) The licensee shall, prior to entering into an admission agreement, inform all residents, or their legal representatives, admitted to the facility after notification to the department, of the licensee's intent to sell the property or business.

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Regulations	RESIDENTIAL CARE FACILITIES FOR THE ELDERLY	87111
87111	CONTINUATION OF LICENSE UNDER EMERGENCY CONDITIONS OR SALE OF PROPERTY (Continued)	87111

HANDBOOK CONTINUES

- (b) Except as provided in subdivision (e), the property and business shall not be transferred until the buyer qualifies for a license or provisional license within the appropriate provisions of this chapter.
- (1) The seller shall notify, in writing, a prospective buyer of the necessity to obtain a license, as required by this chapter, if the buyer's intent is to continue operating the facility as a residential care facility for the elderly. The seller shall send a copy of this written notice to the licensing agency.
- (2) The prospective buyer shall submit an application for a license, as specified in section 1569.15, within five days of the acceptance of the offer by the seller.
- (c) No sale of the facility shall be permitted until 30 days have elapsed from the date upon which notice has been provided pursuant to paragraphs (1) and (2) of subdivision (a).
- (d) The department shall give priority to applications for licensure which are submitted pursuant to this section in order to ensure timely transfer of the property and business. The department shall make a decision within 60 days after a complete application is submitted on whether to issue a license pursuant to section 1569.15.
- (e) If the parties involved in the transfer of the property and business fully comply with this section then the transfer may be completed and the buyer shall not be considered to be operating an unlicensed facility while the department makes final determination on the application for licensure...."

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- (g) "A bona-fide offer", as specified in Health and Safety Code section 1569.191(a)(1), shall mean a proposal by the buyer to purchase the facility with definite terms in writing communicated to the seller and accompanied by a cash deposit.

NOTE: Authority cited: Sections 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.15, 1569.191 and 1569.193, Health and Safety Code.

87112 CONDITIONS FOR FORFEITURE OF A LICENSE**87112**

- (a) Conditions for forfeiture of a residential care facility for the elderly license shall be as specified in Health and Safety Code section 1569.19.

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Health and Safety Code section 1569.19 provides in part:

"A license shall be forfeited by operation of law prior to its expiration date when one of the following occurs:

- (a) The licensee sells or otherwise transfers the facility or facility property, except when change of ownership applies to transferring of stock when the facility is owned by a corporation, and when the transfer of stock does not constitute a majority change in ownership. The sale of a facility shall be subject to the requirements of this chapter.
- (b) The licensee surrenders the license to the department.
- (c) The licensee moves the facility from one location to another. The department shall develop regulations to ensure that the facilities are not charged a full licensing fee and do not have to complete the entire application process when applying for a license for the new location.
- (d) The licensee is convicted of an offense specified in Section 220, 243.4, or 264.1, or paragraph (1) of Section 273a, Section 273d, 288, or 289 of the Penal Code, or is convicted of another crime specified in subdivision (c) of Section 667.5 of the Penal Code.
- (e) The licensee dies. When a licensee dies, the continued operation shall be subject to the requirements of Section 1569.193.
- (f) The licensee abandons the facility."

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- (1) "Licensee abandons the facility" shall mean either of the following:
- (A) The licensee informs the licensing agency that the licensee no longer accepts responsibility for the facility, or
- (B) The licensing agency is unable to determine the licensee's whereabouts after the following:
1. The licensing agency requests information of the licensee's whereabouts from the facility's staff if any staff can be contacted; and

87112 **CONDITIONS FOR FORFEITURE OF A LICENSE (Continued)** **87112**

2. The licensing agency has made at least one (1) phone call per day, to the licensee's last telephone number of record, for five (5) consecutive workdays with no response; and
3. The licensing agency has sent a certified letter, requesting the licensee to contact the licensing agency, to the licensee's last mailing address of record with no response within seven (7) calendar days.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Section 1569.19, Health and Safety Code.

87113 **POSTING OF LICENSE** **87113**

The license shall be posted in a prominent location in the licensed facility accessible to public view.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Section 1569.45, Health and Safety Code.

87114 **APPLICANT OR LICENSEE MAILING ADDRESS** **87114**

The applicant or licensee shall file his/her mailing address, in writing, with the licensing agency and shall notify the agency, in writing, of any change within 10 calendar days.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.15, 1569.20, 1569.22 and 1569.51, Health and Safety Code.

87118 **NONDISCRIMINATION** **87118**

- (a) Any adult shall be permitted to apply for a license regardless of age, sex, race, religion, color, political affiliation, national origin, disability, marital status, actual or perceived sexual orientation, or ancestry.
- (b) All licensed facilities shall receive persons on a nondiscriminatory basis according equal treatment and services without regard to race, color, religion, national origin, actual or perceived sexual orientation or ancestry.

87118 NONDISCRIMINATION (Continued)**87118**

- (c) An exception shall be made in the case of any bona fide nonprofit religious, fraternal or charitable organization which can demonstrate to the satisfaction of the Department or the licensing agency that its primary or substantial purpose is not to evade this section.
- (1) It may establish reception policies limiting or giving preference to its own members or adherents, provided, however, such membership is nondiscriminatory and such policies shall not be construed as a violation of this section.
 - (2) Any reception of nonmembers or nonadherents shall be subject to the requirements of this section.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Section 1569.31, Health and Safety Code; Section 51, Civil Code.

Article 3. Application Procedures**87155 APPLICATION FOR LICENSE****87155**

- (a) Any individual, firm, partnership, association, corporation or governmental entity desiring to obtain a license shall file with the licensing agency an application on forms furnished by the licensing agency. The licensee shall cooperate with the licensing agency in providing verification and/or documentation as requested by the licensing agency. The application and supporting documents shall contain the following:
- (1) Name or proposed name and address of facility.
 - (2) Name and address of the applicant and documentation verifying completion by the applicant of certification requirements as specified in Section 87406, Administrator Certification Requirements.
 - (A) This section shall apply to all applications for license, unless the applicant has a current license for another residential care facility for the elderly which was initially licensed prior to July 1, 1989 or has successfully completed an approved certification program within the prior five years.
 - (B) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or person serving in a like capacity or the designated administrator of the facility shall meet the requirements of this section.
 - (3) If the applicant is a partnership, the name, signature and principal business address of each partner.
 - (4) If the applicant is a corporation or association, the name, title and principal business address of each officer, executive director, and member of the governing board. The application shall be signed by the chief executive officer or authorized representative. In addition, a copy of the Articles of Incorporation, Constitution and By-laws, and the name and address of each person owning more than 10 percent of stock in the corporation shall be provided.
 - (5) If the applicant is a corporation, each member of the board of directors, executive director, and any officer shall list the name of all facilities which they have been licensed to operate, employed by or a member of the board of the directors, executive director or an officer.
 - (6) Procedures as required pursuant to section 1569.175 of the Health and Safety Code.

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Health and Safety Code section 1569.175 provides:

"(a) In addition to any other requirements of this chapter, any residential care facility for the elderly providing residential care for six or fewer persons at which the owner does not reside shall provide a procedure approved by the licensing agency for immediate response to incidents and complaints. This procedure shall include a method of assuring that the owner, licensee, or person designated by the owner or licensee is notified of the incident, that the owner, licensee, or person designated by the owner or licensee has personally investigated the matter, and that the person making the complaint or reporting the incident has received a response of action taken or a reason why no action needs to be taken.

(b) In order to assure the opportunity for complaints to be made directly to the owner, licensee, or person designated by the owner or licensee, and to provide the opportunity for the owner, licensee, or person designated by the owner or licensee to meet residents and learn of problems in the neighborhood, any facility with a nonresident owner shall establish a fixed time on a weekly basis when the owner, licensee, or person designated by the owner or licensee will be present.

(c) Facilities with nonresident owners shall establish procedures to comply with the requirements of this section on or before July 1, 1987."

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- (7) Name and address of owner of facility premises if applicant is leasing or renting.
- (8) The category of facility to be operated.
- (9) Maximum number to be served.
- (10) The name, residence and mailing addresses of the facility administrator, a description of the administrator's background and qualifications, and documentation verifying the required education and administrator certification.
- (11) Copy of the current organizational chart showing type and number of positions and line of authority. However, facilities for less than sixteen persons may furnish, in lieu of an organization chart, a list of positions and the periods of time that persons in these positions will be providing services at the facility.

87155 APPLICATION FOR LICENSE (Continued)**87155**

- (12) Evidence pursuant to Health and Safety Code, section 1520(b).

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Health and Safety Code section 1520(b) provides:

"(b) Evidence satisfactory to the department that the applicant is of reputable and responsible character. ... If the applicant is a firm, association, organization, partnership, business trust, corporation or company, like evidence shall be submitted as to the members or shareholders thereof, and the person who will be in charge of the community care facility for which application for issuance of license or special permit is made."

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- (13) A financial plan of operation on forms provided or approved by the Department. Start-up funds shall be sufficient to meet a minimum of three (3) months operating costs. In addition:
- (A) Where construction is anticipated to meet the requirements for a license, sufficient financing for the construction shall be available.
 - (B) The scope of the applicant's services shall be such that an adequate quality of service will be permitted from available funds. The licensing agency shall have the right to verify the availability of these funds.
- (14) When there is a change of licensee, the required documentation shall include the information specified in Section 87217(k).
- (15) Information concerning insurance carried by the applicant relating to the operation of the facility.
- (16) A plan of operation as specified in Section 87208, Plan of Operation.
- (17) The fee for processing the application for the requested capacity as specified in Section 87156, Licensing Fees.
- (18) Name, address and telephone number of the city or county fire department, the district providing fire protection services, or the State Fire Marshal's Office having jurisdiction in the area where the facility is located.
- (19) Such other information as may be required by the licensing agency for the proper administration and enforcement of the licensing law and regulations.
- (b) An application shall be filed with the licensing agency which serves the area in which the facility is located.

87155 APPLICATION FOR LICENSE (Continued)**87155**

NOTE: Authority cited: Sections 1569.23, 1569.30 and 1569.616, Health and Safety Code. Reference: Sections 1569.1, 1569.2, 1569.10, 1569.15, 1569.151, 1569.1515, 1569.16, 1569.17, 1569.185, 1569.19, 1569.20, 1569.21, 1569.22, 1569.23, 1569.24, 1569.312, 1569.45, 1569.60, 1569.616 and 1569.62, Health and Safety Code.

87156 LICENSING FEES**87156**

(a) An applicant or licensee shall be charged fees as specified in Health and Safety Code section 1569.185.

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Health and Safety Code section 1569.185 provides:

"(a) An application fee adjusted by facility and capacity shall be charged by the department for the issuance of a license to operate a residential care facility for the elderly. After initial licensure, a fee shall be charged by the department annually on each anniversary of the effective date of the license.

The fees are for the purpose of financing activities specified in this chapter. Fees shall be assessed as follows:

Fee Schedule

Capacity	Initial Application	Annual
1-3	\$375	\$375
4-6	\$750	\$375
7-15	\$1,126	\$563
16-30	\$1,500	\$750
31-49	\$1,876	\$938
50-74	\$2,252	\$1,126
75-100	\$2,628	\$1,314
101-150	\$3,004	\$1,502
151-200	\$3,502	\$1,751
201-250	\$4,000	\$2,000
251-300	\$4,500	\$2,250
301-350	\$5,000	\$2,500
351-400	\$5,500	\$2,750
401-500	\$6,500	\$3,250
501-600	\$7,500	\$3,750
601-700	\$8,500	\$4,250
701+	\$10,000	\$5,000

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(b) (1) In addition to fees set forth in subdivision (a), the department shall charge the following fees:

(A) A fee that represents 50 percent of an established application fee when an existing licensee moves the facility to a new physical address.

(B) A fee that represents 50 percent of the established application fee when a corporate licensee changes who has the authority to select a majority of the board of directors.

(C) A fee of twenty-five dollars (\$25) when an existing licensee seeks to either increase or decrease the licensed capacity of the facility.

(D) An orientation fee of fifty dollars (\$50) for attendance by any individual at a department-sponsored orientation session.

(E) A probation monitoring fee equal to the annual fee, in addition to the annual fee for that category and capacity for each year a license has been placed on probation as a result of a stipulation or decision and order pursuant to the administrative adjudication procedures of the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

(F) A late fee that represents an additional 50 percent of the established annual fee when any licensee fails to pay the annual licensing fee on or before the due date as indicated by postmark on the payment.

(G) A fee to cover any costs incurred by the department for processing payments including, but not limited to, bounced check charges, charges for credit and debit transactions, and postage due charges.

(H) A plan of correction fee of two hundred dollars (\$200) when any licensee does not implement a plan of correction on or prior to the date specified in the plan. (2) No local jurisdiction shall impose any business license, fee, or tax for the privilege of operating a facility licensed under this chapter which serves six or fewer persons.

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(c) (1) The revenues collected from licensing fees pursuant to this section shall be utilized by the department for the purpose of ensuring the health and **safety** of all individuals provided care or supervision by licensees and to support the activities of the licensing programs, including, but not limited to, monitoring facilities for compliance with licensing laws and regulations pursuant to this chapter, and other administrative activities in support of the licensing program, when appropriated for these purposes. The revenues collected shall be used in addition to any other funds appropriated in the annual Budget Act in support of the licensing program. (2) The department shall not utilize any portion of these revenues sooner than 30 days after notification in writing of the purpose and use, as approved by the Department of Finance, to the Chairperson of the Joint Legislative Budget Committee, and the chairpersons of the committee in each house that considers appropriations for each fiscal year. The department shall submit a budget change proposal to justify any positions or any other related support costs on an ongoing basis.

(d) A residential care facility for the elderly may use a bona fide business check to pay the license fee required under this section.

(e) The failure of an applicant for licensure or a licensee to pay all applicable and accrued fees and civil penalties shall constitute grounds for denial or forfeiture of a license.”

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- (b) The annual fee shall be according to existing licensed capacity unless the licensee requests a lower or higher capacity.
- (c) An additional fee shall be charged when the licensee requests an increase or decrease in capacity as specified in Health and Safety Code section 1569.185(b)(1)(C).
- (d) When a licensee moves a facility from one location to another, the relocation fee shall be as specified in Health and Safety Code section 1569.185(b)(1)(A).

<u>Capacity</u>	<u>Relocation</u>
1 - 6	\$ 50
7 - 15	75
16 - 49	100
50 +	125

87156 LICENSING FEES (Continued)**87156**

- (1) To qualify for the relocation fee the following shall apply:
- (A) The licensee shall have notified the licensing agency before actually relocating the facility.
 - (B) The categorical type of facility shall remain the same when relocating the facility.
 - (C) The fee shall be by requested capacity at the new location.
- (e) The fees shall be nonrefundable.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.185 and 1569.19, Health and Safety Code.

87157 APPLICATION REVIEW**87157**

- (a) No initial license shall be issued until the licensing agency has completed the following:
- (1) A review which includes an on-site survey of the proposed premises and a determination of the qualifications of the applicant.
 - (2) A determination that the applicant has secured a fire clearance from the State Fire Marshal.
 - (3) A determination that the applicant and facility comply with the provisions of Chapter 3 (commencing with section 1569) of Division 2 of the Health and Safety Code, and the regulations in this chapter.
- (b) The licensing agency shall cease review of any application as specified in Health and Safety Code section 1569.16.

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Health and Safety Code section 1569.16 provides in part:

"(a)(1) If an application for a license indicates, or the department determines during the application review process, that the applicant previously was issued a license... and the prior license was revoked within the preceding two years, the department shall cease any further review of the application until two years shall have elapsed from the date of revocation. ...

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87157 APPLICATION REVIEW (Continued)**87157**

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(b) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant had previously applied for a license under any of the chapters listed in subdivision (a) and the application was denied within the last year, the department shall, except as provided in section 1569.22, cease further review of the application until one year has elapsed from the date of the denial letter. In those circumstances where denials are appealed and upheld at an administrative hearing, review of the application shall cease for one year from the date of the decision and order being rendered by the department. The cessation of review shall not constitute a denial of the application...."

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- (1) "Application was denied within the last year" as specified in Health and Safety Code section 1569.16(b) shall include initial applications.
- (2) If cessation of review occurs, the application shall be returned to the applicant. It shall be the responsibility of the applicant to request resumption of review as specified in Health and Safety Code section 1569.16.
- (3) The application fee shall be non-refundable as specified in Section 87156(e).

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.15, 1569.16, 1569.17, 1569.20 and 1569.205, Health and Safety Code.

87158 CAPACITY**87158**

- (a) A license shall be issued for a specific capacity which shall be the maximum number of residents which can be provided care at any given time. The capacity shall be exclusive of any members of the licensee's own family who reside at the facility. However, the licensing agency shall consider the presence of other family members or other persons who reside in the facility in determining capacity in order to ensure and promote proper living arrangements for both the licensee's family and the residents and to ensure the provision of adequate care and supervision for the residents.
- (b) The number of persons that the facility is licensed to admit shall be determined on the basis of the application review by the licensing agency which shall consider:
 - (1) Physical energy and skills of the licensee as it relates to their ability to meet the needs of the residents.

87158 CAPACITY (Continued) 87158

- (2) Any other household members who may reside at the facility and their individual needs.
- (3) Physical features of the facility, such as available living space, which are necessary in order to comply with regulations.
- (4) Number of available staff to meet the care needs of the residents.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2, 1569.31 and 1569.312, Health and Safety Code.

87159 WITHDRAWAL OF APPLICATION 87159

- (a) The applicant may withdraw an application. However, unless the licensing agency consents in writing to such withdrawal, the Department or licensing agency shall not be deprived of its authority to institute or continue a proceeding against the applicant for the denial of the license upon any ground provided by law or to enter an order denying the license upon any such ground.
- (b) The fee for processing the application shall be forfeited.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.185, 1569.20, 1569.22, 1569.50, 1569.51 and 1569.52, Health and Safety Code.

87161 RESUBMISSION OF APPLICATION 87161

- (a) A new application shall be made whenever there is any change in conditions or limitations described on the current license, including, but not limited to:
 - (1) Any change in the location of the facility.
 - (2) Any change in the licensee.
 - (3) Failure to complete a new application within the required time limit.
 - (4) Any increase in capacity.
 - (A) Minor capacity increases may be granted following an evaluation by the licensing agency without the need for resubmission of an application.

87161 RESUBMISSION OF APPLICATION (Continued)**87161**

- (5) A corporate organizational change, including, but not limited to, change in structure, sale or transfer of the majority of stock, separating from a parent company, or merger with another company. The licensee shall notify the licensing agency of such organizational change within forty-eight (48) hours.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.3, 1569.10, 1569.11, 1569.15 and 1569.19, Health and Safety Code.

87162 PROVISIONAL LICENSE**87162**

- (a) The licensing agency may issue a provisional license to an applicant who has submitted a completed application for an initial license if the licensing agency determines that there are no life safety risks, that the facility is in substantial compliance, as defined in Section 87101(s)(6), with applicable law and regulations, and an immediate need for licensure exists as defined in Section 87101(i)(3).
- (1) A provisional license shall not be issued as specified in Health and Safety Code section 1569.1515(b).

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Health and Safety Code section 1569.1515(b) provides:

"(b) The department shall not issue a provisional license or license to any corporate applicant that has a member of the board of directors, the executive director, or an officer who is not eligible for licensure pursuant to sections 1569.16 and 1569.59."

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- (b) The capacity of a provisional license shall be limited to the number of residents for whom immediate need has been established, or the capacity established for the specific facility, whichever is less.
- (c) A provisional license shall not be renewable and shall terminate on the date specified on the license, or upon denial of the application, whichever is earlier.
- (1) A provisional license may be issued for a maximum of six (6) months when the licensing agency determines that full compliance with licensing regulations will be achieved within that time period.

87162 PROVISIONAL LICENSE (Continued)**87162**

- (2) A provisional license may be issued for a maximum of twelve (12) months when the licensing agency determines, at the time of application, that more than six (6) months is required to achieve full compliance with licensing regulations due to circumstances beyond the control of the applicant.
- (d) If, during the provisional licensing period, the licensing agency discovers deficiencies which threaten the physical health, mental health, safety or welfare of the residents, the Department may exercise its discretion to institute administrative action or civil proceedings or to refer for criminal prosecution.
- (e) If the licensing agency determines after its review, specified in Section 87157, Application Review, that the licensee does not meet the licensing requirements, the application shall be denied, as specified in Section 87163, Denial of License Application.
- (f) If the licensing agency denied the application for an initial license, the applicant may appeal the denial, as provided in Section 87163, Denial of License Application. Until the Director adopts a decision on the denial action, the facility shall be unlicensed.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.15, 1569.1515, 1569.17, 1569.20, 1569.21, 1569.22, 1569.23 and 1569.24, Health and Safety Code.

87163 DENIAL OF LICENSE APPLICATION**87163**

- (a) Except as specified in Section 87162(a), which provides that the applicant may be issued a provisional license based upon substantial compliance and immediate need, the licensing agency shall deny an application for an initial license if it is determined that the applicant is not in compliance with applicable law and regulations.
- (b) The licensing agency shall have the authority to deny an application for an initial license if the applicant has failed to pay any civil penalty assessments pursuant to Section 87768, Unlicensed Facility Penalties, and in accordance with a final judgment issued by a court of competent jurisdiction, unless payment arrangements acceptable to the licensing agency have been made.
- (c) The licensing agency shall have the authority to deny an initial application if the applicant does not comply with Sections 87155(a)(2) and (9), and Health and Safety Code sections 1569.1515(b) and 1569.50.

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Health and Safety Code section 1569.1515(b) reads:

"(b) The department shall not issue a provisional license or license to any corporate applicant that has a member of the board of directors, the executive director, or an officer who is not eligible for licensure pursuant to Sections 1569.16 and 1569.59."

Health and Safety Code section 1569.50 reads:

"The department may deny an application for a license or may suspend or revoke any license issued under this chapter upon any of the following grounds and in the manner provided in this chapter:

"(a) Violation by the licensee of this chapter or of the rules and regulations adopted under this chapter.

"(b) Aiding, abetting, or permitting the violation of this chapter or of the rules and regulations adopted under this chapter.

"(c) Conduct which is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility or the people of the State of California.

"(d) The conviction of a licensee, or other person mentioned in section 1569.17 at any time before or during licensure, of a crime as defined in section 1569.17.

"(e) Engaging in acts of financial malfeasance concerning the operation of a facility, including, but limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services for the care of clients."

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- (d) If the application for an initial license is denied, the application processing fee shall be forfeited.
- (e) If the application for an initial license is denied, the licensing agency shall send a written notice of denial by certified mail. The notification shall inform the applicant of the denial; set forth the reasons for the denial; and advise the applicant of the right to appeal.

87163 **DENIAL OF LICENSE APPLICATION (Continued)** **87163**

- (f) An applicant may appeal the denial of the application by sending a written notice of appeal to the licensing agency within 15 days of the postmark date of the denial notice.
- (g) The licensing agency shall, upon receipt of the notice of appeal, advise the applicant in writing of the appeal procedure.
- (h) The proceedings to review such denial shall be conducted pursuant to the provisions of Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.15, 1569.1515(b), 1569.17, 1569.185, 1569.20, 1569.21, 1569.22, 1569.23(a) and (e), 1569.485, 1569.49, 1569.50, 1569.51, 1569.52 and 1569.53, Health and Safety Code.

Article 4. Operating Requirements**87202 FIRE CLEARANCE****87202**

- (a) All facilities shall maintain a fire clearance approved by the city or county fire department, the district providing fire protection services, or the State Fire Marshal. Prior to accepting any of the following types of persons, the applicant or licensee shall notify the licensing agency and obtain an appropriate fire clearance, approved by the city or county fire department, the district providing fire protection services, or the State Fire Marshal, through the licensing agency:
- (1) Persons over 65 years of age.
 - (2) Nonambulatory persons.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2 and 1569.312, Health and Safety Code.

87203 FIRE SAFETY**87203**

All facilities shall be maintained in conformity with the regulations adopted by the State Fire Marshal for the protection of life and property against fire and panic.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.31 and 1569.312, Health and Safety Code.

87204 LIMITATIONS -- CAPACITY AND AMBULATORY STATUS**87204**

- (a) A licensee shall not operate a facility beyond the conditions and limitations specified on the license, including specification of the maximum number of persons who may receive services at any one time. An exception may be made in the case of catastrophic emergency when the licensing agency may make temporary exceptions to the approved capacity.
- (b) Resident rooms approved for 24-hour care of ambulatory residents only shall not accommodate nonambulatory residents. Residents whose condition becomes nonambulatory shall not remain in rooms restricted to ambulatory residents.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2, 1569.31 and 1569.312, Health and Safety Code.

87205 ACCOUNTABILITY OF LICENSEE GOVERNING BODY**87205**

- (a) The licensee, whether an individual or other entity, shall exercise general supervision over the affairs of the licensed facility and establish policies concerning its operation in conformance with these regulations and the welfare of the individuals it serves.
- (b) If the licensee is a corporation or an association, the governing body shall be active, and functioning in order to assure accountability.
- (c) Renumbered to Section 87211(c) by Manual Letter No. CCL-08-01, effective 3/5/08.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.2, 1569.15, 1569.16, 1569.17, 1569.31 and 1569.312, Health and Safety Code.

87206 ADVERTISEMENTS AND LICENSE NUMBER**87206**

- (a) In accordance with Health and Safety Code sections 1569.68 and 1569.681, licensees shall reveal each facility license number in all public advertisements, including Internet, or correspondence.

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Health and Safety Code section 1569.681 provides:

- (a) Each residential care facility for the elderly licensed under this chapter shall reveal its license number in all advertisements, publications, or announcements made with the intent to attract clients or residents.
- (b) Advertisements, publications, or announcements subject to the requirements of subdivision (a) referred to herein include, but are not limited to, those contained in the following:
 - (1) Newspaper or magazine.
 - (2) Consumer report.
 - (3) Announcement of intent to commence business.
 - (4) Telephone directory yellow pages.

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- (5) Professional or service directory.
- (6) Radio or television commercial.

Health and Safety Code section 1569.68 provides:

All residential care facilities shall be required to include their current license number in any public advertisement or correspondence.

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- (b) Licensees who operate more than one facility and use a common advertisement for these facilities shall be required to list each facility license number in accordance with Health and Safety Code sections 1569.681 and 1569.68.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.68 and 1569.681, Health and Safety Code.

No licensee, officer or employee of a licensee shall make or disseminate any false or misleading statement regarding the facility or any of the services provided by the facility.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Section 1569.44, Health and Safety Code.

87208 PLAN OF OPERATION**87208**

- (a) Each facility shall have and maintain a current, written definitive plan of operation. The plan and related materials shall be on file in the facility and shall be submitted to the licensing agency with the license application. Any significant changes in the plan of operation which would affect the services to residents shall be submitted to the licensing agency for approval. The plan and related materials shall contain the following:
- (1) Statement of purposes and program goals.
 - (2) A copy of the Admission Agreement, containing basic and optional services.
 - (3) Statement of admission policies and procedures regarding acceptance of persons for services.
 - (4) Administrative organization.
 - (5) Staffing plan, qualifications and duties.
 - (6) Plan for training staff, as required by Section 87411(c).
 - (7) Sketches, showing dimensions, of the following:
 - (A) Building(s) to be occupied, including a floor plan that describes the capacities of the buildings for the uses intended and a designation of the rooms to be used for nonambulatory residents.
 - (B) The grounds showing buildings, driveways, fences, storage areas, pools, gardens, recreation area and other space used by the residents.
 - (8) Transportation arrangements for persons served who do not have independent arrangements.
 - (9) A statement whether or not the applicant will handle residents' money or valuables. If money or valuables will be handled, the method for safeguarding pursuant to Sections 87215, Commingling of Money, 87216, Bonding and 87217, Safeguards for Resident Cash, Personal Property, and Valuables.
 - (10) A statement of the facility's policy concerning family visits and other communication with clients, as specified in Health and Safety Code section 1569.313.

87208 PLAN OF OPERATION (Continued)**87208**

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Health and Safety Code section 1569.313 provides in part:

"The facility's policy concerning family visits and communication shall be designed to encourage regular family involvement with the resident client and shall provide ample opportunities for family participation in activities at the facility."

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- (11) If the licensee intends to admit and/or specialize in care for one or more residents who have a documented history of behaviors that may result in harm to self or others, the facility plan of operation shall include a description of precautions that will be taken to protect that resident and all other residents.
- (b) A licensee who advertises or promotes dementia special care, programming or environments shall include additional information in the plan of operation as specified in Section 87706(a)(2).
- (c) A licensee who accepts or retains residents diagnosed by a physician to have dementia shall include additional information in the plan of operation as specified in Section 87705(b).

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.15, 1569.157, 1569.175, 1569.2, 1569.31, 1569.312, 1569.313, 1569.316, 1569.626 and 1569.627, Health and Safety Code.

87209 PROGRAM FLEXIBILITY**87209**

- (a) The use of alternate concepts, programs, services, procedures, techniques, equipment, space, personnel qualifications or staffing ratios, or the conduct of experimental or demonstration projects shall not be prohibited by these regulations provided that:
- (1) Such alternatives shall be carried out with provisions for safe and adequate services.
 - (2) A written request for a waiver or exception and substantiating evidence supporting the request shall be submitted in advance to the licensing agency by the applicant or licensee.
 - (3) Prior written approval of the licensing agency shall be received.
 - (A) In determining the merits of each request, the licensing agency shall use as guidelines the standards utilized or recommended by well-recognized state and national organizations as appropriate.

87209 **PROGRAM FLEXIBILITY** (Continued) **87209**

- (B) The licensing agency shall provide written approval or denial.

- (b) Unless prior written approval of the licensing agency is received, all community care facilities shall maintain continuous compliance with the licensing regulations.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Section 1530 and 1569.31, Health and Safety Code.

87211 **REPORTING REQUIREMENTS** **87211**

- (a) Each licensee shall furnish to the licensing agency such reports as the Department may require, including, but not limited to, the following:
 - (1) A written report shall be submitted to the licensing agency and to the person responsible for the resident within seven days of the occurrence of any of the events specified in (A) through (D) below. This report shall include the resident's name, age, sex and date of admission; date and nature of event; attending physician's name, findings, and treatment, if any; and disposition of the case.
 - (A) Death of any resident from any cause regardless of where the death occurred, including but not limited to a day program, a hospital, en route to or from a hospital, or visiting away from the facility.
 - (B) Any serious injury as determined by the attending physician and occurring while the resident is under facility supervision.
 - (C) The use of an Automated External Defibrillator.
 - (D) Any incident which threatens the welfare, safety or health of any resident, such as physical or psychological abuse of a resident by staff or other residents, or unexplained absence of any resident.
 - (2) Occurrences, such as epidemic outbreaks, poisonings, catastrophes or major accidents which threaten the welfare, safety or health of residents, personnel or visitors, shall be reported within 24 hours either by telephone or facsimile to the licensing agency and to the local health officer when appropriate.

87211 REPORTING REQUIREMENTS (Continued)**87211**

- (3) Fires or explosions which occur in or on the premises shall be reported immediately to the local fire authority; in areas not having organized fire services, within 24 hours to the State Fire Marshal; and no later than the next working day to the licensing agency.
- (b) The licensee shall notify the Department, in writing, within thirty (30) days of the hiring of a new administrator. The notification shall include the following:
 - (1) Name and residence and mailing addresses of the new administrator.
 - (2) Date he/she assumed his/her position.
 - (3) Description of his/her background and qualifications, including documentation of required education and administrator certification.
 - (A) A photocopy of the documentation is acceptable.
- (c) Any change in the chief corporate officer of an organization, corporation or association shall be reported to the licensing agency in writing within fifteen (15) working days following such change. Such notification shall include the name, address and the fingerprint card of the new chief executive officer, as required by Section 87355, Criminal Record Clearance.

NOTE: Authority cited: Sections 1569.30 and 1569.616, Health and Safety Code. Reference: Sections 1569.1, 1569.2, 1569.31, 1569.312, 1569.616 and 1797.196, Health and Safety Code.

87212 EMERGENCY DISASTER PLAN**87212**

- (a) Each facility shall have a disaster and mass casualty plan of action. The plan shall be in writing and shall be readily available.
- (b) The plan shall be subject to review by the Department and shall include:
 - (1) Designation of administrative authority and staff assignments.
 - (2) Plan for evacuation including:
 - (A) Fire safety plan.
 - (B) Means of exiting.
 - (C) Transportation arrangements.

87212	EMERGENCY DISASTER PLAN (Continued)	87212
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- (D) Relocation sites which are equipped to provide safe temporary accommodations for residents.
 - (E) Supervision of residents during evacuation or relocation and contact after relocation to assure that relocation has been completed as planned.
 - (F) Means of contacting local agencies such as fire department, law enforcement agencies, civil defense and other disaster authorities.
- (3) Provision for notifying a resident's hospice agency, if any, in the event of evacuation and/or relocation.
- (c) Emergency exiting plans and telephone numbers shall be posted.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.2, 1569.31, 1569.312 and 13131, Health and Safety Code.

87213	FINANCES	87213
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The licensee shall have a financial plan that conforms to the requirements of Section 87155, Application for License, and that assures sufficient resources to meet operating costs for care of residents; shall maintain adequate financial records; and shall submit such financial reports as may be required upon the written request of the licensing agency. Such request shall explain the need for disclosure. The licensing agency reserves the right to reject any financial report and to request additional information or examination, including interim financial statements.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.2 and 1569.15, Health and Safety Code.

87215	COMMINGLING OF MONEY	87215
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Money and valuables of residents entrusted to the licensee of one community care facility licensed under a particular license number shall not be commingled with those of another residential care facility for the elderly of a different license number, regardless of joint ownership.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.31, 1569.60 and 1569.61, Health and Safety Code.

87216 BONDING

87216

(a) Each licensee, other than a county, who is entrusted to safeguard resident cash resources, shall file or have on file with the licensing agency a copy of a bond issued by a surety company to the State of California as principal.

(1) The amount of the bond shall be in accordance with the following schedule:

Total Safeguarded Per Month	Bond Required
\$750 or less.....	\$1,000
\$751 to \$1,500.....	\$2,000
\$1,501 to \$2,500.....	\$3,000

Every further increment of \$1,000 or fraction thereof shall require an additional \$1,000 on the bond.

(b) Whenever the licensing agency determines that the amount of the bond is insufficient to adequately protect the money of residents, or whenever the amount of any bond is impaired by any recovery against the bond, the licensing agency may require the licensee to file an additional bond in such amount as the licensing agency determines to be necessary to adequately protect the residents' money.

(c) Each application for a license or renewal of license shall be accompanied by an affidavit on a form provided by the licensing agency. The affidavit shall state whether the applicant/licensee will be entrusted/is entrusted to safeguard or control cash resources of persons and the maximum amount of money to be handled for all persons in any month.

(d) No licensee shall either handle money of a resident or handle amounts greater than those stated in the affidavit submitted by him or for which his bond is on file without first notifying the licensing agency and filing a new or revised bond as required by the licensing agency.

(e) A written request for a variance from the bonding requirement may be made to the licensing agency. Approval by the licensing agency of a variance shall be in writing. The request shall include a signed statement from the licensee indicating:

- (1) That the bonding requirement is so onerous that as a result the facility will cease to operate.
- (2) The place of deposit in which the resident's funds are to be held.
- (3) That withdrawals will be made only on the authorization of the resident or his responsible person.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.15, 1569.31, 1569.312, 1569.60 and 1569.61, Health and Safety Code.

87217 SAFEGUARDS FOR RESIDENT CASH, PERSONAL PROPERTY, AND VALUABLES 87217

- (a) A licensee shall not be required to handle residents' cash resources. However, if a resident incapable of handling his own cash resources, as documented by the initial or subsequent appraisal, is accepted for care, his cash resource shall be safeguarded in accordance with the regulations in this section.
- (b) Every facility shall take appropriate measures to safeguard residents' cash resources, personal property and valuables which have been entrusted to the licensee or facility staff. The licensee shall give the residents receipts for all such articles or cash resources.
- (c) Every facility shall account for any cash resources entrusted to the care or control of the licensee or facility staff.
 - (1) Cash resources include but are not limited to monetary gifts, tax credits and/or refunds, earnings from employment or workshops, and personal and incidental need allowances from funding sources such as SSI/SSP.
- (d) Except as provided in approved continuing care agreements, no licensee or employee of a facility shall:
 - (1) accept appointment as a guardian or conservator of the person and/or estate of any resident;
 - (2) accept any general or special power of attorney for any such person;
 - (3) become substitute payee for any payments made to any persons;
 - (A) This requirement does not apply to a licensee who is appointed by the Social Security Administration as representative payee for the resident.
 - (4) become the joint tenant on any account specified in Section 87217(h) with a resident.
- (e) Cash resources and valuables of residents which are handled by the licensee for safekeeping shall not be commingled with or used as the facility funds or petty cash, and shall be separate, intact and free from any liability the licensee incurs in the use of his own or the facility's funds and valuables. This does not prohibit the licensee from providing advances or loans to residents from facility money.
- (f) No licensee or employee of a facility shall make expenditures from residents' cash resources for any basic service specified in this Chapter, or for any basic services identified in a contract/admission agreement between the resident and facility.
 - (1) This requirement does not apply to a licensee who is appointed by the Social Security Administration as representative payee for the resident.

**87217 SAFEGUARDS FOR RESIDENT CASH, PERSONAL PROPERTY,
AND VALUABLES (Continued)****87217**

- (g) Each licensee shall maintain adequate safeguards and accurate records of cash resources and valuables entrusted to his care, including, but not limited to the following:
- (1) Records of residents' cash resources maintained as a drawing account shall include a ledger accounting (columns for income, disbursements and balance) for each resident, and supporting receipts filed in chronological order. Each accounting shall be kept current.
 - (A) An acceptable receipt where cash is provided to residents from their respective accounts, includes: the resident's signature or mark, or responsible party's full signature, and a statement acknowledging receipt of the amount and date received. An acceptable form of receipt would include:

"(full signature of resident) accepts (dollar amount) (amount written in cursive), this date (date), from (payor)".
 - (B) An acceptable receipt where purchases are made for the resident, from his account, is the store receipt.
 - (2) Records of residents' cash resources and other valuables entrusted to the licensee for safekeeping shall include a copy of the receipt furnished to the resident as specified in (b) above or to his responsible person. The receipt provided to the resident for money or valuables entrusted to the licensee shall be original and include the resident's and/or his responsible person's signature.
 - (3) Bank records for transactions of cash resources deposited in and drawn from the account as specified in (h) below.
- (h) Immediately upon admission, residents' cash resources entrusted to the licensee and not kept in the licensed facility shall be deposited in any type of bank, savings and loan or credit union account, which is maintained separate from the personal or business accounts of the licensee, provided that the account title clearly notes that it is residents' money and the resident has access to the money upon demand to the licensee.
- (1) Such accounts shall be maintained in a local bank, savings and loan or credit union authorized to do business in California, the deposits of which are insured by a branch of the Federal Government; except, however that a local public agency may deposit such funds with the public treasurer.
 - (2) Cash resources entrusted to the licensee for residents and kept on the facility premises shall be kept in a locked and secure location.

87217	SAFEGUARDS FOR RESIDENT CASH, PERSONAL PROPERTY, AND VALUABLES (Continued)	87217
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- (i) Upon discharge of a resident, all cash resources, personal property and valuables of that resident which have been entrusted to the licensee shall be surrendered to the resident, or his responsible person. A signed receipt shall be obtained.
- (j) Upon the death of a resident, all cash resources, personal property, and valuables of that resident shall immediately be safeguarded.
 - (1) All cash resources shall be placed in an account as specified in (g) above.
 - (2) The executor or the administrator of the estate shall be notified by the licensee, and the cash resources, personal property, and valuables surrendered to said party.
 - (3) If no executor or administrator has been appointed, the responsible person shall be notified, and the cash resources, personal property, and valuables shall be surrendered to said person in exchange for a signed itemized receipt.
 - (4) If the licensee is unable to notify a responsible party as specified above, immediate written notice of the resident's death shall be given to the public administrator of the county as provided by Section 1145 of the California Probate Code.
- (k) Whenever there is a change of licensee, the licensee shall:
 - (1) notify the licensing agency of any pending change of licensee, and
 - (2) shall provide the licensing agency an accounting of all residents' cash resources, personal property and valuables entrusted to his/her care. Such accounting shall be made on a form provided or approved by the Department.
- (l) When the licensing agency approves the application for the new licensee, the form specified in (2) above shall be updated, signed by both parties, and forwarded to the licensing agency.
- (m) All monetary gifts, and any gift exceeding an estimated value of \$100, which are given to a licensee by or on behalf of a resident shall be recorded. The record shall be attached to the account specified in (f) above. This shall not include monetary gifts or valuables given by the friends or relatives of a deceased resident.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.15, 1569.31, 1569.60 and 1569.61, Health and Safety Code; Section 11006.9, Welfare and Institutions Code; and Title 20 Code of Federal Regulations, Section 416.601.

87218 THEFT AND LOSS**87218**

- (a) The licensee shall ensure an adequate theft and loss program as specified in Health and Safety Code section 1569.153.
- (1) The initial personal property inventory shall be completed by the licensee, and the resident, or the resident's representative.
 - (2) A licensee who fails to make reasonable efforts to safeguard resident property, shall reimburse a resident for or replace stolen or lost resident property at its current value. The licensee shall be presumed to have made reasonable efforts to safeguard resident property if there is clear and convincing evidence of efforts to meet each requirement specified in section 1569.153.
 - (A) A civil penalty shall be levied if the licensee or facility staff have not implemented the theft and loss program, or if the licensee has not shown clear and convincing evidence of its efforts to meet all of the requirements set forth in section 1569.153.
 - (3) The facility contract of admission, including all documents a resident or his or her representative must sign as a condition of admission, shall not require or suggest a lesser standard of responsibility for the personal property of residents than the law requires.

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Health and Safety Code section 1569.153 provides in part:

"A theft and loss program shall be implemented by the residential care facilities for the elderly within 90 days after January 1, 1989. The program shall include all of the following:

- (a) Establishment and posting of the facility's policy regarding theft and investigative procedures.
- (b) Orientation to the policies and procedures for all employees within 90 days of employment.
- (c) Documentation of lost and stolen resident property with a value of twenty-five dollars (\$25) or more within 72 hours of the discovery of the loss or theft and, upon request, the documented theft and loss record for the past 12 months shall be made available to the State Department of Social Services, law enforcement agencies and to the office of the State Long-Term Care Ombudsman in response to a specific complaint. The documentation shall include, but not be limited to, the following:
 - (1) A description of the article.
 - (2) Its estimated value.

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- (3) The date and time the theft or loss was discovered.
- (4) If determinable, the date and time the loss or theft occurred.
- (5) The action taken.
- (d) A written resident personal property inventory is established upon admission and retained during the resident's stay in the residential care facility for the elderly. Inventories shall be written in ink, witnessed by the facility and the resident or resident's representative, and dated. A copy of the written inventory shall be provided to the resident or the person acting on the resident's behalf. All additions to an inventory shall be made in ink, and shall be witnessed by the facility and the resident or resident's representative, and dated. Subsequent items brought into or removed from the facility shall be added to or deleted from the personal property inventory by the facility at the written request of the resident, the resident's family, a responsible party, or a person acting on behalf of a resident. The facility shall not be liable for items which have not been requested to be included in the inventory or for items which have been deleted from the inventory. A copy of a current inventory shall be made available upon request to the resident, responsible party, or other authorized representative. The resident, resident's family, or a responsible party may list those items which are not subject to addition or deletion from the inventory, such as personal clothing or laundry, which are subject to frequent removal from the facility.
- (e) Inventory and surrender of the resident's personal effects and valuables upon discharge to the resident or authorized representative in exchange for a signed receipt.
- (f) Inventory and surrender of personal effects and valuables following the death of a resident to the authorized representative in exchange for a signed receipt. Immediate written notice to the public administrator of the county upon the death of a resident whose heirs are unable or unwilling to claim the property as specified in Chapter 20 (commencing with Section 1140) of Division 3 of the Probate Code.
- (g) Documentation, at least semiannually, of the facility's efforts to control theft and loss, including the review of theft and loss documentation and investigative procedures and results of the investigation by the administrator and, when feasible, the resident council.
- (h) Establishment of a method of marking, to the extent feasible, personal property items for identification purposes upon admission and, as added to the property inventory list, including engraving of dentures and tagging of other prosthetic devices.

HANDBOOK CONTINUES

87218 THEFT AND LOSS (Continued)**87218****HANDBOOK CONTINUES**

(i) Reports to the local law enforcement agency within 36 hours when the administrator of the facility has reason to believe resident property with a then current value of one hundred dollars (\$100) or more has been stolen. Copies of those reports for the preceding 12 months shall be made available to the State Department of Social Services and law enforcement agencies.

(j) Maintenance of a secured area for residents' property which is available for safekeeping of resident property upon the request of the resident or the resident's responsible party. Provide a lock for the resident's bedside drawer or cabinet upon request of and at the expense of the resident, the resident's family, or authorized representative. The facility administrator shall have access to the locked areas upon request.

(k) A copy of this section and sections 1569.152 and 1569.154 is provided by a facility to all of the residents and their responsible parties, and available upon request, to all of the facility's prospective residents and their responsible parties.

(l) Notification to all current residents and all new residents, upon admission, of the facility's policies and procedures relating to the facility's theft and loss prevention program.

(m) Only those residential units in which there are no unrelated residents and where the unit can be secured by the resident or residents are exempt from the requirements of this section."

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NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.152, 1569.153 and 1569.154, Health and Safety Code.

87219 PLANNED ACTIVITIES**87219**

- (a) Residents shall be encouraged to maintain and develop their fullest potential for independent living through participation in planned activities. The activities made available shall include:
- (1) Socialization, achieved through activities such as group discussion and conversation, recreation, arts, crafts, music and care of pets.
 - (2) Daily living skills/activities which foster and maintain independent functioning.
 - (3) Leisure time activities cultivating personal interests and pursuits, and encouraging leisure-time activities with other residents.

87219 PLANNED ACTIVITIES (Continued) 87219

- (4) Physical activities such as games, sports and exercise which develop and maintain strength, coordination and range of motion.
 - (5) Education, achieved through special classes or activities.
 - (6) Provision for free time so residents may engage in activities of their own choosing.
- (b) Residents served shall be encouraged to contribute to the planning, preparation, conduct, clean-up and critique of the planned activities.
- (c) The licensee shall arrange for utilization of available community resources through contact with organizations and volunteers to promote resident participation in community-centered activities which may include:
- (1) Attendance at the place of worship of the resident's choice.
 - (2) Service activities for the community.
 - (3) Community events such as concerts, tours and plays.
 - (4) Participation in community organized group activities, such as senior citizen groups, sports leagues and service clubs.
- (d) In facilities licensed for seven (7) or more persons, notices of planned activities shall be posted in a central location readily accessible to residents, relatives, and representatives of placement and referral agencies. Copies shall be retained for at least six (6) months.
- (e) In facilities licensed for sixteen (16) to forty-nine (49) persons, one staff member, designated by the administrator, shall have primary responsibility for the organization, conduct and evaluation of planned activities. This person shall have had at least six (6) months experience in providing planned activities or have completed or be enrolled in an appropriate education or training program.
- (f) In facilities licensed for fifty (50) persons or more, one staff member shall have full-time responsibility to organize, conduct and evaluate planned activities, and shall be given such staff assistance as necessary in order for all residents to participate in accordance with their interests and abilities. The program of activities shall be written, planned in advance, kept up-to-date, and made available to all residents. The responsible employee shall have had at least one year of experience in conducting group activities and be knowledgeable in evaluating resident needs, supervising other employees, and in training volunteers.
- (1) An exception to this requirement may be made by the licensing agency upon the facility's presentation in writing of a satisfactory alternative plan.

87219 PLANNED ACTIVITIES (Continued)**87219**

- (2) Where the facility can demonstrate that its residents are self-directed to the extent that they are able to plan, organize and conduct the facility's activity program themselves, this requirement may be reduced or waived by the licensing agency.
- (g) Participation of volunteers in planned activities shall be encouraged, and such volunteers shall be under the direction and supervision of the employees responsible for the activity program.
- (h) Facilities shall provide sufficient space to accommodate both indoor and outdoor activities. Activities shall be encouraged by provision of:
 - (1) A comfortable, appropriately furnished area such as a living room, available to all residents for their relaxation and for entertaining friends and relatives.
 - (2) Outdoor activity areas which are easily accessible to residents and protected from traffic. Gardens or yards shall be sufficient in size, comfortable, and appropriately equipped for outdoor use.
- (i) Facilities shall provide sufficient equipment and supplies to meet the requirements of the activity program including access to daily newspapers, current magazines and a variety of reading materials. Special equipment and supplies necessary to accommodate physically handicapped persons or other persons with special needs shall be provided as appropriate.
 - (1) When not in use, recreational equipment and supplies shall be stored where they do not create a hazard to residents.

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

87221 RESIDENT COUNCILS**87221**

The facility shall permit the formation of a resident council by interested residents, provide space and post notice for meetings, and provide assistance in attending meetings for those residents who request it. In order to permit a free exchange of ideas, at least part of each meeting shall be allowed to be conducted without the presence of any facility personnel. Residents shall be encouraged, but shall not be compelled to attend. The purpose of such an organization shall be to work with the administration in improving the quality of life for all residents by enriching the activity program and to discuss the services offered by the facility and make recommendations regarding identified problems.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.31 and 1569.312, Health and Safety Code.

87222 REQUIREMENTS FOR EMERGENCY ADULT PROTECTIVE SERVICES PLACEMENTS**87222**

- (a) The licensee shall be permitted to accept emergency placements by an adult protective services (APS) agency, if the licensee has received approval from the Department to provide emergency shelter services.
- (1) To obtain approval, the licensee shall submit a written request to the Department. The request shall include, but not be limited to, the following:
- (A) A letter of interest from the county APS agency stating that if the request to provide emergency shelter services is approved, the APS agency may enter into an agreement with the licensee to provide such services.
1. A copy of the written agreement between the APS agency and the licensee, listing the responsibilities of each party, shall be sent to the Department within seven calendar days of signing.
- (B) A written addendum to the Plan of Operation, specified in Section 87208, Plan of Operation that includes procedures for the intake of an APS emergency placement. The addendum shall specify how the licensee will meet the needs of a resident placed on an emergency basis, such as on-call staff, additional staff and training.
1. The procedures shall include, but not be limited to, provisions for a private room.
- a. The licensee shall provide a private room for the resident until a pre-admission appraisal of the resident's individual service needs has been completed, specified in Section 87457, Pre-admission Appraisal.
- b. The Department may approve an alternative to a private room, such as awake or additional staff, but an alternative shall not be approved if it displaces staff or other residents of the facility.
- (C) A licensee of a residential care facility for the elderly may accept an adult resident, 18 through 59 years of age, for emergency placement under the following conditions:
1. The APS agency has written a statement indicating a local need exists for the licensee to accept emergency placements of adults 18 through 59 years of age.
- a. The licensee attaches this APS statement of local need [Section 87222(a)(1)(C)1.] to the written request, specified in Section 87222(a)(1).

87222 REQUIREMENTS FOR EMERGENCY ADULT PROTECTIVE SERVICES PLACEMENTS (Continued) 87222

- (f) The licensee shall not admit an APS emergency placement unless the APS worker is present at the facility at the time of admission.
- (g) Prior to acceptance of an APS emergency placement, the licensee shall obtain and keep on file the following information received from the APS worker:
 - (1) Resident's name.
 - (2) Resident's ambulatory status.
 - (3) Name(s) and telephone number(s) of the resident's physician(s).
 - (4) Name(s), business address(es), and telephone number(s) of the APS worker responsible for the resident's placement and the APS case worker, if known.
 - (5) Name, address, and telephone number of any person responsible for the care of the resident, if available.
- (h) Within seven calendar days of an APS emergency placement, the licensee shall obtain other resident information specified in Section 87506, Resident Records.
 - (1) The resident must have a tuberculosis test [Section 87458(b)(1)] by the seventh day of placement even though the test results may not be available by the seventh day of placement.
- (i) The licensee shall contact the resident's attending physician or the person authorized to act for the physician to identify all of the resident's prescribed medications and usage instructions [Section 87458(b)(3)] by the next working day, but no later than 72 hours from the initial APS emergency placement.
 - (1) The attending physician or the person acting for the physician shall have access to the resident's records to determine whether the full medication regimen is accounted for and accurate.
 - (2) If medication verification, as specified in Section 87222(i), has not been obtained within 72 hours from the resident's initial placement, the licensee shall contact the APS worker to request that the resident be relocated, as specified in Section 87222(j).
- (j) The licensee shall contact the APS worker to request that the resident be relocated immediately when the licensee identifies that needs cannot be met or that the resident has a condition specified in Section 87222(d).

87222 REQUIREMENTS FOR EMERGENCY ADULT PROTECTIVE SERVICES PLACEMENTS (Continued) 87222

- (1) A licensee cannot retain a resident under age 60 beyond 30 calendar days from initial placement by the APS agency, unless the acceptance and retention requirement provided in Section 87455(b)(6) is met.
- (k) Within seven calendar days of the licensee making any changes to an agreement with an APS agency, the licensee shall notify the Department in writing of these changes, which may include a renewed agreement, amended language and/or notification of a terminated agreement.
- (l) All emergency placements are subject to the same record requirements as set forth in Section 87506(d).

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

87223 RELOCATION OF RESIDENT 87223

- (a) When a resident must be relocated by Department order whether individual health-condition relocations pursuant to Section 87612, Restricted Health Conditions, or temporary suspension orders pursuant to Section 87775(c), the licensee shall not obstruct the relocation process and shall cooperate with the Department in the relocation process. Such cooperation shall include, but not be limited to, the following activities:
 - (1) Identifying and preparing for removal of the medications, Medi-Cal or Medicare or other medical insurance documents, clothing, safeguarded cash resources, valuables and other belongings of the resident.
 - (2) Contacting the person responsible for the resident to assist in transporting him or her, if necessary.
 - (3) Contacting other suitable facilities for placement, if necessary.
 - (4) Providing access to resident's files when required by the Department.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569, 1569.1, 1569.2, 1569.31, 1569.312 and 1569.54, Health and Safety Code.

87224 EVICTION PROCEDURES**87224**

- (a) The licensee may, upon thirty (30) days written notice to the resident, evict the resident for one or more of the following reasons:
- (1) Nonpayment of the rate for basic services within ten days of the due date.
 - (2) Failure of the resident to comply with state or local law after receiving written notice of the alleged violation.
 - (3) Failure of the resident to comply with general policies of the facility. Said general policies must be in writing, must be for the purpose of making it possible for residents to live together and must be made part of the admission agreement.
 - (4) If, after admission, it is determined that the resident has a need not previously identified and a reappraisal has been conducted pursuant to Section 87463, and the licensee and the person who performs the reappraisal believe that the facility is not appropriate for the resident.
 - (5) Change of use of the facility.
- (b) The licensee may, upon obtaining prior written approval from the licensing agency, evict the resident upon three (3) days written notice to quit. The licensing agency may grant approval for the eviction upon a finding of good cause. Good cause exists if the resident is engaging in behavior which is a threat to the mental and/or physical health or safety of himself or to the mental and/or physical health or safety of others in the facility.
- (c) The licensee shall, in addition to either serving thirty (30) days notice or seeking approval from the Department and service three (3) days notice on the resident, notify or mail a copy of the notice to quit to the resident's responsible person.
- (d) The licensee shall set forth in the notice to quit the reasons relied upon for the eviction with specific facts to permit determination of the date, place, witnesses, and circumstances concerning those reasons.
- (e) Upon request of a resident, or his/her designated representative, the Department shall, pursuant to the provisions of Section 1569.35 of the Health and Safety Code, investigate the reasons given for the eviction.
- (f) A written report of any eviction shall be sent to the licensing agency within five (5) days.
- (g) This section shall not apply to a particular resident who has entered into a continuing care contract with a facility pursuant to Health and Safety Code, Chapter 10, Division 2.

87224 EVICTION PROCEDURES (Continued)**87224**

- (h) Nothing in this section is intended to preclude the licensee or resident from invoking any other available remedy.
- (i) Nothing in Section 87224 precludes the licensee from initiating the urgent relocation to a licensed health facility of a terminally ill resident receiving hospice services when the resident's condition has changed and a joint determination has been made by the Department, the resident or resident's health care surrogate decision maker, the resident's hospice agency, a physician, and the licensee, that the resident's continued retention in the facility poses a health and safety risk to the resident or any other facility resident.
 - (1) The licensee shall follow the procedures specified in Section 87637(b)(2) to reduce the risk of transfer trauma.

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

Article 5. Physical Environment and Accommodations**87303 MAINTENANCE AND OPERATION 87303**

- (a) The facility shall be clean, safe, sanitary and in good repair at all times. Maintenance shall include provision of maintenance services and procedures for the safety and well-being of residents, employees and visitors.
 - (1) Floor surfaces in bath, laundry and kitchen areas shall be maintained in a clean, sanitary, and odorless condition.
- (b) A comfortable temperature for residents shall be maintained at all times.
 - (1) The facility shall heat rooms that residents occupy to a minimum of 68 degree F, (20 degrees C).
 - (2) The facility shall cool rooms to a comfortable range, between 78 degrees F (26 degrees C) and 85 degrees F (30 degrees C), or in areas of extreme heat to 30 degrees F less than the outside temperature.
 - (3) Nothing in this section shall prohibit residents from adjusting individual thermostatic controls.
- (c) All window screens shall be clean and maintained in good repair.
- (d) There shall be lamps or light appropriate for the use of each room and sufficient to ensure the comfort and safety of all persons in the facility.
- (e) Water supplies and plumbing fixtures shall be maintained as follows:
 - (1) All community care facilities where water for human consumption is from a private source shall:
 - (A) As a condition of initial licensure, provide evidence of an on-site inspection of the source of the water and a bacteriological analysis by a local or state health department or other qualified public or private laboratory which establishes the safety of the water.
 - (B) Following licensure, provide a bacteriological analysis of the private water supply as frequently as is necessary to assure the safety of the residents, but no less frequently than the time intervals shown in the table below. However, facilities licensed for six or fewer residents shall be required to have a bacteriological analysis subsequent to initial licensure only if evidence supports the need for such an analysis to protect residents.

87303 MAINTENANCE AND OPERATION (Continued)

87303

Licensed Capacity	Analysis Required	Periodic Subsequent Analysis
Under 6	Initial Licensing	Upon evidence of need
7 through 15	Initial Licensing	Annually
16 through 24	Initial Licensing	Every six months
25 or more	Refer to the county health department for compliance with the California Safe Drinking Water Act, Health and Safety Code, Division 5, Part 1, Chapter 7, Water and Water Systems.	

- (2) Faucets used by residents for personal care such as shaving and grooming shall deliver hot water. Hot water temperature controls shall be maintained to automatically regulate the temperature of hot water used by residents to attain a temperature of not less than 105 degree F (41 degree C) and not more than 120 degree F (49 degree C).
 - (3) Taps delivering water at 125 degree F (52 degree C) or above shall be prominently identified by warning signs.
 - (4) Grab bars shall be maintained for each toilet; bathtub and shower used by residents.
 - (5) Non-skid mats or strips shall be used in all bathtubs and showers.
 - (6) Toilet, handwashing and bathing facilities shall be maintained in operating condition. Additional equipment shall be provided in facilities accommodating physically handicapped and/or nonambulatory residents, based on the residents' needs.
- (f) Solid waste shall be stored and disposed of as follows:
- (1) Solid waste shall be stored, located and disposed of in a manner that will not permit the transmission of a communicable disease or of odors, create a nuisance, provide a breeding place or food source for insects or rodents.
 - (2) Syringes and needles are disposed of in accordance with the California Code of Regulations, Title 8, Section 5193 concerning blood borne pathogens.

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California Code of Regulations, Title 8, Sections 5193(d)(3)(B) through (D) are paraphrased in pertinent part:

1. Shearing or breaking of contaminated needles is prohibited.
2. Contaminated needles shall not be bent or recapped.
3. Waste containers shall not be opened or emptied manually.
4. Immediately or as soon as possible after use, contaminated needles shall be placed in appropriate containers that shall be:
 - a. Rigid;
 - b. Puncture resistant;
 - c. Leak proof on the sides and bottom;
 - d. Portable, if portability is necessary to ensure easy access by the user;
 - e. Labeled as BIOHAZARDOUS WASTE or SHARPS WASTE.

HANDBOOK ENDS HERE

- (3) All containers, except movable bins, used for storage of solid wastes shall have tight-fitting covers on the containers; shall be in good repair; shall have external handles; and shall be leak proof and rodent-proof.
- (4) Movable bins when used for storing or transporting solid wastes from the premises shall have tight-fitting covers on the containers; shall be in good repair; and shall be rodent-proof unless stored in a room or screened enclosure.
- (5) Solid waste containers, including movable bins, receiving putrescible waste shall be emptied at least once per week or more often if necessary. Such containers shall be maintained in a clean and sanitary condition.
- (6) Each movable bin shall provide for suitable access and a drainage device to allow complete cleaning at the storage area.

87303 MAINTENANCE AND OPERATION (Continued)**87303**

- (g) Facilities which have machines and do their own laundry shall:
- (1) Have adequate supplies available and equipment maintained in good repair. Space used to sort soiled linen shall be separate from the clean linen storage and handling area. Except for facilities licensed for fifteen (15) residents or less, the space used to do laundry shall not be part of an area used for storage of anything other than clean linens and/or other supplies normally associated with laundry activities. Steam, odors, lint and objectionable laundry noises shall not reach resident or employee areas.
 - (2) Make at least one machine available for use by residents who are able and who desire to do their own personal laundry. This machine shall be maintained in good repair. Equipment in good repair shall be provided to residents who are capable and desire to iron their own clothes.
- (h) Emergency lighting shall be maintained. At a minimum this shall include flashlights, or other battery powered lighting, readily available in appropriate areas accessible to residents and staff. Open-flame lights shall not be used.
- (i) Facilities shall have signal systems which shall meet the following criteria:
- (1) All facilities licensed for 16 or more and all residential facilities having separate floors or buildings shall have a signal system which shall:
 - (A) Operate from each resident's living unit.
 - (B) Transmit a visual and/or auditory signal to a central staffed location or produce an auditory signal at the living unit loud enough to summon staff.
 - (C) Identify the specific resident living unit.
 - (2) Facilities having more than one wing, floor or building shall be permitted to have a separate system in each, provided each meets the above criteria.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1 and 1569.31, Health and Safety Code; Title 8, California Code of Regulations, Section 5193.

87305 ALTERATIONS TO EXISTING BUILDINGS OR NEW FACILITIES 87305

- (a) Prior to construction or alterations, all facilities shall obtain a building permit.
- (b) The licensing agency may require the facility to acquire a local building inspection where the agency determines that a suspected hazard to health and safety exists.

Note: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.31 and 1569.312, Health and Safety Code.

87307 PERSONAL ACCOMMODATIONS AND SERVICES 87307

- (a) Living accommodations and grounds shall be related to the facility's function. The facility shall be large enough to provide comfortable living accommodations and privacy for the residents, staff, and others who may reside in the facility. The following provisions shall apply:
 - (1) There shall be common rooms such as living rooms, dining rooms, dens or other recreation/activity rooms. They shall be of sufficient space and/or separation to promote and facilitate the program of activities and to prevent such activities from interfering with other functions.
 - (2) Resident bedrooms shall be provided which meet, at a minimum, the following requirements:
 - (A) Bedrooms shall be large enough to allow for easy passage between and comfortable usage of beds and other required items of furniture specified below, and any resident assistive devices such as wheelchairs or walkers.
 - (B) No room commonly used for other purposes shall be used as a sleeping room for any resident. This includes any hall, stairway, unfinished attic, garage storage area, shed or similar detached building.
 - (C) No bedroom of a resident shall be used as a passageway to another room, bath or toilet.
 - (D) Not more than two residents shall sleep in a bedroom.
 - (3) Equipment and supplies necessary for personal care and maintenance of adequate hygiene practice shall be readily available to each resident. The resident may provide the following items; however, if the resident is unable or chooses not to provide them, the licensee shall assure provision of:

87307 PERSONAL ACCOMMODATIONS AND SERVICES (Continued)

87307

- (A) A bed for each resident, except that married couples may be provided with one appropriate sized bed. Each bed shall be equipped with good springs, a clean and comfortable mattress, available pillow(s) and lightweight warm bedding. Fillings and covers for mattresses and pillows shall be flame retardant. Rubber sheeting shall be provided when necessary.
 - (B) Bedroom furniture, which shall include, for each resident, a chair, night stand, a lamp, or lights sufficient for reading, and a chest of drawers.
 - (C) Clean linen, including blankets, bedspreads, top bed sheets, bottom bed sheets, pillow cases, mattress pads, bath towels, hand towels and wash cloths. The quantity shall be sufficient to permit changing at least once per week or more often when indicated to ensure that clean linen is in use by residents at all times. The linen shall be in good repair. The use of common wash cloths and towels shall be prohibited.
 - (D) Hygiene items of general use such as soap and toilet paper.
 - (E) Portable or permanent closets and drawer space in the bedrooms for clothing and personal belongings. A minimum of eight (8) cubic feet (.743 cubic meters) of drawer space per resident shall be provided.
 - (F) Basic laundry service (washing, drying, and ironing of personal clothing).
- (b) Toilets and bathrooms shall be conveniently located. The licensed capacity shall be established based on Section 87158, Capacity, and the following:
- (1) At least one toilet and washbasin for each six (6) persons, which include residents, family and personnel.
 - (2) At least one bathtub or shower for each ten (10) persons, which includes residents, family and live-in personnel.
- (c) Individual privacy shall be provided in all toilet, bath and shower areas.
- (d) The following space and safety provisions shall apply to all facilities:
- (1) Sufficient room shall be available to accommodate persons served in comfort and safety.
 - (2) The premises shall be maintained in a state of good repair and shall provide a safe and healthful environment.

87307	PERSONAL ACCOMMODATIONS AND SERVICES (Continued)	87307
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- (3) All persons shall be protected against hazards within the facility through provision of the following:
 - (A) Protective devices such as nonslip material on rugs.
 - (B) Information and instruction regarding life protection and other appropriate subjects.
- (4) Stairways, inclines, ramps and open porches and areas of potential hazard to residents with poor balance or eyesight shall be made inaccessible to residents unless equipped with sturdy hand railings and unless well-lighted.
- (5) Night lights shall be maintained in hallways and passages to nonprivate bathrooms.
- (6) All outdoor and indoor passageways and stairways shall be kept free of obstruction.
- (7) Fireplaces and open-faced heaters shall be adequately screened.
- (e) Facilities providing services to residents who have physical or mental disabilities shall assure the inaccessibility of fishponds, wading pools, hot tubs, swimming pools, or similar bodies of water, when not in active use by residents, through fencing, covering or other means.

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

87308	RESIDENT AND SUPPORT SERVICES	87308
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- (a) Nothing in these regulations shall prohibit the provision of required services from a centralized service facility serving two or more licensed facilities when approved in writing by the licensing agency.
- (b) Administrative offices or area shall be maintained in facilities having a capacity of sixteen (16) persons or more, which includes space for business, administration and admission activities, a reception area and restroom facilities which may be used by visitors. Appropriate equipment shall be available, including a telephone. A private office shall be maintained for the administrator or other professional staff as appropriate.
- (c) General storage space shall be maintained for equipment and supplies as necessary to ensure that space used to meet other requirements of these regulations is not also used for storage.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.31 and 1569.312, Health and Safety Code.

87309 STORAGE SPACE**87309**

- (a) Disinfectants, cleaning solutions, poisons, firearms and other items which could pose a danger if readily available to clients shall be stored where inaccessible to clients.
- (1) Storage areas for poisons, and firearms and other dangerous weapons shall be locked.
 - (2) In lieu of locked storage of firearms, the licensee may use trigger locks or remove the firing pin.
 - (A) Firing pins shall be stored and locked separately from firearms.
 - (3) Ammunition shall be stored and locked separately from firearms.
- (b) Medicines shall be stored as specified in Section 87465(c) and separately from other items specified in (a) above.
- (c) The items specified in (a) above shall not be stored in food storage areas or in storage areas used by or for clients.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.31 and 1569.312, Health and Safety Code.

87311 TELEPHONES**87311**

All facilities shall have telephone service on the premises. Facilities with a capacity of sixteen (16) or more persons shall be listed in the telephone directory under the name of the facility.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2, 1569.31 and 1569.312, Health and Safety Code.

87312 MOTOR VEHICLES USED IN TRANSPORTING RESIDENTS**87312**

Only drivers licensed for the type of vehicle operated shall be permitted to transport residents. The rated seating capacity of the vehicles shall not be exceeded. Any vehicle used by the facility to transport residents shall be maintained in a safe operating condition.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2, 1569.31 and 1569.312, Health and Safety Code.

Article 6. Background Check**87355 CRIMINAL RECORD CLEARANCE****87355**

- (a) The Department shall conduct a criminal record review of all individuals specified in Health and Safety Code section 1569.17 and shall have the authority to approve or deny a facility license, or employment, residence, or presence in the facility, based upon the results of such review.
- (b) Prior to the Department issuing a license, the applicant, administrator and any adults other than a client, residing in the facility shall have a criminal record clearance or exemption.

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Section 1569.17(a) of the Health and Safety Code provides in part:

Before issuing a license to any person or persons to operate or manage a residential care facility for the elderly, the department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation, or arrested for any crime specified in Section 290 of the Penal Code or arrested for violating Section 245, 273.5 subdivision (b) of Section 273a, or prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department cannot grant an exemption if the person was convicted and the person has not been exonerated. That criminal history information shall include the full criminal record, if any, of those persons and subsequent arrest information pursuant to Section 11105.2 of the Penal Code. The following shall apply to the criminal record information.

- (A) If the California Department of Social Services finds that the applicant or any other person specified in subdivision (b) has been convicted of a crime, other than a minor traffic violation, the application shall be denied, unless the director grants an exemption pursuant to subdivision (f).
- (B) If the California Department of Social Services finds that the applicant, or any person specified in subdivision (b) is awaiting trial for a crime other than a minor traffic violation, the California Department of Social Services shall cease processing the application until the conclusion of the trial.
- (C) If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the California Department of Social Services with a statement of that fact.

HANDBOOK CONTINUES

87355 CRIMINAL RECORD CLEARANCE (Continued)

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HANDBOOK CONTINUES

- (D) If the California Department of Social Services finds after licensure that the licensee, or any other person specified in paragraph (2) of subdivision (b), has been convicted of a crime other than a minor traffic violation, the license may be revoked, unless the director grants an exemption pursuant to subdivision (f).
- (E) An applicant and any person specified in subdivision (b) shall submit a second set of fingerprints to the Department of Justice, for the purpose of searching the records of the Federal Bureau of Investigation, in addition to the search required by subdivision (a).

Section 1569.17(b) of the Health and Safety Code provides in part:

In addition to the applicant, the provisions of this section shall be applicable to criminal convictions of the following persons:

- (A) Adults responsible for administration or direct supervision of staff.
- (B) Any person, other than a client, residing in the facility. Residents of unlicensed independent senior housing facilities that are located in contiguous buildings on the same property as a residential care facility for the elderly shall be exempt from these requirements.
- (C) Any person who provides client assistance in dressing, grooming, bathing, or personal hygiene. Any nurse assistant or home health aide meeting the requirements of Section 1338.5 or 1736.6, respectively, who is not employed, retained, or contracted by the licensee, and who has been certified or recertified on or after July 1, 1998, shall be deemed to meet the criminal record clearance requirements of this section. A certified nurse assistant and certified home health aide who will be providing client assistance and who falls under this exemption shall provide one copy of his or her current certification, prior to providing care, to the residential care facility for the elderly. The facility shall maintain the copy of the certification on file as long as the care is being provided by the certified nurse assistant or certified home health aide at the facility. Nothing in this paragraph restricts the right of the department to exclude a certified nurse assistant or certified home health aide from a licensed residential care facility for the elderly pursuant to Section 1569.58.
- (D) Any staff person or employee who has contact with the clients.

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- (E) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in a similar capacity.
- (F) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

The following individuals are exempt from requirements applicable under paragraph (1):

- (A) A medical professional, as defined in Section 87101(m)(1), who holds a valid license or certification from the individual's governing California medical care regulatory entity and who is not employed, retained, or contracted by the licensee, if all of the following apply:
 - (i) The criminal record of the individual has been cleared as a condition of licensure or certification by the individual's California medical care regulatory entity.
 - (ii) The individual is providing time-limited specialized clinical care or services.
 - (iii) The individual is providing care or services within the individual's scope of practice.
 - (iv) The individual is not a community care facility licensee or an employee of the facility.
- (B) A third-party repair person, or similar retained contractor, if all of the following apply:
 - (i) The individual is hired for a defined, time-limited job.
 - (ii) The individual is not left alone with clients.
 - (iii) When clients are present in the room in which the repair person or contractor is working, a staff person who has a criminal record clearance or exemption is also present.

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87355 CRIMINAL RECORD CLEARANCE (Continued)

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- (C) A third-party contractor or other business professional, if all of the following apply:
- (i) The individual is retained by a client.
 - (ii) The individual is at the facility at the request or by permission of that client.
 - (iii) The individual is not left alone with other clients.
- (D) Employees of a licensed home health agency and other members of licensed hospice interdisciplinary teams who have a contract with a client of the facility, and are in the facility at the request of that client or client's legal decision maker.
- (i) The exemption shall not apply to an individual who is a community care facility licensee or an employee of the facility.
- (E) Clergy and other spiritual caregivers who are performing services in common areas of the residential care facility, or who are advising an individual client at the request of, or with the permission of, the client.
- (i) This exemption shall not apply to an individual who is a community care facility licensee or an employee of the facility.
- (F) Members of fraternal, service and similar organizations who conduct group activities for clients, if all of the following apply:
- (i) Members are not left alone with the clients.
 - (ii) Members do not transport clients off the facility premises.
 - (iii) The same group does not conduct such activities more often than once a month.
- (G) A volunteer, if all of the following apply:
- (i) The volunteer is directly supervised by the licensee or a facility employee with a criminal record clearance or exemption.

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- (ii) The volunteer is never left alone with clients.
 - (iii) The volunteer does not provide any client assistance with dressing, grooming, bathing or personal hygiene.
 - (iv) The volunteer is at the facility during normal waking hours.
 - (v) The volunteer spends no more than 16 hours per week at the facility.
- (H) The following individuals unless contraindicated by the client's needs and service plan:
- (i) A spouse, significant other, relative, or close friend of a client.
 - (ii) An attendant or facilitator if the attendant or facilitator is not employed, retained or contracted by the licensee.
 - (iii) The exemptions in Section 87355(b)(3)(H)(i) or (ii) apply only if the individual is visiting the client or providing direct care and supervision to that client only.
- (I) Nothing in this paragraph shall prevent a licensee from requiring a criminal record clearance of any individual exempt from the requirements of this section, provided that the individual has client contact.

Section 1569.17(e) of the Health and Safety Code provides in part:

The California Department of Social Services shall not use a record of arrest to deny, revoke, or terminate any application, license, employment, or residence unless the department investigates the incident and secures evidence, whether or not related to the incident or arrest, that is admissible in an administrative hearing to establish conduct by the person that may pose a risk to the health and safety of any person who is or may become a client.

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Section 1569.17(a)(5) of the Health and Safety Code states in part:

An applicant and any person specified in subdivision (b) of the Health and Safety Code Section 1569 shall submit a second set of fingerprints to the Department of Justice, for the purpose of searching the records of the Federal Bureau of Investigation, in addition to the search required by subdivision (a). If an applicant meets all of the conditions for licensure, except receipt of the Federal Bureau of Investigation's criminal history information for the applicant and individuals listed in subdivision (b), the department may issue a license if the applicant and each person described in subdivision (b) has signed and submitted a statement that he or she has never been convicted of a crime in the United States, other than a traffic infraction, as defined in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. If, after licensure, the department determines that the licensee or person described in subdivision (b) has a criminal record, the license may be revoked pursuant to Health and Safety Code Section 1569.50. The department may also suspend the license pending an administrative hearing pursuant to Health and Safety Code Sections 1569.50 and 1569.51.

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- (c) A licensee or applicant for a license may request a transfer of a criminal record clearance from one state licensed facility to another, or from Trust Line to a state licensed facility by providing the following documents to the Department:
- (1) A signed Criminal Background Clearance Transfer Request, LIC 9182 (Rev. 4/02).
 - (2) A copy of the individual's:
 - (A) Driver's license, or
 - (B) Valid identification card issued by the Department of Motor Vehicles, or
 - (C) Valid photo identification issued by another state or the United States government if the individual is not a California resident.
 - (3) Any other documentation required by the Department (e.g., LIC 508, Criminal Record Statement [Rev. 1/03] and job description).

87355 CRIMINAL RECORD CLEARANCE (Continued)**87355**

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Section 1569.17(g) of the Health and Safety Code states:

The California Department of Social Services shall hold criminal records clearances in its active files for a minimum of two years after an employee is no longer employed at a licensed facility in order for the criminal records clearances to be transferred.

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- (d) All individuals subject to criminal record review shall be fingerprinted and sign a Criminal Record Statement (LIC 508 [Rev. 1/03]) under penalty of perjury.
- (1) A person signing the LIC 508 must:
- (A) Declare whether he/she has been convicted of a crime, other than a minor traffic violation as specified in Section 87355(h) regardless of whether the individual was granted a pardon for the conviction, received an expungement pursuant to Penal Code 1203.4 or the individual's record was sealed as a result of a court order.
- (B) If convicted of a crime other than a minor traffic violation as specified in Section 87355(h), provide information regarding the conviction.
- (2) If the signed statement indicates a conviction for any crime other than a minor traffic violation for which the fine was \$300 or less, the licensee shall immediately notify the Department and the Department shall take appropriate action as specified in Section 87355(h). The Department shall take the same actions as would be taken in Health and Safety Code section 1569.17(c) if a criminal record transcript had been received.
- (3) The license shall submit these fingerprints to the California Department of Justice, along with a second set of fingerprints for the purpose of searching the records of the Federal Bureau of Investigation, or comply with Section 87355(c), prior to the individual's employment, residence, or initial presence in the facility.
- (A) Fingerprints shall be submitted to the California Department of Justice by the licensee or sent by electronic transmission to the California Department of Justice by a fingerprinting entity approved by the California Department of Social Services.
- (e) All individuals subject to a criminal record review pursuant to Health and Safety Code Section 1569.17(b) shall prior to working, residing or volunteering in a licensed facility:
- (1) Obtain a California clearance or a criminal record exemption as required by the Department or

87355 CRIMINAL RECORD CLEARANCE (Continued)**87355**

- (2) Request a transfer of a criminal record clearance as specified in Section 87355(c) or
 - (3) Request and be approved for a transfer of a criminal record exemption, as specified in Section 87356(r), unless, upon request for a transfer, the Department permits the individual to be employed, reside or be present at the facility.
- (f) Violation of Section 87355(e) shall result in an immediate assessment of civil penalties of one hundred dollars (\$100) per violation per day for a maximum of five (5) days by the Department.
- (1) Subsequent violations within a twelve (12) month period will result in a civil penalty of one hundred (\$100) per violation per day for a maximum of thirty (30) days.
 - (2) The Department may assess civil penalties for continued violations as permitted by Health and Safety Code Section 1569.49.
- (g) Violation of Section 87355(e) may result in a denial of the license application or suspension and/or revocation of the license.
- (h) If the criminal record transcript of any of the individuals specified in Health and Safety Code section 1569.17(b) discloses a plea or verdict of guilty or a conviction following a plea of nolo contendere for any crime other than a minor traffic violation for which the fine was less than \$300 and an exemption pursuant to Section 87356(a) has not been granted, the Department shall take the actions specified in Health and Safety Code section 1569.17(c).
- (1) For an initial applicant, the Department may deny the application.
 - (2) For current licensees, the Department may institute an administrative action, including, but not limited to, revocation of the license.
 - (3) For current employees, exclude the affected individual pursuant to Health and Safety Code Section 1569.58 and deny the application or revoke the license, if the individual continues to provide services and/or reside at the facility.
 - (4) For individuals residing in the facility, including spouses of the applicant, licensee, or employee, exclusion of the affected individual pursuant to Health and Safety Code Section 1569.58 and denial of the application or revocation of the license, if the individual continues to provide services and/or reside in the facility.

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Health and Safety Code section 1569.17(c)(3) provides in part:

"...If the State Department of Social Services determines, on the basis of the fingerprint images submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, an offense specified in Section 243.4 [sexual battery], 273a, 273d [child abuse], 273g, [lewd conduct in the presence of a child], or 368 [elder or adult dependent abuse] of the Penal Code, or a felony, the State Department of Social Services shall notify the licensee in writing within 15 calendar days of receipt of the notification from the Department of Justice to act immediately to terminate the person's employment, remove the person from the residential care facility for the elderly, or bar the person from entering the residential care facility for the elderly. The State Department of Social Services may subsequently grant an exemption pursuant to subdivision (f)...."

Health and Safety Code section 1569.17(c)(3) provides in part:

"If the conviction was for another crime, except a minor traffic violation, the licensee shall, upon notification by the State Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the residential care facility for the elderly, or bar the person from entering the residential care facility for the elderly, or (2) seek an exemption pursuant to subdivision (f). The department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered by the department...."

Health and Safety Code section 1569.17(h) provides:

"If a licensee or facility is required by law to deny employment or to terminate employment of any employee based written notification from the department that the employee has a prior criminal conviction or is determined unsuitable for employment under Section 1569.58, the licensee or the facility shall not incur civil liability or unemployment insurance liability as a result of that denial or termination."

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- (i) The Department shall notify the licensee and the affected individual associated with the facility, in concurrent, separate letters, that the affected individual has a criminal conviction and needs to obtain a criminal record clearance.

87355 CRIMINAL RECORD CLEARANCE (Continued)**87355**

- (j) The licensee shall maintain documentation of criminal record clearances or criminal record exemptions of employees in the individual's personnel file as required in Section 87412, Personnel Records.
- (k) The licensee shall maintain documentation of criminal record clearances or criminal record exemptions of volunteers that require fingerprinting and non-client adults residing in the facility.
 - (1) Documentation shall be available at the facility for inspection by the Department.
- (l) The Department may seek verification from a law enforcement agency or court of an individual's criminal record as reported to the Department from any member of the public or affected individual.
 - (1) Upon obtaining confirmation from a law enforcement agency or court of the offense, the Department shall proceed as if this criminal record information was provided by the California Department of Justice.

NOTE: Authority cited: Section 1569.30 and 1569.49(d), Health and Safety Code. Reference: Section 1569.17 and 1569.49, Health and Safety Code.

87356 CRIMINAL RECORD EXEMPTION**87356**

- (a) The Department shall notify a licensee to act immediately to terminate the employment of, remove from the facility or bar from entering the facility any person described in Sections 87356(a)(1) through (5) below while the Department considers granting or denying an exemption. Upon notification, the licensee shall comply with the notice.
 - (1) Any person who has been convicted of, or is awaiting trial for, a sex offense against a minor;
 - (2) Any person who has been convicted of a felony;
 - (3) Any person who has been convicted of an offense specified in Section 243.4, 273a, 273d, 273g, or 368 of the Penal Code or any other crime specified in Health and Safety Code Section 1569.17(c)(3);
 - (4) Any person who has been convicted of any crime specified below:
 - (A) Battery
 - (B) Shooting at Inhabited Dwelling

87356 CRIMINAL RECORD EXEMPTION (Continued) 87356

- (C) Corporal Injury on Spouse/Cohabitant
 - (D) Discharging Firearm with Gross Negligence
 - (E) Exhibiting Weapon/Firearm
 - (F) Threat to Commit a Crime Resulting in Gross Bodily Injury or Death
 - (G) Criminal Threat to Harm or Injure Another Person
 - (H) Cruelty to Animals
 - (I) Willful Harm or Injury to Child; or
- (5) Any other person ordered to be removed by the Department.
- (b) In addition to the requirements of Section 87356(a), the licensee must return the confirmation of removal form that is sent by the Department, within five (5) days of the date of the form, that confirms under penalty of perjury that the individual has been removed from the facility.
- (1) Confirmation must be made on either a Removal Confirmation – Exemption Needed, LIC 300A (Rev. 9/03), Removal Confirmation - Denial, LIC 300B (Rev. 9/03), Removal Confirmation - Rescinded, LIC 300C (Rev. 9/03), or Removal Confirmation - Nonexemptible, LIC 300D (Rev. 9/03).
- (c) After a review of the criminal record transcript, the Department may grant an exemption if:
- (1) The applicant/licensee requests an exemption in writing for himself or herself, or
 - (2) The applicant/licensee requests an exemption in writing for an individual associated with the facility, or
 - (3) The applicant/licensee chooses not to seek an exemption on the affected individual's behalf, the affected individual requests an individual exemption in writing, and
 - (4) The affected individual presents substantial and convincing evidence satisfactory to the Department that he/she has been rehabilitated and presently is of such good character as to justify being issued or maintaining a license, employment or residence in a licensed facility.

87356 CRIMINAL RECORD EXEMPTION (Continued)**87356**

- (d) To request a criminal record exemption, a licensee or license applicant must submit information that indicates that the individual meets the requirements of Section 87356(c)(4). The Department will notify the licensee or license applicant and the affected individual, in concurrent, separate notices, that the affected individual has a criminal conviction and needs to obtain a criminal record exemption.
- (1) The notice to the affected individual shall include a list of the conviction(s) that the Department is aware of at the time the notice is sent that must be addressed in an exemption request.
 - (2) The notice will list the information that must be submitted to request a criminal record exemption.
 - (3) The information must be submitted within forty-five (45) days of the date of the Department's notice.
 - (A) Individuals who submit a criminal record exemption request shall cooperate with the Department by providing any information requested by the Department, including, but not limited to, police reports and certified court documents to process the exemption request, pursuant to Section 87356(e).
 - (B) If the individual for whom the criminal record exemption is requested is an employee or resident other than a spouse or dependent family member and the licensee/license applicant does not submit the information listed in the Department's written notice within 45 days of the date of the notice, the Department may cease processing the exemption request and close the case.
 - (C) If the individual for whom the criminal record exemption is requested is an applicant, licensee, spouse or dependent family member and the licensee/license applicant does not submit the information listed in the Department's written notice within 45 days of the date of the notice, the Department may deny the exemption request.
 - (D) Individuals may request a criminal record exemption on their own behalf if the licensee or license applicant:
 1. Chooses not to request the exemption and
 2. Chooses not to employ or terminates the individual's employment after receiving notice of the individual's criminal history, or
 3. Removes the individual who resides in the facility after receiving notice of the individual's criminal history.

87356 CRIMINAL RECORD EXEMPTION (Continued)**87356**

- (e) The Department shall consider factors including, but not limited to, the following as evidence of good character and rehabilitation:
- (1) The nature of the crime including, but not limited to, whether it involved violence or a threat of violence to others.
 - (2) Period of time since the crime was committed and number of offenses.
 - (3) Circumstances surrounding the commission of the crime that would demonstrate the unlikelihood of repetition.
 - (4) Activities since conviction, such as employment or participation in therapy or education, that would indicate changed behavior.
 - (5) Granting by the Governor of a full and unconditional pardon.
 - (6) Character references.
 - (A) All character references shall be on a Reference Request form (LIC 301E - Exemptions [Rev. 7/03]).
 - (7) A certificate of rehabilitation from a superior court.
 - (8) Evidence of honesty and truthfulness as revealed in exemption application documents.
 - (A) Documents include, but are not limited to:
 1. A Criminal Record Statement (LIC 508, Criminal Record Statement [Rev. 1/03]) and
 2. The individual's written statement/explanation of the conviction and the circumstances about the arrest.
 - (9) Evidence of honesty and truthfulness as revealed in exemption application interviews and conversations with the Department.
- (f) The Department shall also consider the following factors in evaluating a request for an exemption:
- (1) Facility and type of association.
 - (2) The individual's age at the time the crime was committed.

87356 CRIMINAL RECORD EXEMPTION (Continued)**87356**

- (g) The Department may deny an exemption request if:
- (1) The licensee and/or the affected individual fails to provide documents requested by the Department, or
 - (2) The licensee and/or the affected individual fails to cooperate with the Department in the exemption process.
- (h) The reasons for any exemption granted or denied shall be in writing and kept by the Department.
- (1) Exemption denial notices shall specify the reason the exemption was denied.
- (i) The Department has the authority to grant a criminal record exemption that places conditions on the individual's continued licensure, and employment or presence in a licensed facility.
- (j) It shall be conclusive evidence that the individual is not of such good character as to justify issuance of an exemption if the individual:
- (1) Makes a knowingly false or misleading statement regarding:
 - (A) Material relevant to their application for a criminal record clearance or exemption,
 - (B) His or her criminal record clearance or exemption status to obtain employment or permission to be present in a licensed facility, after the Department has ordered that they be excluded from any or all licensed facilities, or
 - (C) His or her criminal record clearance or exemption status in order to obtain a position with duties that are prohibited to him/her by a conditional exemption; or
 - (2) Is on probation or parole.
 - (A) If the individual is currently on probation, and provides sufficient proof that the probationary period(s) is informal, unsupervised and no probation officer is assigned, the Department may, in its discretion, grant a criminal record exemption notwithstanding Section 87356(j)(2).
- (k) The Department shall consider granting a criminal record exemption if the individual's criminal history meets all of the applicable criteria specified in Sections 87356(k)(1) through (6) and the individual provides the Department with substantial and convincing evidence of good character as specified in Section 87356(c)(4). For purposes of this section, a violent crime is a crime that, upon evaluation of the code section violated and/or the reports regarding the underlying offense, presents a risk of harm or violence.

87356 CRIMINAL RECORD EXEMPTION (Continued)**87356**

- (1) The individual has been convicted of one nonviolent misdemeanor, and one year has lapsed since completing the most recent period of incarceration or probation.
 - (2) The individual has been convicted of two or more nonviolent misdemeanors and four consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.
 - (3) The individual has been convicted of one or more violent misdemeanors and 15 consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.
 - (4) The individual has been convicted of one nonviolent felony and four consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.
 - (5) The individual has been convicted of two or more nonviolent felonies and ten consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.
 - (6) The individual has not been convicted a violent felony.
 - (7) If the individual is currently on probation, and provides sufficient proof that the probationary period(s) is informal, unsupervised and no probation officer is assigned, the period of lapsed time required in Sections 87356(k)(1) through (5) above shall begin from the last date of conviction(s).
- (l) It shall be a rebuttable presumption that an individual is not of such good character as to justify the issuance of an exemption if the individual fails to meet the requirements specified in Sections 87356(k)(1) through (6).
- (m) The Department shall not grant an exemption if the individual has a conviction for any offense specified in section 1569.17(f)(1) of the Health and Safety Code.

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Health and Safety Code section 1569.17(f)(1) provides that no exemption shall be granted if an individual has been convicted of any of the following offenses:

- (1) Penal Code Sections 136.1 and 186.22 – Gang related/Intimidation of witnesses or victims.
- (2) Penal Code Sections 187, 190 through 190.4 and 192(a) – Any murder/Attempted murder/Voluntary manslaughter.
- (3) Penal Code Section 203 – Any mayhem.
- (4) Penal Code Section 206 - Felony torture.
- (5) Penal Code Sections 207, 208, 209, 209.5, 210 – Kidnapping.
- (6) Penal Code Sections 211, 212.5, 213, 214 – Any robbery.
- (7) Penal Code Section 215 – Carjacking.
- (8) Penal Code Section 220 – Assault with intent to commit mayhem, rape, sodomy or oral copulation.
- (9) Penal Code Section 243.4 – Sexual battery.
- (10) Penal Code Section 261(a), (a)(1), (2), (3), (4) or (6) – Rape.
- (11) Penal Code Section 262(a)(1) or (4) – Rape of a spouse.
- (12) Penal Code Section 264.1 – Rape in concert.
- (13) Penal Code Section 266 – Enticing a minor into prostitution.
- (14) Penal Code Section 266c – Induce to sexual intercourse, etc. by fear or consent through fraud.
- (15) Penal Code Section 266h(b) – Pimping a minor.
- (16) Penal Code Section 266i(b) – Pandering a minor.

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- (17) Penal Code Section 266j – Providing a minor under 16 for lewd or lascivious act.
- (18) Penal Code Section 267 – Abduction for prostitution.
- (19) Penal Code Section 269 – Aggravated assault of a child.
- (20) Penal Code Section 272 – Contributing to the delinquency of a minor (must involve lewd or lascivious conduct).
- (21) Penal Code Section 273a(a) [or 273a(1) if the conviction was prior to January 1, 1994] – Willfully causing or permitting any child to suffer under circumstances or conditions likely to produce great bodily harm or death.
- (22) Penal Code Section 273d – Willfully inflicting any cruel or inhuman corporal punishment or injury on a child.
- (23) Penal Code Section 285 – Incest.
- (24) Penal Code Section 286 – Sodomy.
- (25) Penal Code Section 288 – Lewd or lascivious act upon a child under 14.
- (26) Penal Code Section 288a – Oral copulation.
- (27) Penal Code Section 288.2 – Felony conviction for distributing lewd material to children.
- (28) Penal Code Section 288.5(a) – Continuous sexual abuse of a child.
- (29) Penal Code Section 289 – Genital or anal penetration or abuse by any foreign or unknown object.
- (30) Penal Code Section 290(a) – All crimes for which one must register as a sex offender including attempts and not guilty by insanity.
- (31) Penal Code Section 311.2(b), (c) or (d) – Transporting or distributing child-related pornography.
- (32) Penal Code Section 311.3 – Sexual exploitation of a child.

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- (33) Penal Code Section 311.4 – Using a minor to assist in making or distributing child pornography.
- (34) Penal Code Section 311.10 – Advertising or distributing child pornography.
- (35) Penal Code Section 311.11 – Possessing child pornography.
- (36) Penal Code Sections 314 paragraphs 1 or 2 – Lewd or obscene exposure of private parts.
- (37) Penal Code Section 347(a) – Poisoning or adulterating food, drink, medicine, pharmaceutical products, spring, well, reservoir or public water supply.
- (38) Penal Code Section 368– Elder or dependent adult abuse.
- (39) Penal Code Section 417(b) – Drawing, exhibiting or using a loaded firearm.
- (40) Penal Code Section 451(a) or (b) – Arson.
- (41) Penal Code Section 460(a) – First degree burglary if it is charged and proved that a non-accomplice was present in the residence during the burglary.
- (42) Penal Code Sections 186.22 and 518 – Gang related/Extortion.
- (43) Penal Code Section 647.6 or prior to 1988 former Section 647a – Annoy or molest a child under 18.
- (44) Penal Code Section 653f(c) – Solicit another to commit rape, sodomy, etc.
- (45) Penal Code Sections 664/187 – Any attempted murder.
- (46) Penal Code Section 667.5(c)(7) – Any felony punishable by death or imprisonment in the state prison for life.
- (47) Penal Code Section 667.5(c)(8) – Enhancement for any felony which inflicts great bodily injury.

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- (48) Penal Code Section 667.5(c)(13) – Enhancement for violation of Penal Code Section 12308, 12309 or 12310 – Exploding or igniting or attempting to explode or ignite any destructive device or explosive with intent to commit murder.
- (49) Penal Code Section 667.5(c)(14) - Any kidnapping – Penal Code Sections 207, 208, 209, 209.5 and 210.
- (50) Penal Code Section 667.5(c)(22) - Any violation of Penal Code Section 12022.53 – Enhancement for listed felonies where use of a firearm.
- (51) Penal Code Section 667.5(c)(23) – Use of weapon of mass destruction.
- (52) Business and Professions Code Section 729 – Felony sexual exploitation by a physician, psychotherapist, counselor, etc.

HANDBOOK ENDS HERE

- (n) The Department shall consider granting a simplified criminal record exemption if the individual has the criminal history profile outlined in Sections 87356(n)(1) through (4) below:
 - (1) The individual does not have a demonstrated pattern of criminal activity;
 - (2) The individual has no more than one conviction;
 - (3) The conviction is a misdemeanor and is a crime that is nonviolent and does not pose a risk of harm to an individual; and
 - (4) It has been at least five consecutive years since the completion of the most recent period of incarceration or supervised probation.
- (o) At the Department's discretion, an individual who is otherwise eligible for a simplified exemption may be required to go through the standard exemption process if the Department determines such action will help to protect the health and safety of clients.

87356 CRIMINAL RECORD EXEMPTION (Continued)**87356**

- (p) If the Department denies or cannot grant a criminal record exemption the Department shall:
- (1) For initial applicants, deny the application.
 - (2) For current licensees, the Department may institute an administrative action, including but not limited to, revocation of the license.
 - (3) For current employees, exclude the affected individual pursuant to Health and Safety Code Section 1569.58, deny the application or revoke the license if the individual continues to provide services and/or reside at the facility.
 - (4) For individuals residing in the facility or the licensee, exclude the affected individual pursuant to Health and Safety Code Section 1569.58, deny the application or revoke the license, if the individual continues to provide services and/or reside at the facility.
- (q) If a request for an exemption has been denied, the individual shall be excluded for a period of two years unless the individual has been convicted of a crime for which no exemption may be granted pursuant to Section 87356(m). If a request for an exemption has been denied based on a conviction of a crime for which no exemption may be granted, the individual shall be excluded for the remainder of the individual's life.
- (1) If the Department determines during the review of an exemption request, that the individual was denied an exemption for a conviction of a crime for which an exemption may be granted within the preceding two years, the Department shall cease any further review of the request until two years have elapsed from the date of the denial. In cases where the individual requested a hearing on an exemption denial, the Department shall cease review of the request for an exemption until two years from the effective date of the decision and order of the Department upholding the denial. In cases where the individual submitted a petition for reinstatement or reduction in penalty pursuant to Government Code Section 11522 that was denied, the Department shall cease review of the request for an exemption until two years from the effective date of the decision and order of the Department denying the petition.
 - (2) An exclusion order based solely upon a denied exemption shall remain in effect and the individual shall not be employed in or present in a licensed facility or certified home, unless either a petition or an exemption is granted.
 - (3) If an individual who has previously been denied an exemption re-applies after the relevant time period described in Section 87356(q)(1) above, the Department may, in accordance with the provisions in Section 87356 et seq., grant or deny the subsequent request for an exemption.

87356 CRIMINAL RECORD EXEMPTION (Continued)**87356**

- (4) If an individual submits a petition pursuant to Government Code section 11522 for reinstatement or reduction of penalty for an exclusion, an individual must submit his/her fingerprints through an electronic fingerprinting system approved by the Department and submit to the Department a statement of the reason why the individual should be permitted to work or be present in a facility, along with all information required of an individual requesting a criminal record exemption as provided in Section 87356. If it is determined, based upon information provided by the Department of Justice, that the individual has been convicted of a crime for which no exemption may be granted, the petition shall be denied. An individual's failure to submit fingerprints or other information as requested by the Department, shall be grounds for denial of the petition. The burden shall be on the petitioner to prove sufficient rehabilitation and good character to justify the granting of the petition.
- (r) A licensee or applicant for a license may request a transfer of a criminal record exemption from one state licensed facility to another by providing the following documents to the Department:
- (1) A signed Criminal Record Exemption Transfer Request, LIC 9188 (Rev. 9/03).
 - (2) A copy of the individual's:
 - (A) Driver's license, or
 - (B) Valid identification card issued by the Department of Motor Vehicles, or
 - (C) Valid photo identification issued by another state of the United States Government if the individual is not a California resident.
 - (3) Any other documentation required by the Department (e.g., LIC 508, Criminal Record Statement [Rev. 1/03] and job description).
 - (s) The Department may consider factors including, but not limited to, the following in determining whether or not to approve the transfer of an exemption from one facility to another:
 - (1) The basis on which the Department granted the exemption;
 - (2) The nature and frequency of client contact in the new position;
 - (3) The category of facility where the individual wishes to transfer;
 - (4) The type of clients in the facility where the individual wishes to transfer;

87356 CRIMINAL RECORD EXEMPTION (Continued)**87356**

- (5) Whether the exemption was appropriately evaluated and granted in accordance with existing exemption laws or regulations; or
- (6) Whether the exemption meets current exemption laws or regulations.
- (t) If the Department denies the individual's request to transfer a criminal record exemption, the Department shall provide the individual and the licensee with written notification that states the Department's decision and informs the affected individual of their right to an administrative hearing to contest the Department's decision.
- (u) At the Department's discretion, an exemption may be rescinded if it is determined that:
 - (1) The exemption was granted in error, or
 - (2) The exemption does not meet current exemption laws or regulations, or
 - (3) The conviction for which an exemption was granted subsequently becomes non-exemptible by law.
- (v) The Department may rescind an individual's criminal record exemption if the Department obtains evidence showing that the individual engaged in conduct which is inconsistent with the good character requirement of a criminal record exemption, as evidenced by factors including, but not limited to, the following:
 - (1) Violations of licensing laws or regulations;
 - (2) Any conduct by the individual that indicates that the individual may pose a risk to the health and safety of any individual who is or may be a client;
 - (3) Nondisclosure of a conviction or evidence of lack of rehabilitation that the individual failed to disclose to the Department, even if it occurred before the exemption was issued; or
 - (4) The individual is convicted of a subsequent crime.
- (w) If the Department rescinds an exemption the Department shall:
 - (1) Notify the licensee and the affected individual in writing; and
 - (2) Initiate an administrative action.

87356	CRIMINAL RECORD EXEMPTION (Continued)	87356
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- (x) If the Department learns that an individual with a criminal record clearance or exemption has been convicted of a subsequent crime, the Department, at its sole discretion, may immediately initiate an administrative action to protect the health and safety of clients.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Section 1569.17, Health and Safety Code; Gresher v. Anderson (2005) 127 Cal App. 4th 88.

Article 7. Personnel**87405 ADMINISTRATOR - QUALIFICATIONS AND DUTIES****87405**

- (a) All facilities shall have a certified administrator. The licensee and the administrator may be one and the same person. The administrator shall have sufficient freedom from other responsibilities and shall be on the premises a sufficient number of hours to permit adequate attention to the management and administration of the facility as specified in this section. When the administrator is not in the facility, there shall be coverage by a designated substitute who shall have qualifications adequate to be responsible and accountable for management and administration of the facility as specified in this section. The Department may require that the administrator devote additional hours in the facility to his/her responsibilities when the need for such additional hours is substantiated by written documentation.
- (b) The administrator of a facility or facilities shall have the responsibility and authority to carry out the policies of the licensee.
- (c) Failure to comply with all licensing requirements pertaining to certified administrators may constitute cause for revocation of the license of the facility.
- (d) The administrator shall have the qualifications specified in Sections 87405(d)(1) through (7). If the licensee is also the administrator, all requirements for an administrator shall apply.
- (1) Knowledge of the requirements for providing care and supervision appropriate to the residents.
 - (2) Knowledge of and ability to conform to the applicable laws, rules and regulations.
 - (3) Ability to maintain or supervise the maintenance of financial and other records.
 - (4) When applicable, the ability to direct the work of others.
 - (5) Good character and a continuing reputation of personal integrity.
 - (6) Have a high school diploma or equivalent, such as a General Education Development (GED) certificate.
 - (7) Be at least 21 years of age.

87405 ADMINISTRATOR - QUALIFICATIONS AND DUTIES (Continued)**87405**

- (e) The administrator of a facility licensed for sixteen (16) to forty-nine (49) residents shall have completed, with a passing grade, at least fifteen (15) college or continuing education semester or equivalent quarter units; and shall have at least one year's experience providing residential care to the elderly; or equivalent education and experience as approved by the Department.
- (f) The administrator in facilities licensed for fifty (50) or more shall have two years of college; at least three years experience providing residential care to the elderly; or equivalent education and experience as approved by the licensing agency.
- (g) All administrators shall be required to complete at least 20 clock hours of continuing education per year in areas related to aging and/or administration.
- (h) Administrators employed/licensed prior to July 1, 1982, shall not be required to comply with the college and continuing education requirements in Section 87405(e) or the college requirements in Section 87405(f) provided that they have no break in employment as a Residential Care Facility for the Elderly administrator exceeding three (3) consecutive years.
- (i) The administrator shall have the responsibility to:
 - (1) Administer the facility in accordance with these regulations and established policy, program and budget.
 - (2) Where applicable, report to the licensee on the operation of the facility, and provide the licensee with necessary interpretations of recognized standards of care and supervision.
 - (3) Develop an administrative plan and procedures to ensure clear definition of lines of responsibility, equitable workloads, and adequate supervision.
 - (4) Recruit, employ and train qualified staff, and terminate employment of staff who perform in an unsatisfactory manner.
 - (5) Provide or ensure the provision of services to the residents with appropriate regard for the residents' physical and mental well-being and needs, including those services identified in the residents' pre-admission appraisal, specified in Section 87457, Pre-admission Appraisal.
 - (6) Make special provisions for the safety and guidance of residents with visual or auditory deficiencies.

87405 ADMINISTRATOR - QUALIFICATIONS AND DUTIES (Continued) 87405

- (7) Make provision for the resident with unmet needs to attend available community programs, including but not limited to, arranging for transportation.
- (8) Have the personal characteristics, physical energy and competence to provide care and supervision and, where applicable, to work effectively with social agencies.
- (j) In those cases where the individual is both the licensee and the administrator of a residential care facility for the elderly, the individual shall comply with all of the licensee and certified administrator requirements.

NOTE: Authority cited: Sections 1569.30 and 1569.616(j), Health and Safety Code. Reference: Sections 1569.1, 1569.2, 1569.17, 1569.31, 1569.312, 1569.315, 1569.613, 1569.616 and 1569.62, Health and Safety Code.

87406 ADMINISTRATOR CERTIFICATION REQUIREMENTS 87406

- (a) All individuals shall be certificate holders prior to being employed as an administrator, or shall have submitted to the Department the documentation required to obtain a certificate pursuant to Section 87406(b).
 - (1) Administrators who possess a valid Nursing Home Administrator license, issued by the California Board of Nursing Home Administrators, shall be exempt from completing an approved Initial Certification Training Program and taking a written test, provided the individual completes twelve (12) hours of classroom instruction in the following uniform Core of Knowledge areas:
 - (A) Laws, regulations, policies, and procedural standards that impact the operations of residential care facilities for the elderly.
 - (B) The use, misuse, and interaction of medication commonly used by the elderly in a residential setting.
 - (C) Resident admission, retention, and assessment procedures.
 - (2) Individuals who were both the licensee and administrator on or before July 1, 1991, shall complete an Initial Certification Training Program but shall not be required to take the written test. Individuals exempted from the written test shall be issued a conditional certification valid only for the administrator of the facility for which the exemption was granted.

87406 ADMINISTRATOR CERTIFICATION REQUIREMENTS (Continued) 87406

- (A) As a condition to becoming a certified administrator of another facility, a holder of a conditional certificate issued pursuant to Section 87406(a)(2) shall be required to pass the written test.
 - (B) As a condition to applying for a new facility license, the holder of a conditional certificate issued pursuant to Section 87406(a)(2) shall be required to pass the written test.
 - (3) An applicant for licensure shall be subject to the same application process for Initial Certification of Administrators as set forth in Section 87406(b).
- (b) To receive his/her certificate an applicant shall:
- (1) Unless exempted by Section 87406(a)(1), successfully complete a Department-approved Initial Certification Training Program.
 - (2) Unless exempted by Section 87406(a)(1) or (a)(2), pass a written test administered by the Department within sixty (60) days of completion of an Initial Certification Training Program.
 - (3) Submit an application to the Department's certification section within thirty (30) days of being notified of having passed the test, or if the applicant is exempt from taking the written test, within 30 days of completing the certification training. The application shall contain the following:
 - (A) Proof that the applicant has successfully completed a Department-approved Initial Certification Training Program or, in the case of a Nursing Home Administrator, proof of completion of 12 hours of classroom instruction as specified in Section 87406(a)(1).
 - (B) Documentation of passing the written test or qualifying for an exemption pursuant to Section 87406(a)(1) or (a)(2).
 - (C) A statement certifying that the applicant is at least twenty-one (21) years of age.
 - (D) Fingerprint cards, or evidence that the applicant has submitted fingerprints to the Department of Justice at a live scan facility, or a statement that the applicant has a current criminal record clearance on file with the Department.
 - (E) A one hundred dollar (\$100) processing fee.
 - (F) A copy of the front and back of his/her current nursing home wallet license, or equivalent, if the applicant is a current Nursing Home Administrator.

87406 ADMINISTRATOR CERTIFICATION REQUIREMENTS (Continued)**87406**

- (c) The Department shall not issue a certificate until it receives notification from the Department of Justice that the applicant has a criminal record clearance pursuant to Health and Safety Code Section 1569.17 or is able to transfer a current criminal record clearance pursuant to Health and Safety Code Section 1569.17(g)(1).
- (d) It shall be unlawful for any person not certified under this section to hold himself or herself out as a certified administrator. Any person willfully making any false representation as being a certified administrator is guilty of a misdemeanor.
- (e) Certificates issued under this section shall be renewed every two (2) years provided the certificate holder has complied with all renewal requirements.
- (f) Certificates shall be valid for a period of two (2) years and expire on either the anniversary date of initial issuance or on the individual's birthday during the second calendar year following certification.
 - (1) The certificate holder shall make an irrevocable election to have his or her recertification date for any subsequent recertification either on the date two (2) years from the date of issuance of the certificate or on the individual's birthday during the second calendar year following certification.
- (g) Time deadlines specified in Sections 87406(b)(2) and (3) may be extended for good cause as determined by the Department. Any request for an extension of time shall be in writing and shall contain a statement of all facts the applicant believes constitute good cause to extend a time deadline.

NOTE: Authority cited: Sections 1569.23(d), 1569.30 and 1569.616(j), Health and Safety Code. Reference: Sections 1569.17, 1569.171, 1569.23, 1569.315, 1569.613 and 1569.616, Health and Safety Code.

87407 ADMINISTRATOR RECERTIFICATION REQUIREMENTS**87407**

- (a) Administrators shall complete at least forty (40) classroom hours of continuing education during each two (2)-year certification period.
 - (1) Administrators who renew their administrator certification on or after January 1, 2003, shall submit proof of having completed at least eight (8) hours of the 40 hour continuing education requirement in subjects related to serving residents with Alzheimer's Disease and other dementias, including, but not limited to, instruction related to direct care, physical environment, and admissions procedures and assessment.

87407 ADMINISTRATOR RECERTIFICATION REQUIREMENTS (Continued) 87407

- (A) This instruction may be taken as a single eight (8)-hour class or in smaller increments that total at least eight (8) hours within each two (2)-year renewal period.
- (b) Continuing education hours must be related to the Core of Knowledge and be completed through any combination of the following:
- (1) Courses provided by vendors approved by the Department, or
 - (2) Accredited educational institutions offering courses that are consistent with the requirements of this section, or

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Examples of accredited educational institutions are community colleges and state colleges.

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- (3) Courses offered by vendors approved by other California State agencies provided that:
 - (A) The approval and enforcement procedures of the state agency are comparable to the approval and enforcement procedures of the Department, and
 - (B) The course relates to the Core of Knowledge as specified in Sections 87785(h)(1)(A) through (I).

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Prior to taking a course from one of the entities specified in Section 87407(a)(2) or (3), the certificate holder should study the course description carefully to ensure that it fits within the Core of Knowledge as specified in Sections 87785(h)(1)(A) through (I). If the course does not fit within the Core of Knowledge, it may not be credited toward the recertification requirement.

Examples of other California State agencies that meet the requirements specified in Section 84064.3(a) are the Department of Developmental Services, Department of Rehabilitation, Board of Behavioral Science Examiners and Board of Psychology.

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87407 ADMINISTRATOR RECERTIFICATION REQUIREMENTS (Continued) 87407

- (c) Courses approved for continuing education credit shall require the physical presence of the certificate holder in a classroom setting, except that:
- (1) The Department may approve courses where technology permits the simultaneous and interactive participation of the certificate holder, provided such participation is verifiable.
- (d) To apply for recertification prior to the expiration date of the certificate, the certificate holder shall submit:
- (1) A written request to recertify post-marked on or before the certificate expiration date.
 - (2) Evidence of completion of forty (40) continuing education hours as specified in Section 87407(a).
 - (3) Payment of a one hundred dollar (\$100) processing fee.
- (e) To apply for recertification after the expiration date of the certificate, but within four (4) years of the certificate expiration date, the certificate holder shall submit:
- (1) A written request to recertify.
 - (2) Evidence of completion of the required continuing education hours as specified in Section 87407(a). The total number of hours required for recertification shall be determined by computing the number of continuing education hours the certificate holder would have been required to complete if they had remained certified. The date of computation shall be the date the written request for recertification is received by the Department.
 - (3) Payment of a delinquency fee equal to three times the renewal fee, or three hundred dollars (\$300).
- (f) Certificates not renewed within four (4) years of their expiration date shall not be renewed, restored, reissued or reinstated.
- (1) Holders of certificates not renewed within four (4) years of their expiration date shall complete an Initial Certification Training Program as specified in Section 87406(b).
- (g) Certificate holders who possess a valid Nursing Home Administrator license shall be required to complete only twenty (20) of the required forty (40) hours of continuing education.
- (h) Certificate holders, as a condition of recertification, shall have a current criminal record clearance.

87407 ADMINISTRATOR RECERTIFICATION REQUIREMENTS (Continued) 87407

- (i) A processing fee of twenty-five dollars (\$25) shall be paid for the replacement of a lost certificate.
- (j) A certificate holder shall report any change of mailing address within thirty (30) days of the change to the Department's administrator certification section.
- (k) Whenever a certified administrator assumes or relinquishes responsibility for administering a residential care facility for the elderly, he or she shall provide written notice, within thirty (30) days, to:
 - (1) The licensing District Office responsible for receiving information regarding personnel changes at the licensed facility with whom the certificate holder is or was associated, and
 - (2) The Department's administrator certification section.

NOTE: Authority cited: Sections 1569.30 and 1569.616(j), Health and Safety Code. Reference: Sections 1569.17, 1569.171, 1569.23, 1569.315, 1569.613 and 1569.616, Health and Safety Code.

87408 ADMINISTRATOR CERTIFICATE DENIAL OR REVOCATION 87408

- (a) The Department may deny or revoke any administrator certificate for violation of licensing regulations or for any of the following grounds:
 - (1) The certificate holder procured a certificate by fraud or misrepresentation.
 - (2) The certificate holder knowingly made or gave a false statement or information in conjunction with the application for a certificate.
 - (3) The Department has issued an exclusion order against the certificate holder pursuant to Health and Safety Code Sections 1558, 1568.092, 1569.58 or 1596.8897 after the Department issued the certificate, and;
 - (A) The certificate holder did not appeal the exclusion order, or
 - (B) After the appeal, the Department issued a decision and order that upheld the exclusion order.
 - (4) The certificate holder does not have a current criminal record clearance.

87408**ADMINISTRATOR CERTIFICATE DENIAL OR REVOCATION****87408**

(Continued)

- (5) The certificate holder fails to comply with certificate renewal requirements.
 - (A) The Department may reinstate a certificate that has been revoked for failure to comply with certificate renewal requirements provided all conditions for recertification have been satisfied, including payment of all appropriate renewal and delinquency fees.
- (6) The certificate holder engaged in conduct which is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility or the people of the State of California.
- (b) Any denial or revocation of an administrator certificate may be appealed as provided by Health and Safety Code Section 1569.51.
- (c) Unless otherwise ordered by the Department, any application for an administrator certificate submitted after a denial or revocation action shall be processed in accordance with the provisions of Health and Safety Code Section 1569.16.

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Health and Safety Code section 1569.16, in pertinent part, provides that:

(a)(1) If an applicant for a license indicates, or the department determines during the application review process, that the applicant previously was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3 (commencing with Section 1500), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) and the prior license was revoked within the preceding two years, the department shall cease any further review of the application until two years have elapsed from the date of the revocation.

(a)(3) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant was excluded from a facility licensed by the department pursuant to Section 1558, 1568.092, 1569.58, or 1596.8897, the department shall cease any further review of the application unless the excluded individual has been reinstated pursuant to Section 11522 of the Government Code by the department.

HANDBOOK CONTINUES

87408 **ADMINISTRATOR CERTIFICATE DENIAL OR REVOCATION** **87408**
(Continued)

HANDBOOK CONTINUES

(b) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant had previously applied for a license under any of the chapters listed in paragraph (1) of subdivision (a) and the application was denied within the last year, the department shall, except as provided in Section 1569.22, cease further review of the application until one year has elapsed from the date of the denial letter. In those circumstances where denials are appealed and upheld at an administrative hearing, review of the application shall cease for one year from the date of the decision and order being rendered by the department. The cessation of review shall not constitute a denial of the application.

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NOTE: Authority cited: Sections 1569.30 and 1569.616(j), Health and Safety Code. Reference: Sections 1569.16, 1569.51, 1569.613 and 1569.616, Health and Safety Code.

87409 **ADMINISTRATOR CERTIFICATE FORFEITURE** **87409**

- (a) Unless otherwise ordered by the Department, the certificate shall be considered forfeited under any of the following conditions:
- (1) The Department has revoked any license held by the certificate holder after the Department issued the certificate.
 - (2) The Department has issued an exclusion order against the certificate holder pursuant to Health and Safety Code sections 1558, 1568.092, or 1569.58 after the Department issued the certificate, and;
 - (A) The certificate holder did not appeal the exclusion order or,
 - (B) After the appeal, the Department issued a decision and order that upheld the exclusion order.
- (b) Unless otherwise ordered by the Department, any application for an administrator certificate submitted after a certificate has been forfeited shall be processed in accordance with the provisions of Health and Safety Code Sections 1569.16 and/or 1569.58(h).

87409 ADMINISTRATOR CERTIFICATE FORFEITURE
(Continued)**87409**

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Health and Safety Code section 1569.16, in pertinent part, provides that:

(a)(1) If an applicant for a license indicates, or the department determines during the application review process, that the applicant previously was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3 (commencing with Section 1500), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) and the prior license was revoked within the preceding two years, the department shall cease any further review of the application until two years have elapsed from the date of the revocation.

(a)(3) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant was excluded from a facility licensed by the department pursuant to Section 1558, 1568.092, 1569.58, or 1596.8897, the department shall cease any further review of the application unless the excluded individual has been reinstated pursuant to Section 11522 of the Government Code by the department.

(b) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant had previously applied for a license under any of the chapters listed in paragraph (1) of subdivision (a) and the application was denied within the last year, the department shall, except as provided in Section 1569.22, cease further review of the application until one year has elapsed from the date of the denial letter. In those circumstances where denials are appealed and upheld at an administrative hearing, review of the application shall cease for one year from the date of the decision and order being rendered by the department. The cessation of review shall not constitute a denial of the application.

Health and Safety Code Section 1569.58(h), in pertinent part, provides that:

(1)(A) In cases where the excluded person appealed the exclusion order and there is a decision and order of the department upholding the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or from being a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

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87409 **ADMINISTRATOR CERTIFICATE FORFEITURE** **87409**
(Continued)

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(1)(B) The excluded individual may petition for reinstatement one year after the effective date of the decision and order of the department upholding the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the decision and order.

(2)(A) In cases where the department informed the excluded person of his or her right to appeal the exclusion order and the excluded person did not appeal the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

(2)(B) The excluded individual may petition for reinstatement after one year has elapsed from the date of the notification of the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the exclusion order.

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NOTE: Authority cited: Sections 1569.30 and 1569.616(j), Health and Safety Code. Reference: Sections 1568.092, 1569.16, 1569.50, 1569.58 and 1569.616, Health and Safety Code.

87411 **PERSONNEL REQUIREMENTS - GENERAL** **87411**

- (a) Facility personnel shall at all times be sufficient in numbers, and competent to provide the services necessary to meet resident needs. In facilities licensed for sixteen or more, sufficient support staff shall be employed to ensure provision of personal assistance and care as required in Section 87608, Postural Supports. Additional staff shall be employed as necessary to perform office work, cooking, house cleaning, laundering, and maintenance of buildings, equipment and grounds. The licensing agency may require any facility to provide additional staff whenever it determines through documentation that the needs of the particular residents, the extent of services provided, or the physical arrangements of the facility require such additional staff for the provision of adequate services.
- (b) All persons who supervise employees or who supervise or care for residents shall be at least eighteen (18) years of age.

87411 PERSONNEL REQUIREMENTS - GENERAL (Continued)**87411**

- (c) All RCFE staff who assist residents with personal activities of daily living shall receive at least ten hours of initial training within the first four weeks of employment and at least four hours annually thereafter.
- (1) Staff providing care shall receive appropriate training in first aid from persons qualified by such agencies as the American Red Cross.
 - (2) This training shall be administered on the job, in a classroom setting, or any combination of the two.
 - (3) The training shall include, but not be limited to, the following:
 - (A) The aging process and physical limitations and special needs of the elderly. At least two (2) of the required ten (10) hours shall cover this subject.
 - (B) Importance and techniques of personal care services, including but not limited to, bathing, grooming, dressing, feeding, toileting, and universal precautions. At least three (3) of the required ten (10) hours shall cover this subject.
 - (C) Residents rights, as specified in Section 87468, Personal Rights.
 - (D) Policies and procedures regarding medications, including the knowledge in Section 87411(d)(4). At least two (2) of the required ten (10) hours shall cover this subject. Any on-the-job training provided for the requirements in Section 87411(d)(4) may also count towards the requirement in this subsection.
 - (E) Psychosocial needs of the elderly, such as recreation, companionship, independence, etc.
 - (F) Recognizing signs and symptoms of dementia in individuals.
 - (4) All training shall be conducted by a person who is knowledgeable in a subject that is relevant to the subject area in which training is to be provided, and who satisfies at least one of the following criteria related to education and experience:
 - (A) Both a four-year college degree, graduate degree or professional degree, and two (2) years of experience in an area relevant to caring for the needs of the elderly, or
 - (B) License to work as a health care provider in California, or
 - (C) At least two years of experience in California as an administrator of an RCFE, within the last eight years, and with a record of administering facilities in substantial compliance, as defined in Section 87101(s)(9).

87411 PERSONNEL REQUIREMENTS - GENERAL (Continued)**87411**

- (5) Training may include use of books, video instruction tapes, interactive CD-ROMs and similar materials, upon the approval of that material by a trainer who satisfies the criteria of Section 87411(c)(3).
 - (6) The licensee shall maintain documentation pertaining to staff training in the personnel records, as specified in Section 87412(c)(2). For on-the-job training, documentation shall consist of a statement or notation, made by the trainer, of the content covered in the training. Each item of documentation shall include a notation that indicates which of the criteria of Section 87411(c)(3) is met by the trainer.
- (d) All personnel shall be given on the job training or have related experience in the job assigned to them. This training and/or related experience shall provide knowledge of and skill in the following, as appropriate for the job assigned and as evidenced by safe and effective job performance:
- (1) Principles of good nutrition, good food preparation and storage, and menu planning.
 - (2) Housekeeping and sanitation principles.
 - (3) Skill and knowledge required to provide necessary resident care and supervision, including the ability to communicate with residents.
 - (4) Knowledge required to safely assist with prescribed medications which are self-administered.
 - (5) Knowledge necessary in order to recognize early signs of illness and the need for professional help.
 - (6) Knowledge of community services and resources.
- (e) In facilities licensed for sixteen (16) or more, the requirements of Section 87565(d) shall be met with planned on the job training program that utilizes orientation, skill training and continuing education.
- (f) All personnel, including the licensee and administrator, shall be in good health, and physically and mentally capable of performing assigned tasks. Good physical health shall be verified by a health screening, including a chest x-ray or an intradermal test, performed by a physician not more than six (6) months prior to or seven (7) days after employment or licensure. A report shall be made of each screening, signed by the examining physician. The report shall indicate whether the person is physically qualified to perform the duties to be assigned, and whether he/she has any health condition that would create a hazard to him/herself, other staff members or residents. A signed statement shall be obtained from each volunteer affirming that he/she is in good health. Personnel with evidence of physical illness or emotional instability that poses a significant threat to the well-being of residents shall be relieved of their duties.

87411 PERSONNEL REQUIREMENTS - GENERAL (Continued)**87411**

- (g) Prior to employment or initial presence in the facility, all employees and volunteers subject to a criminal record review shall:
- (1) Obtain a California clearance or a criminal record exemption as required by law or Department regulations or
 - (2) Request a transfer of a criminal record clearance as specified in Section 87355(c) or
 - (3) Request and be approved for a transfer of a criminal record exemption, as specified in Section 87356(r), unless, upon request for a transfer, the Department permits the individual to be employed, reside or be present at the facility.
- (h) All services requiring specialized skills shall be performed by personnel qualified by training or experience in accordance with recognized professional standards.
- (i) Residents shall not be used as substitutes for required staff but may, as a voluntary part of their program of activities, participate in household duties and other tasks suited to the resident's needs and abilities.
- (j) Volunteers may be utilized but may not be included in the facility staffing plan. Volunteers shall be supervised.

NOTE: Authority cited: Sections 1569.30 and 1569.625, Health and Safety Code. Reference: Sections 1569.17, 1569.31, 1569.312 and 1569.625, Health and Safety Code; and Section 42001, Vehicle Code.

87412 PERSONNEL RECORDS**87412**

- (a) The licensee shall ensure that personnel records are maintained on the licensee, administrator and each employee. Each personnel record shall contain the following information:
- (1) Employee's full name.
 - (2) Social Security number.
 - (3) Date of employment.
 - (4) Written verification that the employee is at least 18 years of age, including, but not necessarily limited to, a copy of his/her birth certificate or driver's license.

87412 PERSONNEL RECORDS (Continued) 87412

- (5) Home address and telephone number.
 - (6) Educational background.
 - (A) For administrators this shall include verification that he/she meets the educational requirements in Sections 87405(b) and (c).
 - (7) Past experience, including types of employment and former employers.
 - (8) Type of position for which employed.
 - (9) Termination date if no longer employed by the facility.
 - (10) Reasons for leaving.
 - (11) A health screening as specified in Section 87411, Personnel Requirements - General.
 - (12) Hazardous health conditions documents as specified in Section 87411, Personnel Requirements - General.
 - (13) For employees that are required to be fingerprinted pursuant to Section 87355, Criminal Record Clearance:
 - (A) A signed statement regarding their criminal record history as required by Section 87355(d).
 - (B) Documentation of either a criminal record clearance or a criminal record exemption as required by Section 87355(e).
 - 1. For Certified Administrators, a copy of their current and valid Administrative Certification meets this requirement.
- (b) Personnel records shall be maintained for all volunteers and shall contain the following:
- (1) A health statement as specified in Section 87411(e).
 - (2) Health screening documents as specified in Section 87411(e).
 - (3) For volunteers that are required to be fingerprinted pursuant to Section 87355, Criminal Record Clearance:
 - (A) A signed statement regarding their criminal record history as required by Section 87355(d).

87412 PERSONNEL RECORDS (Continued)**87412**

- (B) Documentation of either a criminal record clearance or a criminal record exemption as required by Section 87355(e).
- (c) Licensees shall maintain in the personnel records verification of required staff training and orientation.
- (1) The following staff training and orientation shall be documented:
- (A) For staff who assist with personal activities of daily living, there shall be documentation of at least ten hours of initial training within the first four weeks of employment, and at least four hours of training annually thereafter in one or more of the content areas as specified in Section 87411(c)(2).
- (B) For staff who provide direct care to residents with dementia in a facility in which the licensee advertises dementia special care, programming, and/or environments, the licensee shall document the following:
1. The orientation received as specified in Section 87707(a)(1).
 2. The in-service training received as specified in Section 87707(a)(2).
- (2) Documentation of staff training shall include:
- (A) Trainer's full name;
- (B) Subject(s) covered in the training;
- (C) Date(s) of attendance; and
- (D) Number of training hours per subject.
1. If the training is provided by a trainer in a classroom setting, documentation shall consist of notices of course completion signed by the trainer.
 2. If the educational hours/units are obtained through an accredited educational institution, documentation shall include a copy of a transcript or official grade slip showing a passing mark.
 3. If the educational hours/units are obtained through continuing education, documentation shall include a transcript or official grade slip showing a passing mark, if applicable, or a Certificate of Completion.

87412 PERSONNEL RECORDS (Continued)**87412**

- (d) The licensee shall maintain documentation that an administrator has met the certification requirements specified in Section 87406, Administrator Certification Requirements or the recertification requirements in Section 87407, Administrator Recertification Requirements.
- (e) In all cases, personnel records shall demonstrate adequate staff coverage necessary for facility operation by documenting the hours actually worked.
- (f) All personnel records shall be available to the licensing agency to inspect, audit, and copy upon demand during normal business hours. Records may be removed if necessary for copying. Removal of records shall be subject to the following requirements:
 - (1) Licensing representatives shall not remove any current emergency or health-related information for current personnel unless the same information is otherwise readily available in another document or format.
 - (2) Prior to removing any records, a licensing representative shall prepare a list of the records to be removed, sign and date the list upon removal of the records, and leave a copy of the list with the administrator or designee.
 - (3) Licensing representatives shall return the records undamaged and in good order within three business days following the date the records were removed.
- (g) All personnel records shall be maintained at the facility.
 - (1) The licensee shall be permitted to retain such records in a central administrative location provided that they are readily available to the licensing agency at the facility as specified in Section 87412(f).
- (h) All personnel records shall be retained for at least three (3) years following termination of employment.

NOTE: Authority cited: Sections 1569.30 and 1569.616, Health and Safety Code. Reference: Sections 1569.17(c), 1569.31, 1569.312, 1569.613, 1569.616, 1569.625, and 1569.626, Health and Safety Code.

87413 PERSONNEL - OPERATIONS**87413**

- (a) In each facility:
- (1) When regular staff members are absent, there shall be coverage by personnel with qualifications adequate to perform the assigned tasks.
 - (2) Care and supervision of residents shall be provided without physical or verbal abuse, exploitation or prejudice.
 - (3) The licensee shall provide for and encourage all personnel to report observations or evidence of such abuse, exploitation or prejudice.
- (b) If the facility is licensed for sixteen (16) persons or more, there shall be a dated weekly employee time schedule displayed conveniently for employee reference. The schedule shall contain employee's name, job title, hours of work, and days off.

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

87415 NIGHT SUPERVISION**87415**

- (a) The following persons providing night supervision from 10:00 p.m. to 6:00 a.m. shall be familiar with the facility's planned emergency procedures, shall be trained in first aid as required in Section 87465, Incidental Medical and Dental Care Services, and shall be available as indicated below to assist in caring for residents in the event of an emergency:
- (1) In facilities caring for less than sixteen (16) residents, there shall be a qualified person on call on the premises.
 - (2) In facilities caring for sixteen (16) to one hundred (100) residents at least one employee shall be on duty on the premises, and awake. Another employee shall be on call, and capable of responding within ten minutes.
 - (3) In facilities caring for one hundred one (101) to two hundred (200) residents, one employee shall be on call, on the premises; one employee shall be on duty on the premises and awake; and one employee shall be on call and capable of responding within ten minutes.
 - (4) Every additional 100 residents, or fraction thereof, shall require an additional one (1) staff person on duty, on the premises and awake.

87415	NIGHT SUPERVISION (Continued)	87415
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- (5) In facilities required to have a signal system, specified in Section 87303, Maintenance and Operation, at least one night staff person shall be located to enable immediate response to the signal system. If the signal system is visual only, that person shall be awake.
- (6) The requirements of this section shall not prohibit compliance with additional supervisory requirements required by the State Fire Marshal.

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

Article 8. Resident Assessments, Fundamental Services and Rights**87452 DEFICIENCIES IN COMPLIANCE****87452**

Renumbered to Section 87756 by Manual Letter No. CCL-08-01, effective 3/5/08.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.15, 1569.16, 1569.17, 1569.20, and 1569.205, Health and Safety Code.

87455 ACCEPTANCE AND RETENTION LIMITATIONS**87455**

- (a) Acceptance or retention of residents by a facility shall be in accordance with the criteria specified in this Article 8 and Section 87605, Health and Safety Protection, and the following.
- (b) The following persons may be accepted or retained in the facility:
 - (1) Persons capable of administering their own medications.
 - (2) Persons receiving medical care and treatment outside the facility or who are receiving needed medical care from a visiting nurse.
 - (3) Persons who because of forgetfulness or physical limitations need only be reminded or to be assisted to take medication usually prescribed for self-administration.
 - (4) Persons with problems including, but not limited to, forgetfulness, wandering, confusion, irritability, and inability to manage money.
 - (5) Persons with mild temporary emotional disturbance resulting from personal loss or change in living arrangement.
 - (6) Persons who are under 60 years of age whose needs are compatible with other residents in care, if they require the same amount of care and supervision as do the other residents in the facility.
- (c) No resident shall be accepted or retained if any of the following apply:
 - (1) The resident has active communicable tuberculosis.
 - (2) The resident requires 24-hour, skilled nursing or intermediate care.
 - (3) The resident's primary need for care and supervision results from either:
 - (A) An ongoing behavior, caused by a mental disorder, that would upset the general resident group; or

87455	ACCEPTANCE AND RETENTION LIMITATIONS (Continued)	87455
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- (B) Dementia, unless the requirements of Section 87405, Care of Persons with Dementia, are met.
- (4) The resident is bedridden, other than for a temporary illness or for recovery from surgery, except as otherwise provided in Section 87455(f).
- (d) For the purposes of this section, "bedridden" means any of the following:
- (1) An applicant or resident who requires assistance in turning and repositioning in bed and is unable to leave a building unassisted under emergency conditions.
 - (2) An applicant or resident who is unable to independently transfer to and from bed and is unable to leave a building unassisted under emergency conditions.
- (e) For the purposes of this section, "temporary illness" means any illness which persists for 14 days or less.
- (f) A bedridden resident may be retained in a residential care facility for the elderly in excess of 14 days if all the following requirements are satisfied:
- (1) The facility notifies the department in writing regarding the temporary illness or recovery from surgery.
 - (2) The facility submits to the department, with the notification, a physician and surgeon's written statement to the effect that the resident's illness or recovery is of a temporary nature. The statement shall contain an estimated date upon which the illness or recovery will end or upon which the resident will no longer be confined to a bed.
 - (3) The department determines that the health and safety of the resident is adequately protected in that facility and that transfer to a higher level of care is not necessary.
- (g) 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 with jurisdiction in the bedridden resident's location of the estimated length of time the resident will retain his or her bedridden status in the facility.
- (h) A resident suspected of having a contagious or infectious disease shall be isolated, and a physician contacted to determine suitability of the resident's retention in the facility.
- (i) Renumbered to Section 87701.3 by Manual Letter No. CCL-08-01, effective 3/5/08.
- (j) Renumbered to Section 87637 by Manual Letter No. CCL-08-01, effective 3/5/08.

NOTE: Authority cited: Sections 1569.30 and 1569.698, Health and Safety Code. Reference: Sections 1250, 1569.1, 1569.2, 1569.31, 1569.312, 1569.54, 1569.699 and 1569.72, Health and Safety Code.

87456 EVALUATION OF SUITABILITY FOR ADMISSION**87456**

- (a) Prior to accepting a resident for care and in order to evaluate his/her suitability, the facility shall, as specified in this article 8:
- (1) Conduct an interview with the applicant and his responsible person.
 - (2) Perform a pre-admission appraisal.
 - (3) Obtain and evaluate a recent medical assessment.
 - (4) Execute the admissions agreement.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.2 and 1569.312, Health and Safety Code.

87457 PRE-ADMISSION APPRAISAL**87457**

- (a) Prior to admission, the prospective resident and his/her responsible person, if any, shall be interviewed by the licensee or the employee responsible for facility admissions.
- (1) Sufficient information about the facility and its services shall be provided to enable all persons involved in the placement to make an informed decision regarding admission.
 - (2) The prospective resident's desires regarding admission, and his/her background, including any specific service needs, medical background and functional limitations shall be discussed.
- (b) No person shall be admitted without his/her consent and agreement, or that of his/her responsible person, if any.
- (c) Prior to admission a determination of the prospective resident's suitability for admission shall be completed and shall include an appraisal of his/her individual service needs in comparison with the admission criteria specified in Section 87455, Acceptance and Retention Limitations.
- (1) The appraisal shall include, at a minimum, an evaluation of the prospective resident's functional capabilities, mental condition and an evaluation of social factors as specified in Sections 87459, Functional Capabilities and 87462, Social Factors.
 - (A) The licensee shall be permitted to use the form LIC 603 (Rev. 6/87), Preplacement Appraisal Information, to document the appraisal.

87457 PRE-ADMISSION APPRAISAL (Continued)**87457**

- (2) Except as provided in Section 87638(g)(3), if an initial appraisal or any reappraisal identifies an individual resident service need which is not being met by the general program of facility services, advice shall then be obtained from a physician, social worker, or other appropriate consultant to determine if the needs can be met by the facility. If so, the licensee and the consultant shall develop a plan of action which shall include:
 - (A) Objectives, within a time frame, which relate to the resident's problems and/or unmet needs.
 - (B) Plans for meeting the objectives.
 - (C) Identification of any individuals or agencies responsible for implementing each part of the plan.
 - (D) Method of evaluating progress.
- (3) The prospective resident, or his/her responsible person, if any, shall be involved in the development of the appraisal.
 - (A) Repealed by Manual Letter No. CCL-08-01, effective 3/5/08.
- (4) If a needs assessment has already been completed by a placement agency or consultant, this shall be obtained and included in the facility's appraisal.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.2 and 1569.312, Health and Safety Code.

87458 MEDICAL ASSESSMENT**87458**

- (a) Prior to a person's acceptance as a resident, the licensee shall obtain and keep on file, documentation of a medical assessment, signed by a physician, made within the last year. The licensee shall be permitted to use the form LIC 602 (Rev. 9/89), Physician's Report, to obtain the medical assessment.
- (b) The medical assessment shall include, but not be limited to:
 - (1) A physical examination of the resident indicating the physician's primary diagnosis and secondary diagnosis, if any and results of an examination for communicable tuberculosis, other contagious/infectious diseases or other medical conditions which would preclude care of the person by the facility.
 - (2) Documentation of prior medical services and history and current medical status including, but not limited to height, weight, and blood pressure.

87458 MEDICAL ASSESSMENT (Continued)**87458**

- (3) A record of current prescribed medications, and an indication of whether the medication should be centrally stored, pursuant to Section 87465(h)(1).
 - (4) Identification of physical limitations of the person to determine his/her capability to participate in the programs provided by the licensee, including any medically necessary diet limitations.
 - (5) The determination whether the person is ambulatory or nonambulatory as defined in Section 87101(a) or (n), or bedridden as defined in Section 87455(d). The assessment shall indicate whether nonambulatory status is based upon the resident's physical condition, mental condition or both.
 - (6) Information applicable to the pre-admission appraisal specified in Section 87457, Pre-admission Appraisal.
- (c) The licensee shall obtain an updated medical assessment when required by the Department.

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

87459 FUNCTIONAL CAPABILITIES**87459**

- (a) The facility shall assess the person's need for personal assistance and care by determining his/her ability to perform specified activities of daily living. Such activities shall include, but not be limited to:
 - (1) Bathing, including need for assistance:
 - (A) In getting in and out of the bath.
 - (B) In bathing one or more parts of the body.
 - (C) Through use of grab bars.
 - (2) Dressing and grooming, including the need for partial or complete assistance.
 - (3) Toileting, including the need for:
 - (A) Assistance equipment.
 - (B) Assistance of another person.

87459	FUNCTIONAL CAPABILITIES (Continued)	87459
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- (4) Transferring, including the need for assistance in moving in and out of a bed or chair.
- (5) Continence, including:
 - (A) Bowel and bladder control.
 - (B) Whether assistive devices such as a catheter are used.
- (6) Eating, including the need for:
 - (A) Adaptive devices.
 - (B) Assistance from another person.
- (7) Physical condition, including:
 - (A) Vision.
 - (B) Hearing.
 - (C) Speech.
 - (D) Walking with or without equipment or other assistance.
 - (E) Dietary limitations.
 - (F) Medical history and problems.
 - (G) Need for prescribed medications.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1250, 1569.1, 1569.2, 1569.31, 1569.312 and 1569.315, Health and Safety Code.

87461 MENTAL CONDITIONS**87461**

- (a) The facility shall determine the amount of supervision necessary by assessing the mental status of the prospective resident to determine if the individual:
- (1) tends to wander;
 - (2) is confused or forgetful;
 - (3) is capable of managing his/her own cash resources;
 - (4) actively participates in social activities or is withdrawn;
 - (5) has a documented history of behaviors which may result in harm to self or others.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.2, 1569.31, 1569.312 and 1569.316, Health and Safety Code.

87462 SOCIAL FACTORS**87462**

The facility shall obtain sufficient information about each person's likes and dislikes and interests and activities, to determine if the living arrangements in the facility will be satisfactory, and to suggest the program of activities in which the individual may wish to participate.

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

87463 REAPPRAISALS**87463**

- (a) The pre-admission appraisal shall be updated, in writing as frequently as necessary to note significant changes and to keep the appraisal accurate. The reappraisals shall document changes in the resident's physical, medical, mental, and social condition. Significant changes shall include but not be limited to:
- (1) A physical trauma such as a heart attack or stroke.
 - (2) A mental/social trauma such as the loss of a loved one.
 - (3) Any illness, injury, trauma, or change in the health care needs of the resident that results in a circumstance or condition specified in Section 87455(c) or 87615, Prohibited Health Conditions.
- (b) The licensee shall immediately bring any such changes to the attention of the resident's physician and his family or responsible person.

87463 REAPPRAISALS (Continued)**87463**

- (c) The licensee shall arrange a meeting with the resident, the resident's representative, if any, appropriate facility staff, and a representative of the resident's home health agency, if any, when there is significant change in the resident's condition, or once every 12 months, whichever occurs first, as specified in Section 87467, Resident Participation in Decision Making.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.156, 1569.2, 1569.31, 1569.312 and 1569.315, Health and Safety Code.

87464 BASIC SERVICES**87464**

- (a) The services provided by the facility shall be conducted so as to continue and promote, to the extent possible, independence and self-direction for all persons accepted for care. Such persons shall be encouraged to participate as fully as their conditions permit in daily living activities both in the facility and in the community.
- (b) As used in this chapter, basic services are those services required to be provided in order to obtain and maintain a license.
- (c) The admission agreement shall specify which of the basic services are desired and/or needed by, and will be provided for, each resident.
- (d) A facility need not accept a particular resident for care. However, if a facility chooses to accept a particular resident for care, the facility shall be responsible for meeting the resident's needs as identified in the pre-admission appraisal specified in Section 87457, Pre-admission Appraisal and providing the other basic services specified below, either directly or through outside resources.
- (e) If the resident is an SSI/SSP recipient, then the basic services shall be provided and/or made available at the basic rate at no additional charge to the resident.
- (1) This shall not preclude the acceptance by the facility of voluntary contributions from relatives or others on behalf of an SSI/SSP recipient.

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- (A) The Social Security Administration has interpreted Federal Regulations (20 CFR 416.1102, 416.1103, and 416.1145) to mean that any contribution given directly to the facility on behalf of an SSI/SSP recipient will not count as income (i.e., will not reduce the recipient's SSI/SSP check) if the payment is used for items other than food, clothing or shelter (e.g., care and supervision).

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87464 BASIC SERVICES (Continued)**87464**

- (2) An extra charge to the resident shall be allowed for a private room if a double room is made available but the resident prefers a private room, provided the arrangement is documented in the admissions agreement and the charge is limited to 10% of the Board and Room portion of the SSI/SSP grant.
 - (3) An extra charge to the resident shall be allowed for provision of special food services or products beyond that specified in (f)(2) below, when the resident wishes to purchase the services and agrees to the extra charge in the admission agreement.
- (f) Basic services shall at a minimum include:
- (1) Safe and healthful living accommodations and services, as specified in Section 87307, Personal Accommodations and Services.
 - (2) Three nutritionally well-balanced meals and snacks made available daily, including low salt or other modified diets prescribed by a doctor as a medical necessity, as specified in Section 87555, General Food Service Requirements.
 - (3) Personal assistance and care as needed by the resident and as indicated in the pre-admission appraisal, with those activities of daily living such as dressing, eating, bathing and assistance with taking prescribed medications, as specified in Section 87608, Postural Supports.
 - (4) Regular observation of the resident's physical and mental condition, as specified in Section 87466, Observation of the Resident.
 - (5) Arrangements to meet health needs, including arranging transportation, as specified in Section 87465, Incidental Medical and Dental Care Services.
 - (6) A planned activities program which includes social and recreational activities appropriate to the interests and capabilities of the resident, as specified in Section 87219, Planned Activities.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.2, 1569.31, 1569.312 and 1569.313, Health and Safety Code; and Section 11006.9 and 12350, Welfare and Institutions Code.

87465 INCIDENTAL MEDICAL AND DENTAL CARE SERVICES**87465**

- (a) A plan for incidental medical and dental care shall be developed by each facility. The plan shall encourage routine medical and dental care and provide for assistance in obtaining such care, by compliance with the following:
- (1) The licensee shall arrange, or assist in arranging, for medical and dental care appropriate to the conditions and needs of residents.
 - (2) The licensee shall provide assistance in meeting necessary medical and dental needs. This includes transportation which may be limited to the nearest available medical or dental facility which will meet the resident's need. In providing transportation the licensee shall do so directly or make arrangements for this service.
 - (3) There shall be arrangements for separation and care of residents whose illness requires separation from others.
 - (4) When residents require prosthetic devices, vision and hearing aids, the staff shall be familiar with the use of these devices, and shall assist such persons with their utilization as needed.
 - (5) The licensee shall assist residents with self-administered medications as needed.
 - (6) Facility staff, except those authorized by law, shall not administer injections, but staff designated by the licensee may assist persons with self-administration as needed. Assistance with self-administered medications shall be limited to the following:
 - (A) Medications usually prescribed for self-administration which have been authorized by the person's physician.
 - (B) Medications during an illness determined by a physician to be temporary and minor.
 - (C) Assistance required because of tremor, failing eyesight and similar conditions.
 - (D) Assistance with self-administration does not include forcing a resident to take medication, hiding or camouflaging medications in other substances without the resident's knowledge and consent, or otherwise infringing upon a resident's right to refuse to take a medication.
 - (7) When requested by the prescribing physician or the Department, a record of dosages of medications which are centrally stored shall be maintained by the facility.

87465 INCIDENTAL MEDICAL AND DENTAL CARE SERVICES (Continued) 87465

- (8) There shall be adequate privacy for first aid treatment of minor injuries and for examination by a physician if required.
- (9) If a facility has no medical unit on the grounds, a complete first aid kit shall be maintained and be readily available in a specific location in the facility. The kit shall be a general type approved by the American Red Cross, or shall contain at least the following:
 - (A) A current edition of a first aid manual approved by the American Red Cross, the American Medical Association or a state or federal health agency.
 - (B) Sterile first aid dressings.
 - (C) Bandages or roller bandages.
 - (D) Scissors.
 - (E) Tweezers.
 - (F) Thermometers.
- (b) If the resident's physician has stated in writing that the resident is able to determine and communicate his/her need for a prescription or nonprescription PRN medication, facility staff shall be permitted to assist the resident with self-administration of his/her PRN medication.
- (c) If the resident's physician has stated in writing that the resident is unable to determine his/her own need for nonprescription PRN medication but can communicate his/her symptoms clearly, facility staff designated by the licensee shall be permitted to assist the resident with self-administration, provided all of the following requirements are met:
 - (1) There is written direction from a physician, on a prescription blank, specifying the name of the resident, the name of the medication, all of the information in Section 87465(e), instructions regarding a time or circumstance (if any) when it should be discontinued, and an indication when the physician should be contacted for a medication reevaluation.
 - (2) Once ordered by the physician the medication is given according to the physician's directions.

87465 INCIDENTAL MEDICAL AND DENTAL CARE SERVICES (Continued) 87465

- (3) A record of each dose is maintained in the resident's record. The record shall include the date and time the PRN medication was taken, the dosage taken, and the resident's response.
- (d) If the resident is unable to determine his/her own need for a prescription or nonprescription PRN medication, and is unable to communicate his/her symptoms clearly, facility staff designated by the licensee, shall be permitted to assist the resident with self-administration provided all of the following requirements are met:
- (1) Facility staff shall contact the resident's physician prior to each dose, describe the resident's symptoms, and receive direction to assist the resident in self-administration of that dose of medication.
 - (2) The date and time of each contact with the physician, and the physician's directions, shall be documented and maintained in the resident's facility record.
 - (3) The date and time the PRN medication was taken, the dosage taken, and the resident's response shall be documented and maintained in the resident's facility record.
- (e) For every prescription and nonprescription PRN medication for which the licensee provides assistance there shall be a signed, dated written order from a physician, on a prescription blank, maintained in the residents file, and a label on the medication. Both the physician's order and the label shall contain at least all of the following information.
- (1) The specific symptoms which indicate the need for the use of the medication.
 - (2) The exact dosage.
 - (3) The minimum number of hours between doses.
 - (4) The maximum number of doses allowed in each 24-hour period.
- (f) Emergency care requirements shall include the following:
- (1) The name, address, and telephone number of each resident's physician and dentist shall be readily available to that resident, the licensee, and facility staff.
 - (2) The name, address and telephone number of each emergency agency to be called in the event of an emergency, including but not limited to the fire department, crisis center or paramedical unit or medical resource, shall be posted in a location visible to both staff and residents.

87465 INCIDENTAL MEDICAL AND DENTAL CARE SERVICES (Continued) 87465

- (3) The name and telephone number of an ambulance service shall be readily available.
- (4) Renumbered to Section 87411(c)(1) by Manual Letter No. CCL-08-01, effective 3/5/08.
- (g) The licensee shall immediately telephone 9-1-1 if an injury or other circumstance has resulted in an imminent threat to a resident's health including, but not limited to, an apparent life-threatening medical crisis except as specified in Section 87469(c)(2) or (c)(3).
- (h) The following requirements shall apply to medications which are centrally stored:
 - (1) Medications shall be centrally stored under the following circumstances:
 - (A) The preservation of medicines requires refrigeration, if the resident has no private refrigerator.
 - (B) Any medication is determined by the physician to be hazardous if kept in the personal possession of the person for whom it was prescribed.
 - (C) Because of potential dangers related to the medication itself, or due to physical arrangements in the facility and the condition or the habits of other persons in the facility, the medications are determined by either a physician, the administrator, or Department to be a safety hazard to others.
 - (2) Centrally stored medicines shall be kept in a safe and locked place that is not accessible to persons other than employees responsible for the supervision of the centrally stored medication.
 - (3) Each container shall carry all of the information specified in (6)(A) through (E) below plus expiration date and number of refills.
 - (4) All centrally stored medications shall be labeled and maintained in compliance with state and federal laws. No persons other than the dispensing pharmacist shall alter a prescription label.
 - (5) Each resident's medication shall be stored in its originally received container. No medications shall be transferred between containers.
 - (6) The licensee shall be responsible for assuring that a record of centrally stored prescription medications for each resident is maintained for at least one year and includes:
 - (A) The name of the resident for whom prescribed.
 - (B) The name of the prescribing physician.
 - (C) The drug name, strength and quantity.

87465	INCIDENTAL MEDICAL AND DENTAL CARE SERVICES (Continued)	87465
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- (D) The date filled.
 - (E) The prescription number and the name of the issuing pharmacy.
 - (F) Instructions, if any, regarding control and custody of the medication.
- (i) Prescription medications which are not taken with the resident upon termination of services, not returned to the issuing pharmacy, nor retained in the facility as ordered by the resident's physician and documented in the resident's record nor disposed of according to the hospice's established procedures or which are otherwise to be disposed of shall be destroyed in the facility by the facility administrator and one other adult who is not a resident. Both shall sign a record, to be retained for at least three years, which lists the following:
- (1) Name of the resident.
 - (2) The prescription number and the name of the pharmacy.
 - (3) The drug name, strength and quantity destroyed.
 - (4) The date of destruction.
- (j) In all facilities licensed for sixteen (16) persons or more, one or more employees shall be designated as having primary responsibility for assuring that each resident receives needed first aid and needed emergency medical services and for assisting residents as needed with self-administration of medications. The names of the staff employees so responsible and the designated procedures shall be documented and made known to all residents and staff.

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

87466	OBSERVATION OF THE RESIDENT	87466
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The licensee shall ensure that residents are regularly observed for changes in physical, mental, emotional and social functioning and that appropriate assistance is provided when such observation reveals unmet needs. When changes such as unusual weight gains or losses or deterioration of mental ability or a physical health condition are observed, the licensee shall ensure that such changes are documented and brought to the attention of the resident's physician and the resident's responsible person, if any.

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

87467 RESIDENT PARTICIPATION IN DECISIONMAKING**87467**

- (a) Prior to, or within two weeks of the resident's admission, the licensee shall arrange a meeting with the resident, the resident's representative, if any, appropriate facility staff, and a representative of the resident's home health agency, if any, and any other appropriate parties, to prepare a written record of the care the resident will receive in the facility, and the resident's preferences regarding the services provided at the facility.
- (1) At a minimum the written record shall include the date of the meeting, name of individuals who participated and their relationship to the resident, and the agreed-upon services to be provided to the resident.
 - (2) If the resident has a regular physician, the licensee shall send a copy of the record to the physician.
 - (3) The licensee shall arrange a meeting with the resident and appropriate individuals identified in Section 87467(a)(1) to review and revise the written record as specified, when there is a significant change in the residents condition, or once every 12 months, whichever occurs first. Significant changes shall include, but not be limited to occurrences specified in Section 87463, Reappraisals.
 - (4) The meeting and documentation described in this section may be used to satisfy the reappraisal requirements of Section 87463, Reappraisals.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.156 and 1569.80, Health and Safety Code.

87468 PERSONAL RIGHTS**87468**

- (a) Each resident shall have personal rights which include, but are not limited to, the following:
- (1) To be accorded dignity in his/her personal relationships with staff, residents, and other persons.
 - (2) To be accorded safe, healthful and comfortable accommodations, furnishings and equipment.
 - (3) To be free from corporal or unusual punishment, humiliation, intimidation, mental abuse, or other actions of a punitive nature, such as withholding of monetary allowances or interfering with daily living functions such as eating or sleeping patterns or elimination.
 - (4) To be informed by the licensee of the provisions of law regarding complaints and of procedures to confidentially register complaints, including, but not limited to, the address and telephone number of the complaint receiving unit of the licensing agency.

87468 PERSONAL RIGHTS (Continued)**87468**

- (5) To have the freedom of attending religious services or activities of his/her choice and to have visits from the spiritual advisor of his/her choice. Attendance at religious services, either in or outside the facility, shall be on a completely voluntary basis.
- (6) To leave or depart the facility at any time and to not be locked into any room, building, or on facility premises by day or night. This does not prohibit the establishment of house rules, such as the locking of doors at night, for the protection of residents; nor does it prohibit, with permission of the licensing agency, the barring of windows against intruders.
- (7) To visit the facility prior to residence along with his/her family and responsible persons.
- (8) To have his/her family or responsible persons regularly informed by the facility of activities related to his care or services including ongoing evaluations, as appropriate to the resident's needs.
- (9) To have communications to the facility from his/her family and responsible persons answered promptly and appropriately.
- (10) To be informed of the facility's policy concerning family visits and other communications with residents, as specified in Health and Safety Code section 1569.313.

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Health and Safety Code section 1569.313 provides that:

This policy shall be designed to encourage regular family involvement with the resident and shall provide ample opportunities for family participation in activities at the facility.

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- (11) To have his/her visitors, including ombudspersons and advocacy representatives permitted to visit privately during reasonable hours and without prior notice, provided that the rights of other residents are not infringed upon.
- (12) To wear his/her own clothes; to keep and use his/her own personal possessions, including his/her toilet articles; and to keep and be allowed to spend his/her own money.
- (13) To have access to individual storage space for private use.
- (14) To have reasonable access to telephones, to both make and receive confidential calls. The licensee may require reimbursement for long distance calls.

87468 PERSONAL RIGHTS (Continued)**87468**

- (15) To mail and receive unopened correspondence in a prompt manner.
- (16) To receive or reject medical care, or other services.
- (17) To receive assistance in exercising the right to vote.
- (18) To move from the facility.
- (b) At admission, a resident and the resident's responsible person or conservator shall be personally advised of and given a list of these rights. The licensee shall have each resident and the resident's responsible person or conservator sign a copy of these rights, and the signed copy shall be included in the resident's record.
- (c) Facilities licensed for seven (7) or more shall prominently post, in areas accessible to the residents and their relatives, the following:
 - (1) Procedures for filing confidential complaints.
 - (2) A copy of these rights or, in lieu of a posted copy, instructions on how to obtain additional copies of these rights.
- (d) The information in (c) above shall be posted in English, and in facilities where a significant portion of the residents cannot read English, in the language they can read.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.31, 1569.312 and 1569.313, Health and Safety Code.

87469 ADVANCE HEALTH CARE DIRECTIVES, REQUESTS TO FOREGO RESUSCITATIVE MEASURES, AND DO-NOT-RESUSCITATE FORMS**87469**

- (a) Upon admission, a facility shall provide each resident, and representative or responsible person of each resident, with written information about the right to make decisions concerning medical care. This information shall include, but not be limited to, the Department's approved brochure entitled "Your Right To Make Decisions About Medical Treatment," PUB 325, (1/04) and a copy of Sections 87469(b) and (c) of the regulations.
- (b) Residents shall be permitted to have a Request to Forego Resuscitative Measures, an Advance Health Care Directive and/or a Do-Not-Resuscitate (DNR) Form in their facility file.

**87469 ADVANCE HEALTH CARE DIRECTIVES, REQUESTS TO FOREGO
RESUSCITATIVE MEASURES, AND DO-NOT-RESUSCITATE FORMS 87469**
(Continued)

- (c) If a resident who has a Request to Forego Resuscitative Measures, and/or an Advance Health Care Directive and/or a DNR form on file experiences a medical emergency, facility staff shall do one of the following:
- (1) Immediately telephone 9-1-1, present the Request to Forego Resuscitative Measures, Advance Health Care Directive and/or DNR form to the responding emergency medical personnel and identify the resident as the person to whom the order refers.
 - (2) Immediately give the Request to Forego Resuscitative Measures, and/or Advance Health Care Directive and/or DNR form to a physician, registered nurse or licensed vocational nurse if the physician or nurse is in the resident's presence at the time of the emergency and assumes responsibility.
 - (3) Facilities that employ health care providers, other than Home Health Agencies or Hospice Agencies, may comply with Health and Safety Code section 1569.74.

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Health and Safety Code section 1569.74 states in relevant part:

- "(a) Licensed residential care facilities for the elderly that employ health care providers may establish policies to honor a request to forego resuscitative measures as defined in subdivision (b) of Section 4753 of the Probate Code.
- (b) Any policy established pursuant to subdivision (a) shall meet all of the following conditions:
- (1) The policy shall be in writing and specify procedures to be followed in implementing the policy.
 - (2) The policy and procedures shall, at all times, be available in the facility for review by the department.
 - (3) The licensee shall ensure that all staff are aware of the policy as well as the procedures to be followed in implementing the policy.

HANDBOOK CONTINUES

87469 ADVANCE HEALTH CARE DIRECTIVES, REQUESTS TO FOREGO 87469
RESUSCITATIVE MEASURES, AND DO-NOT-RESUSCITATE FORMS
(Continued)

HANDBOOK CONTINUES

- (4) A copy of the policy shall be given to each resident who makes a request to forego resuscitative measures, and the resident's primary physician.
 - (5) A copy of the resident's request to forego resuscitative measures shall be maintained in the facility and shall be immediately available for review by facility staff, the licensed health care provider, and the department.
 - (6) Facility staff are prohibited, on behalf of any resident, from signing any directive document as a witness or from being the legally recognized surrogate decision maker.
 - (7) The facility shall provide the resident's physician with a copy of the resident's request to forego resuscitative measures form.
- (c) Any action by a facility that has established policies pursuant to subdivision (a), to honor a resident's request to forego resuscitative measures as provided for in subdivision (a) may only be taken by a licensed health care provider who is employed by the facility and on the premises at the time of the life threatening emergency."

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- (d) After following the procedure in Section 87469(c)(1), (2), or (3), facility staff shall notify the resident's hospice agency and health care surrogate decision maker, if applicable.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.74 and 1569.156, Health and Safety Code; Sections 4753 and 4670, Probate Code.

Article 9. Resident Records**87505 DOCUMENTATION AND SUPPORT****87505**

Each facility shall document in writing the findings of the pre-admission appraisal and any reappraisal or assessment which was necessary in accordance with Sections 87457, Pre-Admission Appraisal, and 87463, Reappraisals. If supporting documentation from a physician is required, this input shall also be obtained and may be the same assessment as required in Section 87458, Medical Assessment.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.156, 1569.2, 1569.31, 1569.312 and 1569.316, Health and Safety Code.

87506 RESIDENT RECORDS**87506**

- (a) The licensee shall ensure that a separate, complete, and current record is maintained for each resident in the facility or in a central administrative location readily available to facility staff and to licensing agency staff.
- (b) Each record shall contain at least the following information:
 - (1) Resident's name and Social Security number.
 - (2) Dates of admission and discharge.
 - (3) Last known address.
 - (4) Birthdate.
 - (5) Religious preference, if any, and name and address of clergyman or religious advisor, if any.
 - (6) Names, addresses, and telephone numbers of responsible persons, as defined in Section 87101(r), to be notified in case of accident, death, or other emergency.
 - (7) Name, address and telephone number of physician and dentist to be called in an emergency.
 - (8) Reports of the medical assessment specified in Section 87458, Medical Assessment, and of any special problems or precautions.
 - (9) The documentation required by Section 87611(a) for residents with an allowable health condition.

87506 RESIDENT RECORDS (Continued)**87506**

- (10) Ambulatory status.
 - (11) Continuing record of any illness, injury, or medical or dental care, when it impacts the resident's ability to function or the services he needs.
 - (12) Current centrally stored medications as specified in Section 87465, Incidental Medical and Dental Care Services.
 - (13) The admission agreement and pre-admission appraisal, specified in Sections 87507, Admission Agreements and 87457, Pre-admission Appraisal.
 - (14) Records of resident's cash resources as specified in Section 87217, Safeguards for Resident Cash, Personal Property, and Valuables.
 - (15) Documents and information required by the following:
 - (A) Section 87457, Pre-Admission Appraisal;
 - (B) Section 87459, Functional Capabilities;
 - (C) Section 87461, Mental Condition;
 - (D) Section 87462, Social Factors;
 - (E) Section 87463, Reappraisals; and
 - (F) Section 87505, Documentation and Support.
- (c) All information and records obtained from or regarding residents shall be confidential.
- (1) The licensee shall be responsible for storing active and inactive records and for safeguarding the confidentiality of their contents. The licensee and all employees shall reveal or make available confidential information only upon the resident's written consent or that of his designated representative.
- (d) All resident records shall be available to the licensing agency to inspect, audit, and copy upon demand during normal business hours. Records may be removed if necessary for copying. Removal of records shall be subject to the following requirements:

87506 RESIDENT RECORDS (Continued)**87506**

- (1) Licensing representatives shall not remove the following current records for current residents unless the same information is otherwise readily available in another document or format:
 - (A) Religious preference, if any, and name and address of clergyman or religious advisor, if any, as specified in Section 87506(b)(5).
 - (B) Name, address, and telephone number of responsible person(s) as specified in Section 87506(b)(6).
 - (C) Name, address, and telephone number of the resident's physician and dentist as specified in Section 87506(b)(7).
 - (D) Information relating to the resident's medical assessment and any special problems or precautions as specified in Section 87506(b)(8).
 - (E) Documentation required for residents with an allowable health condition as specified in Section 87506(b)(9).
 - (F) Information on ambulatory status as specified in Section 87506(b)(10).
 - (G) Continuing record of any illness, injury, or medical or dental care when it affects the resident's ability to function, or services needed, as specified in Section 87506(b)(11).
 - (H) Records of current medications as specified in Section 87506(b)(12).
 - (I) Any other records containing current emergency or health-related information for current residents.
 - (2) Prior to removing any records, a licensing representative shall prepare a list of the records to be removed, sign and date the list upon removal of the records, and leave a copy of the list with the administrator or designee.
 - (3) Licensing representatives shall return the records undamaged and in good order within three business days following the date the records were removed.
- (e) Original records or photographic reproductions shall be retained for a minimum of three (3) years following termination of service to the resident.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.2, 1569.31, 1569.312 and 1569.315, Health and Safety Code; and Section 11006.9, Welfare and Institutions Code.

87507 ADMISSION AGREEMENTS**87507**

- (a) The licensee shall complete an individual written admission agreement with each resident and that resident's responsible person or conservator, if any.
- (b) The licensee shall complete and maintain in the resident's file a Telecommunications Device Notification form (LIC 9158, 5/97) for each resident whose pre-admission appraisal or medical assessment indicates he/she is deaf, hearing-impaired, or otherwise disabled.
- (c) Agreements shall specify the following:
 - (1) Basic services to be made available.
 - (2) Optional services which are available.
 - (3) Payment provisions, including the following:
 - (A) Basic services rate, including any exempt-income-allowance, if the resident agrees to such charge.
 - (B) Optional services costs.
 - (C) Payor.
 - (D) Due date.
 - (E) Funding source, provided that the resident may refuse to disclose such source.
 - (4) Modification conditions, including requirement for provision of at least 30 days prior written notice to the resident of any basic rate change, or for SSI/SSP rate changes, as soon as the facility is notified.
 - (A) Agreements involving persons whose care is funded at government-prescribed rates may specify that operative dates of government modifications shall be considered operative dates for basic service rate modifications.
 - (5) Refund conditions.
 - (A) When the Department orders relocation of a resident under the provisions of Section 87612(a), the resident shall not be held responsible for meeting any advance notice requirement imposed by the licensee in the admission agreement. The licensee shall refund any money to which the resident would have been entitled had notice been given as required by the admission agreement.

87507 ADMISSION AGREEMENTS (Continued)**87507**

- (6) That the Department or licensing agency has the authority to examine residents' records as a part of their evaluation of the facility.
- (7) General facility policies which are for the purpose of making it possible for residents to live together.
- (8) Those actions, circumstances, or conditions specified in Section 87224, Eviction Procedures, which may result in the resident's eviction from the facility. Except for general facility policies developed pursuant to Section 87224(a)(3), the eviction provisions shall not be modified.
- (9) The facility's policy concerning family visits and other communication with residents, pursuant to Health and Safety Code section 1569.313.

HANDBOOK BEGINS HERE

Health and Safety Code section 1569.313 provides that:

This policy shall be designed to encourage regular family involvement with the resident and shall provide ample opportunities for family participation in activities at the facility.

HANDBOOK ENDS HERE

- (10) Other conditions under which the agreement may be terminated.
- (d) If additional services are available through the facility to be purchased by the residents, such as cosmetology, and these are not specified in the admission agreement, a list of these services and charges shall be posted in a location accessible to residents.
- (e) Such agreements shall be dated and signed, acknowledging the contents of the document, by the resident and the resident's responsible person or conservator and the licensee or the licensee's designated representative no later than seven days following admission. Attachments to the agreement may be utilized as long as they are also dated and signed.
- (f) The licensee shall retain in the resident's file the original of the initial admission agreement and all subsequent modifications.
 - (1) The licensee shall provide a copy of the current admission agreement to the resident and the resident's responsible person or conservator, if any.

87507 ADMISSION AGREEMENTS (Continued)**87507**

- (g) The licensee shall comply with all terms and conditions set forth in the admission agreement. No written or oral contract with any other person shall release the licensee from responsibility for provision of safe and healthful facilities, equipment, and accommodations.
- (h) The agreement shall be automatically terminated by the death of the resident, whose relatives shall not be liable for any payment beyond that due at the date of death, unless agreed to in writing or ordered by the court.
- (i) No licensee shall enter into any continuing care contract with any person without approval by the Department in accordance with Health and Safety Code, Chapter 10, Division 2.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.2, 1569.159, 1569.31, 1569.312, 1569.313, and 1569.54, Health and Safety Code.

87508 REGISTER OF RESIDENTS**87508**

- (a) The licensee shall ensure that a current register of all residents in the facility is maintained and contains the following updated information:
 - (1) The resident's name and ambulatory status as specified in Sections 87506(b)(1) and (b)(10).
 - (2) Information on the resident's attending physician as specified in Section 87506(b)(7).
 - (3) Information on the resident's responsible person as specified in Section 87506(b)(6).
- (b) Registers of residents shall be available to the licensing agency to inspect, audit, and copy upon demand during normal business hours. Registers may be removed if necessary for copying. Removal of registers shall be subject to the following requirements:
 - (1) Licensing representatives shall not remove current registers unless the same information is otherwise readily available in another document or format.
 - (2) Prior to removing any registers, a licensing representative shall prepare a list of the registers to be removed, sign and date the list upon removal of the records, and leave a copy of the list with the administrator or designee.

87508	REGISTER OF RESIDENTS (Continued)	87508
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- (3) Licensing representatives shall return the registers undamaged and in good order within three business days following the date the records were removed.
- (c) The register of current residents shall be kept in a central location at the facility.
 - (1) The register shall be treated as confidential information pursuant to Section 87506(c).

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Section 1569.315, Health and Safety Code.

Article 10. Food Services**87555 GENERAL FOOD SERVICE REQUIREMENTS****87555**

- (a) The total daily diet shall be of the quality and in the quantity necessary to meet the needs of the residents and shall meet the Recommended Dietary Allowances of the Food and Nutrition Board of the National Research Council. All food shall be selected, stored, prepared and served in a safe and healthful manner.
- (b) The following food service requirements shall apply:
- (1) Where all food is provided by the facility arrangements shall be made so that each resident has available at least three meals per day. Exceptions may be allowed on weekends and holidays providing the total daily food needs are met. Not more than fifteen (15) hours shall elapse between the third and first meal.
 - (2) Where meal service within a facility is elective, arrangements shall be made to assure availability of an adequate daily food intake for all residents who, in their admission agreement, elected meal service. If a resident's condition changes so that he is no longer able to cook or purchase his own meals, the admission agreement shall be modified and the resident provided full meal service.
 - (3) Between-meal nourishment or snacks shall be made available for all residents unless limited by dietary restrictions prescribed by a physician.
 - (4) Meals on the premises shall be served in a designated dining area suitable for the purpose and residents encouraged to have meals with other residents. Tray service shall be provided in case of temporary need.
 - (5) Meals shall consist of an appropriate variety of foods and shall be planned with consideration for cultural and religious background and food habits of residents.
 - (6) In facilities for sixteen (16) persons or more, menus shall be written at least one week in advance and copies of the menus as served shall be dated and kept on file for at least 30 days. Facilities licensed for less than sixteen (16) residents shall maintain a sample menu in their file. Menus shall be made available for review by the residents or their designated representatives and the licensing agency upon request.
 - (7) Modified diets prescribed by a resident's physician as a medical necessity shall be provided.

87555 GENERAL FOOD SERVICE REQUIREMENTS (Continued)**87555**

- (8) All food shall be of good quality. Commercial foods shall be approved by appropriate federal, state and local authorities. Food in damaged containers shall not be accepted, used or retained.
- (9) Procedures which protect the safety, acceptability and nutritive values of food shall be observed in food storage, preparation and service.
- (10) Where indicated, food shall be cut, chopped or ground to meet individual needs.
- (11) Powdered milk shall not be used as a beverage but may be used in cooking or baking. Raw milk shall not be used. Milk shall be pasteurized.
- (12) Except upon written approval by the licensing agency, meat, poultry and meat food products shall be inspected by state or federal authorities. Written evidence of such inspection shall be available for all products not purchased from commercial markets.
- (13) Home canned foods shall not be used.
- (14) If food is prepared off the facility premises, the preparation source shall meet all applicable requirements for commercial services. The facility shall have adequate equipment and staff to receive and serve the food and for cleanup, and shall maintain adequate equipment for in-house preparation and service of food in emergencies.
- (15) All persons engaged in food preparation and service shall observe personal hygiene and food services sanitation practices which protect the food from contamination.
- (16) In facilities licensed for sixteen (16) to forty-nine (49) residents, one person shall be designated who has primary responsibility for food planning, preparation and service. This person shall be provided with appropriate training.
- (17) In facilities licensed for fifty (50) or more, and providing three (3) meals per day, a full-time employee qualified by formal training or experience shall be responsible for the operation of the food service. If this person is not a nutritionist, a dietitian, or a home economist, provision shall be made for regular consultation from a person so qualified. The consultation services shall be provided at appropriate times, during at least one meal. A written record of the frequency, nature and duration of the consultant's visits shall be secured from the consultant and kept on file in the facility.
- (18) Sufficient food service personnel shall be employed, trained and their working hours scheduled to meet the needs of residents.

87555 GENERAL FOOD SERVICE REQUIREMENTS (Continued)**87555**

- (19) There shall be one or more dining rooms or similar areas suitable for serving residents at a meal service, in shifts where appropriate. The dining areas shall be convenient to the kitchen so that food may be served quickly and easily and shall be attractive and promote socialization among the diners.
- (20) The ventilating systems in food preparation areas shall be maintained in working order and shall be operated when food is being prepared. Food preparation equipment shall be placed to provide aisles of sufficient width to permit easy movement of personnel, mobile equipment and supplies.
- (21) Freezers of adequate size shall be maintained at a temperature of 0 degrees F (-17.7 degrees C), and refrigerators of adequate size shall maintain a maximum temperature of 40 degrees F (4 degrees C). They shall be kept clean and food stored to enable adequate air circulation to maintain the above temperatures.
- (22) Adequate space shall be maintained to accommodate equipment, personnel and procedures necessary for proper cleaning and sanitizing dishes and other utensils.
- (23) All readily perishable foods or beverages capable of supporting rapid and progressive growth of micro-organisms which can cause food infections or food intoxications shall be stored in covered containers at appropriate temperatures.
- (24) Pesticides and other toxic substances shall not be stored in food storerooms, kitchen areas, or where kitchen equipment or utensils are stored.
- (25) Soaps, detergents, cleaning compounds or similar substances shall be stored in areas separate from food supplies.
- (26) Supplies of nonperishable foods for a minimum of one week and perishable foods for a minimum of two days shall be maintained on the premises.
- (27) All kitchen areas shall be kept clean and free of litter, rodents, vermin and insects.
- (28) All food shall be protected against contamination. Contaminated food shall be discarded immediately upon discovery.
- (29) All equipment, fixed or mobile, and dishes, shall be kept clean and maintained in good repair and free of breaks, open seams, cracks or chips.
- (30) All utensils used for eating and drinking and in preparation of food and drink, shall be cleaned and sanitized after each usage.

87555	GENERAL FOOD SERVICE REQUIREMENTS (Continued)	87555
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- (31) Dishes and utensils shall be disinfected:
 - (A) In facilities using mechanical means, by either maintaining hot water at a minimum temperature of 170 degrees F (77 degrees C) at the final rinse cycle of dishwashing machines, or by disinfecting as specified in (B) below.
 - (B) In facilities not using mechanical means, by an alternative comparable method approved by the licensing agency or by the local health department, such as the addition of a sanitation agent to the final rinse water.
- (32) Equipment of appropriate size and type shall be provided for the storage, preparation and service of food and for sanitizing utensils and tableware, and shall be well maintained.
- (33) Tableware and tables, dishes, and utensils shall be sufficient in quantity to serve the residents.
- (34) Adaptive devices shall be provided for self-help in eating as needed by residents.
- (c) The licensing agency may require the facility to provide written information as to the foods purchased and used over a given period when, based upon documentation, there is reason to believe that the food service requirements are not being met.

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

Article 11. Health-Related Services and Conditions**87605 HEALTH AND SAFETY PROTECTION****87605**

- (a) Acceptance by the licensee of residents with incidental medical needs shall be in accordance with the conditions specified in this article.
- (b) The provisions of this Article 11 shall be applicable and in conjunction with Articles 1 through 10 and 12 through 13 of this chapter 8.
- (c) Licensees who employ or permit health care practitioners to provide care to residents shall post a visible notice in a prominent location that states, "Section 680 of the Business and Professions Code requires health care practitioners to disclose their name and license status on a name tag in at least 18-point type while working in this facility."

NOTE: Authority cited: Sections 1569.30 and 1569.698(e), Health and Safety Code. Reference: Sections 1569.2, 1569.31 and 1569.312, Health and Safety Code; Section 680, Business and Professions Code.

87607 AUTOMATED EXTERNAL DEFIBRILLATORS (AEDS)**87607**

- (a) A licensee is permitted to maintain and operate an AED at the facility if all of the following requirements are met:
 - (1) The licensee shall notify the licensing agency in writing that an AED is in the facility and will be used in accordance with all applicable federal and other state requirements.
 - (2) The AED shall be used in accordance with all applicable federal and other state requirements.
 - (3) The licensee shall maintain at the facility the following:
 - (A) A copy of the required physician's prescription for the AED.
 - (B) A training manual from an American Heart Association- or American Red Cross-recognized AED training class.
 - (C) A log of checks of operation of the AED containing the dates checked and the name of person checking.

87607 AUTOMATED EXTERNAL DEFIBRILLATORS (AEDS) (Continued) 87607

- (D) A copy of a valid AED operator's certificate for any employee(s) authorized by the licensee to operate the AED. The certificate shall indicate that the AED training course completed complies with the standards of the American Heart Association or the American Red Cross. If it does not, then other evidence indicating that the AED training course completed complies with the standards of the American Heart Association or the American Red Cross shall be available at the facility.
 - (E) A log of quarterly proficiency demonstrations for each holder of an AED operator's certificate who is authorized by the licensee to operate the AED. The log shall contain the dates of the demonstrations and the manner of demonstration.
- (4) A supply kit shall be maintained at the facility and be readily available for use with the AED. The kit shall contain at least the following:
- (A) A back-up battery set.
 - (B) An extra set of pads.
 - (C) A safety razor for shaving chest hair when necessary to apply the pads.
 - (D) A cardiovascular pulmonary resuscitation barrier (a face shield or mask) for protection from transmission of infectious disease.
 - (E) Two pairs of unused medical examination gloves (latex or non-latex).
- (5) Use of an AED shall be reported as specified in Section 87211, Reporting Requirements.
- (6) Requests to Forego Resuscitative Measures, Advance Directives and Do-Not-Resuscitate Orders shall be observed as specified in Section 87469, Advance Health Care Directives, Requests to Forego Resuscitative Measures, and Do-Not Resuscitate Forms.

NOTE: Authority Cited: Section 1569.30, Health and Safety Code. Reference: Sections 1250, 1569.1, 1569.2, 1569.31, 1569.312, 1569.73 and 1797.196, Health and Safety Code.

87608 POSTURAL SUPPORTS**87608**

- (a) Based on the individual's preadmission appraisal, and subsequent changes to that appraisal, the facility shall provide assistance and care for the resident in those activities of daily living which the resident is unable to do for himself/herself. Postural supports may be used under the following conditions.
- (1) Postural supports shall be limited to appliances or devices such as braces, spring release trays, or soft ties, used to achieve proper body position and balance, to improve a resident's mobility and independent functioning, or to position rather than restrict movement including, but not limited to, preventing a resident from falling out of bed, a chair, etc.
 - (A) Physician-prescribed orthopedic devices such as braces or casts, used for support of a weakened body part or correction of body parts, are considered postural supports.
 - (2) Postural supports shall be fastened or tied in a manner that permits quick release by the resident.
 - (3) A written order from a physician indicating the need for the postural support shall be maintained in the resident's record. The licensing agency shall be authorized to require other additional documentation if needed to verify the order.
 - (4) Prior to the use of postural supports that change the ambulatory status of a resident to non-ambulatory, the licensee shall ensure that the appropriate fire clearance, as required by Section 87202, Fire Clearance has been secured.
 - (5) Under no circumstances shall postural supports include tying, depriving, or limiting the use of a resident's hands or feet.
 - (A) A bed rail that extends from the head half the length of the bed and used only for assistance with mobility shall be allowed.
 - (B) Bed rails that extend the entire length of the bed are prohibited except for residents who are currently receiving hospice care and have a hospice care plan that specifies the need for full bed rails.

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

87609	ALLOWABLE HEALTH CONDITIONS AND THE USE OF HOME HEALTH AGENCIES	87609
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- (a) A licensee shall be permitted to accept or retain persons who have a health condition(s) which requires incidental medical services including, but not limited to, the conditions specified in Section 87612, Restricted Health Conditions.
- (b) Incidental medical care may be provided to residents through a licensed home health agency provided the following conditions are met:
 - (1) The licensee is in substantial compliance with the requirements of Health and Safety Code Sections 1569-1569.87, and of Chapter 8, Division 6, of Title 22, CCR, governing Residential Care Facilities for the Elderly.
 - (2) The licensee provides the supporting care and supervision needed to meet the needs of the resident receiving home health care.
 - (3) The licensee informs the home health agency of any duties the regulations prohibit facility staff from performing, and of any regulations that address the resident's specific condition(s).
 - (4) The licensee and home health agency agree in writing on the responsibilities of the home health agency, and those of the licensee in caring for the resident's medical condition(s).
 - (A) The written agreement shall reflect the services, frequency and duration of care.
 - (B) The written agreement shall include day and evening contact information for the home health agency, and the method of communication between the agency and the facility, which may include verbal contact, electronic mail, or logbook.
 - (C) The written agreement shall be signed by the licensee or licensee representative, and representative of the home health agency, and placed in the resident's file.
- (c) The use of home health agencies to care for a resident's medical condition(s) does not expand the scope of care and supervision that the licensee is required to provide.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2, 1569.312 and 1569.725, Health and Safety Code.

87611 GENERAL REQUIREMENTS FOR ALLOWABLE HEALTH CONDITIONS**87611**

- (a) Prior to accepting or retaining a resident with an allowable health condition as specified in Section 87618, Oxygen Administration - Gas and Liquid; Section 87619, Intermittent Positive Pressure Breathing (IPPB) Machine; Section 87621, Colostomy/Ileostomy; Section 87626, Contractures; or Section 87631, Healing Wounds; licensees who have, or have had, any of the following within the last two years, shall obtain Department approval:
- (1) Probationary license;
 - (2) Administrative action filed against them;
 - (3) A Non-Compliance Conference as defined in Section 87101(n) that resulted in a corrective plan of action; or
 - (4) A notice of deficiency concerning direct care and supervision of a resident with a health condition specified in Section 87612, Restricted Health Conditions, that required correction within 24 hours.
- (b) The licensee shall complete and maintain a current, written record of care for each resident that includes, but is not limited to, the following:
- (1) Documentation from the physician of the following:
 - (A) Stability of the medical condition(s);
 - (B) Medical condition(s) which require incidental medical services;
 - (C) Method of intervention;
 - (D) Resident's ability to perform the procedure; and
 - (E) An appropriately skilled professional shall be identified who will perform the procedure if the resident needs assistance.
 - (2) The names, address and telephone number of vendors, if any, and all appropriately skilled professionals providing services.
 - (3) Emergency contacts.

87611 GENERAL REQUIREMENTS FOR ALLOWABLE HEALTH CONDITIONS (Continued) 87611

- (c) In addition to Section 87411(d), facility staff shall have knowledge and the ability to recognize and respond to problems and shall contact the physician, appropriately skilled professional, and/or vendor as necessary.
- (d) In addition to Section 87463, Reappraisals and Section 87466, Observation of the Resident, the licensee shall monitor the ability of the resident to provide self care for the allowable health condition and document any change in that ability.
- (e) In addition to Sections 87465(a) and 87464(d), the licensee shall ensure that the resident is cared for in accordance with the physician's orders and that the resident's medical needs are met.
- (f) The duty established by this section does not infringe on the right of a resident to receive or reject medical care or services as allowed in Section 87468(a)(16).

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2 and 1569.312, Health and Safety Code.

87612 RESTRICTED HEALTH CONDITIONS 87612

- (a) The licensee may provide care for residents who have any of the following restricted health conditions, or who require any of the following health services:
 - (1) Administration of oxygen as specified in Section 87618.
 - (2) Catheter care as specified in Section 87623.
 - (3) Colostomy/ileostomy care as specified in Section 87621.
 - (4) Contractures as specified in Section 87626.
 - (5) Diabetes as specified in Section 87628.
 - (6) Enemas, suppositories, and/or fecal impaction removal as specified in Section 87622.
 - (7) Incontinence of bowel and/or bladder as specified in Section 87625.
 - (8) Injections as specified in Section 87629.
 - (9) Intermittent Positive Pressure Breathing Machine use as specified in Section 87619.

87612 RESTRICTED HEALTH CONDITIONS (Continued)**87612**

- (10) Stage 1 and 2 pressure sores (dermal ulcers) as specified in Section 87631(a)(3).
- (11) Wound care as specified in Section 87631.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2, 1569.312 and 1569.72, Health and Safety Code.

87613 GENERAL REQUIREMENTS FOR RESTRICTED HEALTH CONDITIONS**87613**

- (a) Prior to admission of a resident with a restricted health condition, the licensee shall:
 - (1) Communicate with all other persons who provide care to that resident to ensure consistency of care for the condition.
 - (2) Ensure that facility staff who will participate in meeting the resident's specialized care needs complete training provided by a licensed professional sufficient to meet those needs.
 - (A) Training shall include hands-on instruction in both general procedures and resident-specific procedures.
 - (B) Training shall be completed prior to the staff providing services to the resident.
- (b) Should the condition of the resident change, all facility staff providing care to that resident shall complete any additional training required to meet the resident's new needs, as determined by the resident's physician or a licensed professional designated by the physician.
- (c) The licensee shall document any significant occurrences that result in changes in the resident's physical, mental and/or functional capabilities and immediately report these changes to the resident's physician and authorized representative.
- (d) A resident's right to receive or reject medical care or services, as specified in Section 87468, Personal Rights, shall not be affected by this section.
 - (1) If a resident refuses medical services the licensee shall immediately notify the resident's physician or licensed professional designated by the physician and the resident's authorized representative, if any, and shall participate in developing a plan for meeting the resident's needs.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2, 1569.312 and 1569.72, Health and Safety Code.

87615	PROHIBITED HEALTH CONDITIONS	87615
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- (a) In addition to Section 87455(c), persons who require health services or have a health condition including, but not limited to, those specified below shall not be admitted or retained in a residential care facility for the elderly:
- (1) Stage 3 and 4 pressure sores (dermal ulcers).
 - (2) Gastrostomy care.
 - (3) Naso-gastric tubes.
 - (4) Staph infection or other serious infection.
 - (5) Residents who depend on others to perform all activities of daily living for them as set forth in Section 87459, Functional Capabilities.
 - (6) Tracheotomies.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2, 1569.312 and 1569.72, Health and Safety Code.

87616	EXCEPTIONS FOR HEALTH CONDITIONS	87616
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- (a) As specified in Section 87209, Program Flexibility, the licensee may submit a written exception request if he/she agrees that the resident has a prohibited and/or restrictive health condition but believes that the intent of the law can be met through alternative means.
- (b) Written requests shall include, but are not limited to, the following:
- (1) Documentation of the resident's current health condition including updated medical reports, other documentation of the current health, prognosis, and expected duration of condition.
 - (2) The licensee's plan for ensuring that the resident's health related needs can be met by the facility.
 - (3) Plan for minimizing the impact on other residents.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1250, 1569.2(a), (e), and (j), 1569.31 and 1569.312, Health and Safety Code.

87617 DEPARTMENTAL REVIEW OF HEALTH CONDITIONS**87617**

- (a) Certain health conditions as specified in Sections 87618, Oxygen Administration-Gas and Liquid, through 87631, Healing Wounds, may require review by Department staff to determine if the resident will be allowed to remain in the facility. The Department shall inform the licensee that the health condition of the resident requires review and shall specify documentation which the licensee shall submit to the Department.
- (1) Documentation shall include, but not be limited to the following:
- (A) Physician's assessment(s).
 - (B) Pre-admission appraisal.
 - (C) Copies of prescriptions for incidental medical services and/or medical equipment.
- (2) The documentation shall be submitted to the Department within 10 days.
- (b) If the Department determines that the resident has an allowable health condition, the licensee shall provide care and supervision to the resident in accordance with the conditions specified in Sections 87618, Oxygen Administration-Gas and Liquid, through 87631, Healing Wounds.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.2(a), (e), and (j) and 1569.312, Health and Safety Code.

87618 OXYGEN ADMINISTRATION - GAS AND LIQUID**87618**

- (a) Except as specified in Section 87611(a), the licensee shall be permitted to accept or retain a resident who requires the use of oxygen gas administration under the following circumstances:
- (1) If the resident is mentally and physically capable of operating the equipment, is able to determine his/her need for oxygen, and is able to administer it him/herself.
- OR
- (2) If intermittent oxygen administration is performed by an appropriately skilled professional.
- (b) In addition to Section 87611(b), the licensee shall be responsible for the following:
- (1) Monitoring of the resident's ongoing ability to operate the equipment in accordance with the physician's orders.

87618	OXYGEN ADMINISTRATION - GAS AND LIQUID (Continued)	87618
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- (2) Ensuring that oxygen administration is provided by an appropriately skilled professional should the resident require assistance.
- (3) Ensuring that the use of oxygen equipment meets the following requirements:
 - (A) A report shall be made in writing to the local fire jurisdiction that oxygen is in use at the facility.
 - (B) "No Smoking-Oxygen in Use" signs shall be posted in the appropriate areas.
 - (C) Smoking shall be prohibited where oxygen is in use.
 - (D) All electrical equipment shall be checked for defects which may cause sparks.
 - (E) Oxygen tanks that are not portable shall be secured in a stand or to the wall.
 - (F) Plastic tubing from the nasal canula or mask to the oxygen source shall be long enough to allow the resident movement within his/her room but does not constitute a hazard to the resident or others.
 - (G) Oxygen from a portable source shall be used by residents when they are outside of their rooms.
 - (H) Equipment shall be operable.
 - (I) Equipment shall be removed from the facility when no longer in use by the resident.
- (4) Determining that room size can accommodate equipment in accordance with Section 87307, Personal Accommodations and Services.
- (5) Ensuring that facility staff have knowledge of, and ability in the operation of the oxygen equipment.
- (c) The licensee shall be permitted to accept or retain a resident who requires the use of liquid oxygen under the following circumstances:
 - (1) The licensee obtains prior approval from the licensing agency.
 - (2) If the resident is mentally and physically capable of operating the equipment, is able to determine his/her need for oxygen, and is able to administer it him/herself.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2 and 1569.312, Health and Safety Code.

**87619 INTERMITTENT POSITIVE PRESSURE BREATHING
(IPPB) MACHINE****87619**

- (a) Except as specified in Section 87611(a), the licensee shall be permitted to accept or retain a resident who requires the use of an IPPB machine under the following circumstances:
- (1) If the resident is mentally and physically capable of operating his/her own equipment and is able to determine his/her own need.
- OR
- (2) If the device is operated and cared for by an appropriately skilled professional.
- (b) In addition to Section 87611(b), the licensee shall be responsible for the following:
- (1) Monitoring of the resident's ongoing ability to operate the equipment in accordance with the physician's orders.
 - (2) Ensuring that the procedure is administered by an appropriately skilled professional should the resident require assistance.
 - (3) Ensuring that the use of the equipment meets the following requirements:
 - (A) Equipment shall be operable.
 - (B) Equipment shall be removed from the facility when no longer in use by the resident.
 - (4) Determining that room size can accommodate equipment in accordance with Section 87307(a)(2)(A).
 - (5) Ensuring that facility staff have knowledge of and ability in the operation of the equipment.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2 and 1569.312, Health and Safety Code.

87621	COLOSTOMY/ILEOSTOMY	87621
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(a) Except as specified in Section 87611(a), the licensee shall be permitted to accept or retain a resident who has a colostomy or ileostomy under the following circumstances:

(1) If the resident is mentally and physically capable of providing all routine care for his/her ostomy, and the physician has documented that the ostomy is completely healed.

OR

(2) If assistance in the care of the ostomy is provided by an appropriately skilled professional.

(b) In addition to Section 87611(b), the licensees shall be responsible for the following:

(1) Ensuring that ostomy care is provided by an appropriately skilled professional.

(A) The ostomy bag and adhesive may be changed by facility staff who have been instructed by the professional.

(B) There shall be written documentation by an appropriately skilled professional outlining the instruction of the procedures delegated and the names of the facility staff who have been instructed.

(C) The professional shall review the procedures and techniques no less than twice a month.

(2) Ensuring that used bags are discarded as specified in Section 87303(f)(1).

(3) Privacy shall be afforded when ostomy care is provided.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2 and 1569.312, Health and Safety Code.

87622 FECAL IMPACTION REMOVAL, ENEMAS, AND/OR SUPPOSITORIES 87622

- (a) The licensee shall be permitted to accept or retain a resident who requires manual fecal impaction removal, enemas, or use of suppositories under the following circumstances:
- (1) Self care by the resident.
 - (2) Manual fecal impaction removal, enemas, and/or suppositories shall be permitted if administered according to physician's orders by either the resident or an appropriately skilled professional.
- (b) In addition to Section 87611, General Requirements for Allowable Health Conditions, the licensee shall be responsible for the following:
- (1) Ensuring that the administration of enemas or suppositories or manual fecal impaction removal is performed by an appropriately skilled professional should the resident require assistance.
 - (2) Privacy shall be afforded when care is being provided.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2(a), (e), and (j) and 1569.312, Health and Safety Code.

87623 INDWELLING URINARY CATHETER 87623

- (a) The licensee shall be permitted to accept or retain a resident who requires the use of an indwelling catheter under the following circumstances:
- (1) If the resident is physically and mentally capable of caring for all aspects of the condition except insertion and irrigation.
 - (A) Irrigation shall only be performed by an appropriately skilled professional in accordance with the physician's orders.
 - (B) A catheter shall only be inserted and removed by an appropriately skilled professional under physician's orders.
- (b) In addition to Section 87611, General Requirements for Allowable Health Conditions, the licensee shall be responsible for the following:
- (1) Ensuring that insertion and irrigation of the catheter shall be performed by an appropriately skilled professional.

87623 INDWELLING URINARY CATHETER (Continued) 87623

- (2) Ensuring that the bag and tubing are changed by an appropriately skilled professional should the resident require assistance.
 - (A) The bag may be emptied by facility staff who receive instruction from an appropriately skilled professional.
 - (B) There shall be written documentation by an appropriately skilled professional outlining the instruction of the procedures delegated and the names of the facility staff who have been instructed.
 - (C) The licensee shall ensure that the professional reviews staff performance as often as necessary, but at least annually.
- (3) Ensuring that waste materials shall be disposed of as specified in Section 87303(f)(1).
- (4) Privacy shall be maintained when care is provided.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2 and 1569.312, Health and Safety Code.

87625 MANAGED INCONTINENCE 87625

- (a) The licensee shall be permitted to accept or retain a resident who has a manageable bowel and/or bladder incontinence condition under the following circumstances:
 - (1) The condition can be managed with any of the following:
 - (A) Self care by the resident.
 - (B) A structured bowel and/or bladder retraining program to assist the resident in restoring a normal pattern of continence.
 - (C) A program of scheduled toileting at regular intervals.
 - (D) The use of incontinent care products.
- (b) In addition to Section 87611, General Requirements for Allowable Health Conditions, the licensee shall be responsible for the following:
 - (1) Ensuring that residents who can benefit from scheduled toileting are assisted or reminded to go to the bathroom at regular intervals rather than being diapered.

87625 MANAGED INCONTINENCE (Continued)**87625**

- (2) Ensuring that incontinent residents are checked during those periods of time when they are known to be incontinent, including during the night.
- (3) Ensuring that incontinent residents are kept clean and dry and that the facility remains free of odors from incontinence.
- (4) Ensuring that bowel and/or bladder programs are designed by an appropriately skilled professional with training and experience in care of elderly persons with bowel and/or bladder dysfunction and development of retraining programs for restoration of normal patterns of continence.
- (5) Ensuring that the appropriately skilled professional developing the bowel and/or bladder program provide training to facility staff responsible for implementation of the program.
- (6) Ensuring that re-assessment of the resident's condition and the evaluation of the effectiveness of the bowel and/or bladder program be performed by an appropriately skilled professional.
- (7) Ensuring that the condition of the skin exposed to urine and stool is evaluated regularly to ensure that skin breakdown is not occurring.
- (8) Privacy shall be afforded when care is provided.
- (9) Ensuring that fluids are not withheld to control incontinence.
- (10) Ensuring that an incontinent resident is not catheterized to control incontinence for the convenience of the licensee.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2 and 1569.312, Health and Safety Code.

87626 CONTRACTURES**87626**

- (a) Except as specified in Section 87611(a), the licensee shall be permitted to accept or retain a resident who has contractures under the following circumstances:
 - (1) If the contractures do not severely affect functional ability and the resident is able to care for the contractures by him/herself.
- OR
- (2) If the contractures do not severely affect functional ability and care and/or supervision is provided by an appropriately skilled professional.

87626	CONTRACTURES (Continued)	87626
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- (b) In addition to Section 87611(b), the licensee shall be responsible for the following:
- (1) Ensuring that range of motion or other exercise(s), if prescribed by the physician or physical therapist, are performed by an appropriately skilled professional or by facility staff who receive instruction from an appropriately skilled professional.
 - (2) Ensuring that prior to facility staff performing range of motion or other prescribed exercises, there shall be written documentation by the appropriately skilled professional, outlining instruction on the procedures and the names of the facility staff receiving instruction.
 - (3) Ensuring that the professional reviews staff performance as often as necessary, but at least annually.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2 and 1569.312, Health and Safety Code.

87628	DIABETES	87628
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- (a) The licensee shall be permitted to accept or retain a resident who has diabetes if the resident is able to perform his/her own glucose testing with blood or urine specimens, and is able to administer his/her own medication including medication administered orally or through injection, or has it administered by an appropriately skilled professional.
- (b) In addition to Section 87611, General Requirements for Allowable Health Conditions, the licensee shall be responsible for the following:
- (1) Assisting residents with self-administered medication as specified in Section 87465, Incidental Medical and Dental Care Services.
 - (2) Ensuring that sufficient amounts of medicines, testing equipment, syringes, needles and other supplies are maintained and stored in the facility as specified in Section 87465(c).
 - (3) Ensuring that syringes and needles are disposed of as specified in Section 87303(f)(2).
 - (4) Providing modified diets as prescribed by a resident's physician as specified in Section 87555(b)(7).

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2 and 1569.312, Health and Safety Code.

87629 INJECTIONS**87629**

- (a) The licensee shall be permitted to accept or retain a resident who requires intramuscular, subcutaneous, or intradermal injections if the injections are administered by the resident or by an appropriately skilled professional.
- (b) In addition to Section 87611, General Requirements for Allowable Health Conditions, the licensees who admit or retain residents who require injections shall be responsible for the following:
 - (1) Ensuring that injections are administered by an appropriately skilled professional should the resident require assistance.
 - (2) Ensuring that sufficient amounts of medicines, test equipment, syringes, needles and other supplies are maintained in the facility and are stored as specified in Section 87465(c).
 - (3) Ensuring that syringes and needles are disposed of as specified in Section 87303(f)(2).

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2 and 1569.312, Health and Safety Code.

87631 HEALING WOUNDS**87631**

- (a) Except as specified in Section 87611(a), the licensee shall be permitted to accept or retain a resident who has a healing wound under the following circumstances:
 - (1) When care is performed by or under the supervision of an appropriately skilled professional.
 - (2) When the wound is the result of surgical intervention and care is performed as directed by the surgeon.
 - (3) Residents with a stage one or two pressure sore (dermal ulcer) must have the condition diagnosed by an appropriately skilled professional.
 - (A) The resident shall receive care for the pressure sore (dermal ulcer) from an appropriately skilled professional.
 - (B) All aspects of care performed by the medical professional and facility staff shall be documented in the resident's file.
- (b) A skin tear is not a healing wound.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2 and 1569.312, Health and Safety Code.

87632 HOSPICE CARE WAIVER**87632**

- (a) In order to retain terminally ill residents and permit them to receive care from a hospice agency, the licensee shall have obtained a facility hospice care waiver from the Department. To obtain this waiver the licensee shall submit a written request for a waiver to the Department on behalf of any future residents who may request retention and hospice services in the facility. The request shall include, but not be limited to the following:
- (1) Specification of the maximum number of terminally ill residents which the facility wants to have at any one time.
 - (2) A statement by the licensee that they have read, Section 87633, Hospice Care for Terminally Ill Residents, this section, and all other requirements within Chapter 8 of Title 22 of the California Code of Regulations governing Residential Care Facilities for the Elderly and that they will comply with these requirements.
 - (3) A statement by the licensee that the terms and conditions of all hospice care plans which are designated as the responsibility of the licensee, or under the control of the licensee, shall be adhered to by the licensee.
 - (4) A written statement from the licensee that hospice services will only be provided to individuals who are residents of the facility, prior to the initiation of hospice services.
- (b) The Department shall deny a waiver request if the licensee is not in substantial compliance with the provisions of the Residential Care Facilities for the Elderly Act (Health and Safety Code Section 1569 et seq.) and the requirements of Chapter 8 of Title 22 of the California Code of Regulations governing Residential Care Facilities for the Elderly.
- (c) No waiver request will be approved unless the facility demonstrates the ability to meet the care and supervision needs of terminally ill residents, and states a willingness to provide additional care staff if required by the hospice care plan.
- (d) If the Department grants a hospice care waiver it shall stipulate terms and conditions of the waiver as necessary to ensure the well-being of terminally ill residents and of all other facility residents, which shall include, but not be limited to, the following requirements:
- (1) A written request shall be signed by each terminally ill resident or the resident's health care surrogate decision maker to allow his or her retention in the facility while receiving hospice services.
 - (A) The request shall be maintained in the resident's record at the facility, as specified in Section 87633(h)(1).

87632 HOSPICE CARE WAIVER (Continued)**87632**

- (2) The licensee shall notify the Department in writing within five working days of the initiation of hospice care services in the facility for any terminally ill resident. The notice shall include the resident's name and date of admission to the facility and the name and address of the hospice.
- (e) Within 30 days of receipt of an acceptable request for a hospice care waiver, the department shall notify the applicant or licensee, in writing of one of the following:
- (1) The request with substantiating evidence has been received and accepted for consideration.
 - (2) The request is deficient, describing additional information required for the request to be acceptable and a time frame for submitting this information.
 - (A) Failure of the applicant or licensee to comply within the time specified in (2) above shall result in denial of the request.
 - (3) Within 30 days of receipt of an acceptable request for a waiver, the licensing agency shall notify the applicant or licensee, in writing, whether the request has been approved or denied.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.2, 1569.10, 1569.11, 1569.15, 1569.31, 1569.312, 1569.54 and 1569.73, Health and Safety Code.

87633 HOSPICE CARE FOR TERMINALLY ILL RESIDENTS**87633**

- (a) The licensee shall be permitted to retain terminally ill residents who receive hospice services from a hospice agency in the facility if all of the following conditions are met:
- (1) The licensee has received a hospice care waiver from the department.
 - (2) The licensee remains in substantial compliance with the requirements of this section, with the provisions of the Residential Care Facilities for the Elderly Act (Health and Safety Code Section 1569 et seq.), all other requirements of Chapter 8 of Title 22 of the California Code of Regulations governing Residential Care Facilities for the Elderly, and with all terms and conditions of the waiver.
 - (3) Hospice agency services are contracted for by each terminally ill resident individually, or the resident's Health Care Surrogate Decision Maker if the resident is incapacitated, not by the licensee on behalf of a resident. These hospice agency services must be provided by a hospice agency both licensed by the state and certified by the federal Medicare program.

87633 HOSPICE CARE FOR TERMINALLY ILL RESIDENTS**87633**

(Continued)

- (4) A written hospice care plan is developed for each terminally ill resident by that resident's hospice agency, and agreed to by the licensee and the resident, or the resident's Health Care Surrogate Decision Maker, if any, prior to the initiation of hospice services in the facility for that resident, and all hospice care plans are fully implemented by the licensee and by the hospice(s).
 - (5) The retention of any terminally ill resident in the facility does not represent a threat to the health and safety of any facility resident, or result in a violation of the personal rights of any facility resident.
 - (6) The hospice agency and the resident agree to provide the licensee with all information necessary to allow the licensee to comply with all regulations and to assure that the resident's needs are met.
- (b) A current and complete hospice care plan shall be maintained in the facility for each hospice resident and include the following:
- (1) The name, office address, business telephone number, and 24-hour emergency telephone number of the hospice agency and the resident's physician.
 - (2) A description of the services to be provided in the facility by the hospice agency including but not limited to the type and frequency of services to be provided.
 - (3) Designation of the resident's primary contact person at the hospice agency, and resident's primary and alternate care giver at the facility.
 - (4) A description of the area of licensee's responsibility for implementing the plan including, but not limited to, facility staff duties; record keeping; and communication with the hospice agency, resident's physician, and the resident's responsible person(s), if any. This description shall include the type and frequency of the tasks to be performed by the facility.
 - (A) The plan shall specify all procedures to be implemented by the licensee regarding the storage and handling of medications or other substances, and the maintenance and use of medical supplies, equipment, or appliances.
 - (B) The plan shall specify, by name or job function, the licensed health care professional on the hospice agency staff who will control and supervise the storage and administration of all controlled drugs (Schedule II - V) for the hospice client. Facility staff can assist hospice residents with self-medications without hospice personnel being present.
 - (C) The plan shall neither require nor recommend that the licensee or any facility personnel other than a physician or appropriately skilled professional implement any health care procedure which may legally be provided only by a physician or appropriately skilled professional.

87633 HOSPICE CARE FOR TERMINALLY ILL RESIDENTS
(Continued)**87633**

- (5) A description of all hospice services to be provided or arranged in the facility by persons other than the licensee, facility personnel, or the hospice agency including, but not limited to, clergy and the resident's family members and friends.
- (6) Identification of the training needed, which staff members need this training, and who will provide the training relating to the licensee's responsibilities for implementation of the hospice care plan.
 - (A) The training shall include but not be limited to typical needs of hospice patients, such as turning and incontinence care to prevent skin breakdown, hydration, and infection control.
 - (B) The hospice agency will provide training specific to the current and ongoing needs of the individual resident receiving hospice care and that training must be completed before hospice care to the resident begins.
- (7) Any other information deemed necessary by the Department to ensure that the terminally ill resident's needs for health care, personal care, and supervision are met.
- (c) The licensee shall ensure that the hospice care plan complies with the requirements of this section, with the provisions of the Residential Care Facilities for the Elderly Act (Health and Safety Code Section 1569 et seq.), and all other requirements of Chapter 8 of Title 22 of the California Code of Regulations governing Residential Care Facilities for the Elderly.
- (d) The licensee shall ensure that the hospice care plan is current, accurately matches the services actually being provided, and that the client's care needs are being met at all times.
- (e) The Department may require that the licensee obtain a revision of the hospice care plan if the plan is not fully implemented, or if the Department has determined that revision of the plan is necessary to protect the health and safety of any facility resident.
- (f) The licensee shall maintain a record of all hospice-related training provided to the licensee or facility personnel for a period of three years. This record shall be available for review by the Department.
 - (1) The record of each training session shall specify the names and credentials of the trainer, the persons in attendance, the subject matter covered, and the date and duration of the training session.
- (g) In addition to the reporting requirements specified in Section 87211, Reporting Requirements, the licensee shall submit a report to the Department when a terminally ill resident's hospice services are interrupted or discontinued for any reason other than the death of the resident, including refusal of hospice care or discharge from hospice. The licensee shall also report any deviation from the resident's hospice care plan, or other incident, which threatens the health and safety of any resident.

87633**HOSPICE CARE FOR TERMINALLY ILL RESIDENTS****87633**

(Continued)

- (1) Such reports shall be made by telephone within one working day, and in writing within five working days, and shall specify all of the following:
 - (A) The name, age, sex of each affected resident.
 - (B) The date and nature of the event and explanatory background information leading up to the event.
 - (C) The name and business telephone number of the hospice agency.
 - (D) Actions taken by the licensee and any other parties to resolve the reportable event and to prevent similar occurrences in the future.

- (h) For each terminally ill resident receiving hospice services in the facility, the licensee shall maintain the following in the resident's record:
 - (1) The resident's or the resident's Health Care Surrogate Decision Maker's written request for retention and hospice services in the facility, along with any Advance Health Care Directive, Request to Forego Resuscitative Measures, and/or Do-Not-Resuscitate Form executed by the resident or (in certain instances) the resident's Health Care Surrogate Decision Maker.
 - (2) The name, address, telephone number, and 24-hour emergency telephone number of the hospice agency and the resident's Health Care Surrogate Decision Maker, if any, in a manner that is readily available to the resident, the licensee, and facility staff.
 - (3) A copy of the written certification statement of the resident's terminal illness from the medical director of the hospice or the physician member of the hospice interdisciplinary group and the individual's attending physician, if the individual has an attending physician.
 - (4) A copy of the resident's current hospice care plan approved by the licensee, the hospice agency, and the resident, or the resident's Health Care Surrogate Decision Maker if the resident is incapacitated.
 - (5) A statement signed by the resident's roommate, if any, indicating his or her acknowledgment that the resident intends to receive hospice care in the facility for the remainder of the resident's life, and the roommate's voluntary agreement to grant access to the shared living space to hospice caregivers, and the resident's support network of family members, friends, clergy, and others.
 - (A) If the roommate withdraws the agreement verbally or in writing, the licensee shall make alternative arrangements which fully meet the needs of the hospice resident.

87633 HOSPICE CARE FOR TERMINALLY ILL RESIDENTS (Continued) 87633

- (i) Prescription medications no longer needed shall be disposed of in accordance with Section 87465(i).
- (j) Approval from the Department is not needed for any of the restricted health conditions listed in Section 87612, Restricted Health Conditions, provided the resident is currently receiving hospice care, and the restricted health condition is addressed in the hospice care plan.
 - (1) In caring for a resident's health condition, facility staff, other than appropriately skilled health professionals, shall not perform any health care procedure that under law may only be performed by an appropriately skilled professional.
- (k) The licensee shall maintain a record of dosages of medications that are centrally stored for each resident receiving hospice services in the facility.
- (l) Residents receiving hospice care who are bedridden as defined in Section 87455(d), Acceptance and Retention Limitations, may reside in the facility provided the facility notifies the local fire authority of the estimated length of time the resident will be bedridden. Notification must occur within 48 hours of the individual's bedridden status.
- (m) Nothing contained in this section or in Chapter 8 precludes the Department from requiring the relocation of a terminally ill resident whose needs for personal care and supervision or health care are not being met in the facility.

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

87637 HEALTH CONDITION RELOCATION ORDER 87637

- (a) If a resident has a health condition which cannot be cared for within the limits of the license, requires inpatient care in a health facility, or has a health condition prohibited by Section 87455(c) or Section 87615, Prohibited Health Conditions, the Department shall order the licensee to relocate the resident.
- (b) When the Department orders the relocation of a resident, the following shall apply:
 - (1) The Department shall give written notice to the licensee ordering the relocation of the resident and informing the licensee of the resident's right to an interdisciplinary team review of the relocation order as specified in Section 87638, Resident Request for Review of Health Condition Relocation Order. Notice of the health condition relocation order and information about the right to request an interdisciplinary team review of the relocation order shall be given to the resident, by the Department, and sent to the resident's responsible person, if any.

87637 HEALTH CONDITION RELOCATION ORDER (Continued)**87637**

- (A) If the resident has no responsible person, as defined in Section 87101, the relocation order shall be sent to the representative payee, if any. In such cases, the Department shall also notify the State Long-Term Care Ombudsman of the relocation order by telephone.
 - (B) The notice shall advise that the licensee may request an administrative review of the health condition relocation order, and may request that an exception or waiver be granted or reinstated by the Department to allow retention of the resident in the facility.
- (2) The licensee shall prepare a written relocation plan in any instance where the Department does not suspend the facility license. The plan shall contain all necessary steps to be taken to reduce stress to the resident which may result in transfer trauma, and shall include but not be limited to:
- (A) A specific date for beginning and a specific date for completion of the process of safely relocating the resident. The time frame for relocation may provide for immediate relocation but shall not exceed 30 days.
 - (B) A specific date when the resident and the resident's responsible person, if any, shall be notified of the need for relocation.
 - (C) A specific date when consultation with the resident's physician, and hospice agency, if any, shall occur to obtain a current medical assessment of the resident's health needs, to determine the appropriate facility type for relocation and to ensure that the resident's health care needs continue to be met at all times during the relocation process.
 - (D) The method by which the licensee shall participate in the identification of an acceptable relocation site with the resident and the responsible person, if any. The licensee shall advise the resident and/or the responsible person that if the resident is to be moved to another residential care facility for the elderly, a determination must be made that the resident's needs can be legally met in the new facility before the move is made. If the resident's needs cannot be legally met in the new facility, the resident must be moved to a facility licensed to provide the necessary care.
 - (E) A list of contacts made or to be made by the licensee with community resources, including but not limited to, social workers, family members, Long Term Care Ombudsman, clergy, Multipurpose Senior Services Programs and others as appropriate to ensure that services are provided to the resident before, during and after the move. The need for the move shall be discussed with the resident and the resident assured that support systems will remain in place.

87637 HEALTH CONDITION RELOCATION ORDER (Continued)**87637**

- (F) Measures to be taken until relocation to protect the resident and/or meet the resident's health and safety needs.
 - (G) An agreement to notify the Department when the relocation has occurred, including the resident's new address, if known.
- (3) The relocation plan shall be submitted in writing to the Department within the time set forth in the LIC 809 (Rev. 5/88) Licensing Report by the Department that the resident requires health services that the facility cannot legally provide.
 - (4) Any changes in the relocation plan shall be submitted in writing to the Department. The Department shall have the authority to approve, disapprove or modify the plan.
 - (5) If relocation of more than one (1) resident is required, a separate plan shall be prepared and submitted in writing for each resident.
 - (6) The licensee shall comply with all terms and conditions of the approved plan. No written or oral contract with any other person shall release the licensee from the responsibility specified in this section or Section 87223, Relocation of Residents, for relocating a resident who has a health condition(s) which cannot be cared for in the facility and/or which requires inpatient care in a licensed health facility, nor from taking all necessary actions to reduce stress to the resident.
 - (7) In cases where the Department determines that the resident is in imminent danger because of a health condition(s) which cannot be cared for in the facility or which requires inpatient care in a licensed health facility, the Department shall order the licensee to immediately relocate the resident.
 - (A) No written relocation plan is necessary in cases of immediate relocation.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1250, 1569.1, 1569.2, 1569.31, 1569.312, 1569.54 and 1569.73, Health and Safety Code.

87638 RESIDENT REQUEST FOR REVIEW OF HEALTH CONDITION RELOCATION ORDER 87638

- (a) A resident, or the resident's responsible person, if any, shall be permitted to request a review and determination of the Department's health condition relocation order by the interdisciplinary team.
- (1) If the resident has no responsible person, as defined in Section 87101, the Long-Term Care Ombudsman and/or the resident's representative payee, if any, shall be permitted to submit a request for review and determination on behalf of the resident.
- (b) The resident, or the resident's responsible person, if any, shall have three (3) working days, from receipt of the relocation order, to submit to the licensee a written, signed and dated request for a review and determination by the interdisciplinary team.
- (1) For purposes of this section, a working day is any day except Saturday, Sunday or an official state holiday.
- (c) The licensee shall mail or deliver such a request to the Department within two (2) working days of receipt.
- (1) Failure or refusal to do so may result in civil penalties, as provided in Section 87761, Penalties.
- (d) The Department shall give written notification to the resident, or the resident's responsible person, if any, acknowledging receipt of the resident's request for review of the relocation order. Notification shall occur within three (3) working days of receipt by the Department of the request for review.
- (e) Within ten (10) working days from the date of the resident's review request, the licensee shall submit to the Department the documentation specified in Section 87638(g) to complete the resident's review request.
- (f) The licensee shall cooperate with the resident, or the resident's responsible person, if any, in gathering the documentation to complete the resident's review request.
- (g) The documentation to complete the resident's review request shall include, but not be limited to, the following:
- (1) The reason(s) for disagreeing that the resident has the health condition identified in the relocation order and why the resident believes he/she may legally continue to reside in a residential care facility for the elderly.
- (2) A current medical assessment signed by the resident's physician.
- (A) For purposes of this section, this assessment shall include the information specified in Sections 87611(a)(1)(A) through (E).

87638 RESIDENT REQUEST FOR REVIEW OF HEALTH CONDITION RELOCATION ORDER (Continued) 87638

- (B) For purposes of this section, "current" shall mean a medical assessment completed on or after the date of the relocation order.
- (3) An appraisal or reappraisal of the resident as specified in Sections 87457(c)(1) and 87463, Reappraisals.
- (A) The licensee shall be permitted to use the form LIC 603 (Rev. 6/87), Placement Appraisal Information, to document the appraisal or reappraisal.
- (4) A written statement from a placement agency, if any, currently involved with the resident, addressing the relocation order.
- (h) The Department shall inform the resident and/or the resident's responsible person, if any, in writing, of the interdisciplinary team's determination and the reason for that determination not more than 30 days after the resident or his/her responsible person, if any, is notified of the need to relocate.
- (i) The resident's right to a review of a health condition relocation order issued by the Department shall not:
- (1) Nullify a determination by the Department that the resident must be relocated in order to protect the resident's health and safety as specified in Section 87612(a).
- (2) Apply to eviction under Section 87224, Eviction Procedures.
- (3) Imply a right to a state hearing or any other administrative review beyond that set forth in this section.
- (4) Apply if the facility license has been temporarily suspended as specified in Section 87775(c).

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Section 1569.54, Health and Safety Code.

87639	ADMINISTRATIVE REVIEW - HEALTH CONDITIONS	87639
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- (a) For purposes of this article, any request for administrative review of a notice of deficiency, notice of penalty, or health condition relocation order shall be submitted by the licensee or his/her designated representative in writing to the Department and, in addition to the requirements of Section 87763, Appeal Process, shall include the following:
- (1) The reason(s) the licensee disagrees with the notice or order.
 - (2) Information about the resident as specified in Section 87611(a).
 - (3) A current appraisal or reappraisal of the resident as specified in Sections 87457(c)(1) and 87463, Reappraisals.
 - (4) A written statement from the resident's placement agency, if any, addressing the notice or order.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2(a), (e), and (j), 1569.312 and 1569.54, Health and Safety Code.

Article 12. Dementia**87705 CARE OF PERSONS WITH DEMENTIA****87705**

- (a) This section applies to licensees who accept or retain residents diagnosed by a physician to have dementia. Mild cognitive impairment, as defined in Section 87101(m), is not considered to be dementia.
- (b) In addition to the requirements as specified in Section 87208, Plan of Operation, the plan of operation shall address the needs of residents with dementia, including:
- (1) Procedures for notifying the resident's physician, family members and responsible persons who have requested notification, and conservator, if any, when a resident's behavior or condition changes.
 - (2) Safety measures to address behaviors such as wandering, aggressive behavior and ingestion of toxic materials.
- (c) Licensees who accept and retain residents with dementia shall be responsible for ensuring the following:
- (1) The facility has a nonambulatory fire clearance for each room that will be used to accommodate a resident with dementia who is unable to or unlikely to respond either physically or mentally to oral instructions relating to fire or other dangers and to independently take appropriate actions during emergencies or drills.
 - (2) The Emergency Disaster Plan, as required in Section 87212, addresses the safety of residents with dementia.
 - (3) In addition to the on-the-job training requirements in Section 87411(d), staff who provide direct care to residents with dementia shall receive the following training as appropriate for the job assigned and as evidenced by safe and effective job performance:
 - (A) Dementia care including, but not limited to, knowledge about hydration, skin care, communication, therapeutic activities, behavioral challenges, the environment, and assisting with activities of daily living;
 - (B) Recognizing symptoms that may create or aggravate dementia behaviors, including, but not limited to, dehydration, urinary tract infections, and problems with swallowing; and
 - (C) Recognizing the effects of medications commonly used to treat the symptoms of dementia.

87705 CARE OF PERSONS WITH DEMENTIA (Continued)**87705**

- (4) There is an adequate number of direct care staff to support each resident's physical, social, emotional, safety and health care needs as identified in his/her current appraisal.
 - (A) In addition to requirements specified in Section 87415, Night Supervision, a facility with fewer than 16 residents shall have at least one night staff person awake and on duty if any resident with dementia is determined through a pre-admission appraisal, reappraisal or observation to require awake night supervision.
- (5) Each resident with dementia shall have an annual medical assessment as specified in Section 87458, Medical Assessment, and a reappraisal done at least annually, both of which shall include a reassessment of the resident's dementia care needs.
 - (A) When any medical assessment, appraisal, or observation indicates that the resident's dementia care needs have changed, corresponding changes shall be made in the care and supervision provided to that resident.
- (6) Appraisals are conducted on an ongoing basis pursuant to Section 87463, Reappraisals.
- (7) An activity program shall address the needs and limitations of residents with dementia and include large motor activities and perceptual and sensory stimulation.
- (d) In addition to requirements specified in Section 87303, Maintenance and Operation, safety modifications shall include, but not be limited to, inaccessibility of ranges, heaters, wood stoves, inserts, and other heating devices to residents with dementia.
- (e) Swimming pools and other bodies of water shall be fenced and in compliance with state and local building codes.
- (f) The following shall be stored inaccessible to residents with dementia:
 - (1) Knives, matches, firearms, tools and other items that could constitute a danger to the resident(s).
 - (2) Over-the-counter medication, nutritional supplements or vitamins, alcohol, cigarettes, and toxic substances such as certain plants, gardening supplies, cleaning supplies and disinfectants.
- (g) As required by Section 87468(a)(12), residents with dementia shall be allowed to keep personal grooming and hygiene items in their own possession, unless there is evidence to substantiate that the resident cannot safely manage the items.
 - (1) Evidence means documentation from the resident's physician that the resident is at risk if allowed direct access to personal grooming and hygiene items.

87705 CARE OF PERSONS WITH DEMENTIA (Continued)**87705**

- (h) Outdoor facility space used for resident recreation and leisure shall be completely enclosed by a fence with self-closing latches and gates, or walls, to protect the safety of residents.
- (i) The licensee may use wrist bands or other egress alert devices worn by the resident, with the prior written approval of the resident or conservator, provided that such devices do not violate the resident's rights as specified in Section 87468, Personal Rights.
- (j) The licensee shall have an auditory device or other staff alert feature to monitor exits, if exiting presents a hazard to any resident.
- (k) The following initial and continuing requirements must be met for the licensee to utilize delayed egress devices on exterior doors or perimeter fence gates:
 - (1) The licensee shall notify the licensing agency immediately after determining the date that the device will be installed.
 - (2) The licensee shall ensure that the fire clearance includes approval of delayed egress devices.
 - (3) Fire and earthquake drills shall be conducted at least once every three months on each shift and shall include, at a minimum, all direct care staff.
 - (4) Without violating Section 87468, Personal Rights, facility staff shall attempt to redirect a resident who attempts to leave the facility.
 - (5) Residents who continue to indicate a desire to leave the facility following redirection shall be permitted to do so with staff supervision.
 - (6) Without violating Section 87468, Personal Rights, facility staff shall ensure the continued safety of residents if they wander away from the facility.
 - (7) For each incident in which a resident wanders away from the facility unsupervised, the licensee shall report the incident to the licensing agency, the resident's conservator and/or other responsible person, if any, and to any family member who has requested notification. The report shall be made by telephone no later than the next working day and in writing within seven calendar days.
 - (8) Delayed egress devices shall not substitute for trained staff in sufficient numbers to meet the care and supervision needs of all residents and to escort residents who leave the facility.
 - (9) The licensee shall not accept or retain residents determined by a physician to have a primary diagnosis of a mental disorder unrelated to dementia.

87705 CARE OF PERSONS WITH DEMENTIA (Continued)**87705**

- (l) The following initial and continuing requirements shall be met for the licensee to lock exterior doors or perimeter fence gates:
 - (1) Licensees shall notify the licensing agency of their intention to lock exterior doors and/or perimeter fence gates.
 - (2) The licensee shall ensure that the fire clearance includes approval of locked exterior doors or locked perimeter fence gates.
 - (3) The licensee shall obtain a waiver from Section 87468(a)(6), to prevent residents from leaving the facility.
 - (A) Facility staff shall attempt to redirect any unaccompanied resident(s) leaving the facility.
 - (4) The licensee shall maintain either of the following documents in the resident's record at the facility:
 - (A) The conservator's written consent for admission for each resident who has been conserved under the Probate Code or the Lanterman-Petris-Short Act; or
 - (B) A written statement signed by each non-conserved resident that states the resident understands that the facility has exterior door locks or perimeter fence gate locks and that the resident voluntarily consents to admission.
 - (5) Interior and exterior space shall be available on the facility premises to permit residents with dementia to wander freely and safely.
 - (6) Locked exterior doors or perimeter fences with locked gates shall not substitute for trained staff in sufficient numbers to meet the care and supervision needs of all residents.
 - (7) The licensee shall not accept or retain residents determined by a physician to have a primary diagnosis of a mental disorder unrelated to dementia.
 - (8) Fire and earthquake drills shall be conducted at least once every three months on each shift and shall include, at a minimum, all direct care staff.

NOTE: Authority cited: Sections 1569.30 and 1569.698, Health and Safety Code. Reference: Sections 1569.2, 1569.31, 1569.312, 1569.698, 1569.699 and 13131, Health and Safety Code.

**87706 ADVERTISING DEMENTIA SPECIAL CARE, PROGRAMMING,
AND ENVIRONMENTS****87706**

- (a) In addition to the requirements in Section 87705, Care of Persons with Dementia, licensees who advertise, promote, or otherwise hold themselves out as providing special care, programming, and/or environments for residents with dementia or related disorders shall meet the following requirements:
- (1) The licensee shall ensure that direct care staff who provide care to any resident(s) with dementia meet the training requirements in Section 87707, Training Requirements if Advertising Dementia Special Care, Programming, and Environments, including six hours of resident care orientation within the first four weeks of employment and eight hours of in-service training per year on the subject of serving residents with dementia.
 - (A) Direct care staff includes staff used for staff mealtime and break relief.
 - (B) Direct care staff may provide dementia special care to residents in the facility or in designated areas of the facility.
 - (2) In addition to the requirements specified in Sections 87208(a) and 87705(b), the licensee shall include in the plan of operation a brief narrative description of the following facility features:
 - (A) Philosophy, including, but not limited to, program goals/objectives in relation to meeting the needs of residents with dementia.
 - (B) Pre-admission assessment, including the types of assessment tools used to determine residents' dementia care needs and who will participate in the assessment.
 - (C) Admission, including the following items that must be addressed when admitting a resident who requires dementia special care:
 1. Specification of the designated areas in the facility where dementia special care is provided, which may be the entire facility or only parts of it.
 2. Services available specific to residents with dementia.
 3. Procedures in place to ensure that the plan of operation is available for review upon request, as required by Section 87706(a)(3).
 - (D) Assessment(s), including the following as they pertain to residents receiving dementia special care:
 1. Types of assessments used;

87706 ADVERTISING DEMENTIA SPECIAL CARE, PROGRAMMING, AND ENVIRONMENTS (Continued) 87706

2. Who will participate in resident assessments and procedures for ensuring the opportunity for resident and family involvement; and
 3. Frequency of assessments.
- (E) Activity program for residents with dementia, including, but not limited to:
1. Types of activities;
 - a. Activities may include cognitive/mental stimulation (e.g., crafts, reading, writing, music, current events, reminiscences, movies); physical activities (e.g., gross and fine motor skills); work activities and life skills; social activities; cultural/religious activities; sensory activities; individual/group activities (e.g., games); pet care; and outdoor activities (e.g., field trips, gardening).
 2. Frequency of activities; and
 3. The process to determine what types of activities shall be planned to encompass residents' needs.
 - a. These needs are based on personal preferences, age, beliefs, culture, values, attention span, and life experiences (e.g., family and friend involvement, favorite pastimes, occupations, and geographic areas lived in and visited).
- (F) Staff qualifications. Describe the experience and education required for prospective direct care staff who will provide dementia special care.
- (G) Staff training. Describe the required training for direct care staff who provide dementia special care. At a minimum, the description shall include information on the time frame for training, as specified in Section 87707(a)(2), and the training topics, as specified in Section 87707(a)(2)(A).
- (H) Physical environment, including environmental factors that ensure a safe, secure, familiar and consistent environment for residents with dementia.

87706 ADVERTISING DEMENTIA SPECIAL CARE, PROGRAMMING, AND ENVIRONMENTS (Continued) 87706

1. Environmental factors that may be considered include: bedroom decor; architectural and safety features (e.g., wide hallways, handrails, delayed egress, secured perimeters); lighting; colors and visual contrasts; types of furniture; signs; noise factors; memory boxes; nourishment and hydration stations; and functional outdoor space and exercise pathways.
- (I) Changes in condition. Procedures to be followed when a resident's condition changes, including, but not limited to, an explanation of:
1. When a new care plan is required;
 2. At what point a physician (if any) is involved in developing a care plan;
 3. Special techniques/programs (if any) used for managing specific types of behavior; and
 4. The conditions that would require a resident to be relocated.
- (J) Success indicators, including procedures to:
1. Ensure an ongoing review of facility programs pertaining to care of residents with dementia;
 2. Make necessary adjustments to better meet residents' needs; and
 3. Assess the program's overall effectiveness/success.
 - a. Examples of areas that may be reviewed include incident reports, staffing levels, input from others, and resident participation in program activities.
- (3) The admission agreement, as specified in Section 87507(e), shall inform the resident and the resident's responsible person, if any, or the conservator, that the facility features, as specified in Section 87706(a)(2), are described in the facility's plan of operation and that the plan of operation is available for review upon request.
- (4) The licensee shall maintain copies of all facility advertisements and marketing/promotional material that indicate the licensee provides special care, programming, and/or environments for residents with dementia or related disorders, and shall maintain the information for a minimum of three years.

**87706 ADVERTISING DEMENTIA SPECIAL CARE, PROGRAMMING,
AND ENVIRONMENTS (Continued) 87706**

- (A) This material shall be available to the public upon request.
 - (B) This material shall also be available to the licensing agency to inspect, audit, copy, and remove (if necessary for copying) upon demand during normal business hours as specified in Section 87755(c).
- (b) Licensees who will discontinue advertising, promoting, or otherwise holding themselves out as providing special care, programming, and/or environments for residents with dementia or related disorders shall:
- (1) Provide written notification to the licensing agency and to the resident and the responsible person, if any, or the conservator, at least 30 calendar days prior to discontinuing advertising or promoting dementia special care, programming, and/or environments.
 - (A) The notification shall specify the date that the licensee will cease advertising or promoting dementia special care, programming, and/or environments; and, therefore, shall no longer be required to meet the requirements specified in Section 87706(a) and the training requirements in Section 87707, Training Requirements if Advertising Dementia Special Care, Programming, and Environments.
 - (B) The licensee shall maintain a copy of the written notification in each resident's records.
 - (2) On the date specified in the notification, cease all advertisements, publications, and/or announcements that pertain to dementia special care including, but not limited to, those in magazines, newspapers, consumer reports, telephone directory yellow pages, professional or service directories, Internet, radio and/or television commercials.
 - (A) Long-term advertisements, such as yellow pages, shall be removed at the next renewal date.
 - (3) On the date specified in the notification, remove all written references that indicate that the licensee provides dementia special care, programming, and/or environments from all promotional material, advertisements, and/or printed material, including admission agreements and the plan of operation.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.15, 1569.22, 1569.31, 1569.312, 1569.33, 1569.355, 1569.62, 1569.625, 1569.626 and 1569.627, Health and Safety Code.

**87707 TRAINING REQUIREMENTS IF ADVERTISING DEMENTIA
SPECIAL CARE, PROGRAMMING, AND ENVIRONMENTS****87707**

- (a) Licensees who advertise, promote, or otherwise hold themselves out as providing special care, programming, and/or environments for residents with dementia or related disorders shall ensure that all direct care staff, described in Section 87706(a)(1), who provide care to residents with dementia, meet the following training requirements:
- (1) Direct care staff shall complete six hours of orientation specific to the care of residents with dementia within the first four weeks of working in the facility.
 - (A) This orientation shall be repeated if either of the following occur:
 1. An employee returns to work for the same licensee after a break in service of more than 180 consecutive calendar days; or
 2. An employee goes to work for another licensee to provide dementia special care.
 - (B) This orientation shall be separate from other training and be exclusively on the care of residents with dementia.
 - (C) Various methods of instruction may be used, including, but not limited to, presenters knowledgeable about dementia; video instruction tapes; interactive material; books; and/or other materials approved by organizations or individuals specializing in dementia as specified in Section 87707(a)(2)(C).
 1. Instruction may include up to two hours of mentoring and hands-on training from direct care staff who have completed six hours of orientation specific to the care of residents with dementia and eight hours of in-service training on the subject of serving residents with dementia as specified in Sections 87707(a)(1) and (2).
 - (D) The licensee shall maintain in the personnel records documentation on the orientation that includes the date(s), the hours provided, the names of staff in attendance, and the method(s) of instruction used.
 - (2) Direct care staff shall complete at least eight hours of in-service training on the subject of serving residents with dementia within 12 months of working in the facility and in each succeeding 12-month period. Direct care staff hired as of July 3, 2004 shall complete the eight hours of in-service training within 12 months of that date and in each succeeding 12-month period.

87707**TRAINING REQUIREMENTS IF ADVERTISING DEMENTIA
SPECIAL CARE, PROGRAMMING, AND ENVIRONMENTS**
(Continued)**87707**

- (A) A minimum of two of the following training topics shall be covered annually, and all topics shall be covered within a three-year period:
1. Effects of medications on the behavior of residents with dementia;
 2. Common problems, such as wandering, aggression, and inappropriate sexual behavior;
 3. Positive therapeutic interventions and activities such as exercise, sensory stimulation, activities of daily living, and social, recreational and rehabilitative activities.
 4. Communication skills (resident/staff relations);
 5. Promoting resident dignity, independence, individuality, privacy and choice; and
 6. End of life issues, including hospice.
- (B) Training may be provided at the facility or offsite and may include a combination of observation and practical application.
- (C) The training shall be developed by, or in consultation with, an individual(s) or organization(s) with expertise in dementia care and with knowledge on the training topic areas specified in Section 87707(a)(2)(A).
1. Examples of organizations that specialize in dementia care include, but are not limited to: the Alzheimer's Association, Alzheimer's Disease Diagnostic and Treatment Centers affiliated with the University of California, Family Caregiver Alliance and Caregiver Resource Centers, American Society on Aging, colleges and universities, and individuals with educational and professional qualifications specific to dementia.
 - a. If the consultant and trainer are the same person(s), the documentation requirements specified in Sections 87707(a)(2)(D) and (F) shall both be met.
- (D) The licensee shall maintain the following documentation for the consultant(s) described in Section 87707(a)(2)(C):

**87707 TRAINING REQUIREMENTS IF ADVERTISING DEMENTIA
SPECIAL CARE, PROGRAMMING, AND ENVIRONMENTS**
(Continued)**87707**

1. Name, address, and telephone number;
 2. Date(s) when consultation was provided;
 3. Organization affiliation (if any), as specified in Section 87707(a)(2)(C), and/or educational and professional qualifications specific to dementia; and
 4. The training topics, specified in Section 87707(a)(2)(A), for which consultation was provided.
- (E) All trainers shall meet the following education and experience requirements:
1. A minimum of eight hours of certifiable continuing education or three semester units, or the equivalent, from an accredited educational institution, on topics relevant to caring for individuals with dementia.
 - a. Examples of acceptable instruction include, but are not limited to, classes in aging, gerontology, geriatrics, and/or psychosocial needs of the elderly.
 2. One of the following experience requirements:
 - a. Current employment as a consultant with expertise in dementia care, as specified in Section 87707(a)(2)(C).
 - b. Two years full-time experience, or the equivalent, within the last four years, as an RCFE administrator or as a direct care provider for individuals with dementia.
- (F) The licensee shall maintain the following documentation on the trainer(s) described in Section 87707(a)(2)(E):
1. Name, address, and telephone number;
 2. Topics/subject matter taught;
 3. Dates/hours of training provided;

87707 TRAINING REQUIREMENTS IF ADVERTISING DEMENTIA SPECIAL CARE, PROGRAMMING, AND ENVIRONMENTS **87707**
(Continued)

4. Notation that indicates which of the criteria for experience the trainer meets, as specified in Section 87707(a)(2)(E)2., and maintain verification of qualifying criteria; and
 5. Proof of completion of the educational requirements, as specified in Section 87707(a)(2)(E)1., which may include the following:
 - a. If the educational hours/units are obtained through an accredited educational institution, documentation shall include a copy of a transcript or official grade slip showing a passing mark.
 - b. If the educational hours/units are obtained through continuing education, documentation shall include a transcript or official grade slip showing a passing mark, if applicable, or a Certificate of Completion.
- (G) The documentation required in Sections 87707(a)(2)(D) and (F) shall be retained for at least three years following the date consultation services/training were provided.
1. This documentation shall be available to the licensing agency to inspect, audit, copy, and remove (if necessary for copying) upon demand during normal business hours as specified in Section 87755(c).
- (H) The licensee shall maintain in the personnel records documentation on the in-service training required in Section 87707(a)(2) for direct care staff and include the training topic(s) covered, as required in Section 87707(a)(2)(A).

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.31, 1569.33, 1569.62, 1569.625 and 1569.626, Health and Safety Code.

87725.2 ADVERTISING DEMENTIA SPECIAL CARE, PROGRAMMING, AND/OR ENVIRONMENTS AS OF JULY 3, 2004 **87725.2**

Repealed by Manual Letter No. CCL-08-01, effective 3/5/08.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.31, 1569.33, 1569.62, 1569.625, 1569.626 and 1569.627, Health and Safety Code.

Article 13. Enforcement**87755 INSPECTION AUTHORITY OF THE LICENSING AGENCY****87755**

- (a) Any duly authorized officer, employee or agent of the licensing agency may, upon proper identification and upon stating the purpose of his/her visit, enter and inspect the entire premises of any place providing services at any time, with or without advance notice.
- (b) The licensee shall ensure that provisions are made for private interviews with any resident or any staff member; and for the examination of all records relating to the operation of the facility.
- (c) The licensing agency shall have the authority to inspect, audit, and copy resident or facility records upon demand during normal business hours. Records may be removed if necessary for copying. Removal of records shall be subject to the requirements in Sections 87412(f), 87506(d), and 87508(b).
- (d) The licensing agency shall have the inspection authority specified in Health and Safety Code Sections 1569.24, 1569.32, 1569.33 and 1569.35.

HANDBOOK BEGINS HERE

Health and Safety Code section 1569.24 provides in part:

Within 90 days ...after a facility accepts its first resident for placement following its initial licensure, the department shall inspect the facility to evaluate compliance with rules and regulations and to assess the facility's continuing ability to meet regulatory requirements. The licensee shall notify the department, within five business days after accepting its first resident for placement, that the facility has commenced operating.

Health and Safety Code section 1569.32 provides:

"Any duly authorized officer, employee, or agent of the department may, upon presentation of proper identification, enter and inspect any place providing personal care, supervision, and services at any time, with or without advance notice, to secure compliance with, or to prevent a violation of, this chapter."

Health and Safety Code section 1569.33 provides in part:

- "(a) Every licensed residential care facility for the elderly shall be subject to unannounced visits by the department. The department shall visit these facilities as often as necessary to ensure the quality of care provided.
- (b) The department shall conduct an annual unannounced visit of a facility under any of the following circumstances:

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Regulations	RESIDENTIAL CARE FACILITIES FOR THE ELDERLY	87755
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HANDBOOK CONTINUES

- (1) When a license is on probation.
 - (2) When the terms of agreement in a facility compliance plan require an annual evaluation.
 - (3) When an accusation against a licensee is pending.
 - (4) When a facility requires an annual visit as a condition of receiving federal financial participation.
 - (5) In order to verify that a person who has been ordered out of the facility for the elderly by the department is no longer at the facility.
- (c) The department shall conduct annual unannounced visits to no less than 20 percent of facilities not subject to an evaluation under subdivision (b)...
- ...
- (d) Under no circumstance shall the department visit a residential care facility for the elderly less often than once every five years."

Health and Safety Code section 1569.35(c) provides in part:

- "(c) Upon receipt of a complaint, ...the department shall make a preliminary review and...an onsite inspection within 10 days after receiving the complaint except where the visit would adversely affect the licensing investigation or the investigation of other agencies, including, but not limited to, law enforcement agencies..."

HANDBOOK ENDS HERE

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.24, 1569.33, 1569.34 and 1569.35, Health and Safety Code.

87756 EVALUATION VISIT**87756**

- (a) Every residential care facility for the elderly shall be evaluated as specified in Health and Safety Code section 1569.33.

HANDBOOK BEGINS HERE

Health and Safety Code section 1569.33 provides in part:

- "(a) Every licensed residential care facility for the elderly shall be subject to unannounced visits by the department. The department shall visit these facilities as often as necessary to ensure the quality of care provided.
- (b) The department shall conduct an annual unannounced visit of a facility under any of the following circumstances:
- (1) When a license is on probation.
 - (2) When the terms of agreement in a facility compliance plan require an annual evaluation.
 - (3) When an accusation against a licensee is pending.
 - (4) When a facility requires an annual visit as a condition of receiving federal financial participation.
 - (5) In order to verify that a person who has been ordered out of the facility for the elderly by the department is no longer at the facility.
- (c) The department shall conduct annual unannounced visits to no less than 20 percent of facilities not subject to an evaluation under subdivision (b)...
- (d) Under no circumstance shall the department visit a residential care facility for the elderly less often than once every five years."

HANDBOOK ENDS HERE

- (b) Any number of other visits may be made to a facility for various purposes as determined to be necessary by the licensing agency to determine compliance with applicable laws and regulations.
- (c) When a routine visit, evaluation or investigation of a complaint is conducted and the evaluator determines that a deficiency exists, the evaluator shall issue a notice of deficiency, unless the deficiency is minor and corrected during the visit.

87756 EVALUATION VISIT (Continued)**87756**

- (d) Prior to completion of a visit, evaluation or investigation, the evaluator shall meet with the licensee, administrator, operator, or other person in charge of the facility to discuss any deficiencies noted. At the meeting, a plan for correcting each deficiency shall be developed and included in the notice of deficiency. Prior to completion of the visit, the evaluator shall serve the notice of deficiency on the licensee by either:
- (1) Personal delivery to the licensee, or
 - (2) If the licensee is not at the facility site, leaving the notice with the person in charge of the facility and also mailing a copy to the licensee.
 - (3) If the licensee or the person in charge of the facility refuses to accept the notice, a notation of the refusal shall be written on the notice and a copy left at the facility.
 - (A) Under such circumstances, a copy of the notice shall also be mailed to the licensee.
- (e) The notice of deficiency shall be in writing and shall include:
- (1) A reference to the statute or regulation upon which the deficiency is premised.
 - (2) A factual description of the nature of the deficiency fully stating the manner in which the licensee failed to comply with specified statute or regulation, and the particular place or area of the facility in which it occurred.
 - (3) The plan developed, as specified in (d) above, for correcting each deficiency.
 - (4) A date by which each deficiency shall be corrected.
 - (A) In prescribing the date for correcting a deficiency, the evaluator shall consider the following factors:
 1. The seriousness of the deficiency.
 2. The number of residents affected.
 3. The availability of equipment or personnel necessary to correct the deficiency.
 4. The estimated time necessary for delivery and any installation of necessary equipment.

87756 EVALUATION VISIT (Continued) 87756

- (B) The evaluator shall require correction of the deficiency within 24 hours and shall specify on the notice the date by which the correction must be made whenever penalties are assessed pursuant to Sections 87761(c), (d) and (e).
- (C) The date for correcting a deficiency shall not be more than 30 calendar days following service of the notice of deficiency, unless the evaluator determines that the deficiency cannot be completely corrected in 30 calendar days. If the date for correcting the deficiency is more than 30 days following service of the notice of deficiency the notice shall specify action which must be taken within 30 calendar days to begin correction.
- (5) The amount of penalty which shall be assessed and the date the penalty shall begin if the deficiency is not corrected by the specific due date.
- (6) The address and telephone number of the licensing office responsible for reviewing notices of deficiencies for the area in which the facility is located.

NOTE: Authority cited: Sections 1569.30 and 1569.49, Health and Safety Code. Reference: Sections 1569.11, 1569.24, 1569.31, 1569.315, 1569.32, 1569.33, 1569.335, 1569.34, 1569.35 and 1569.485, Health and Safety Code.

87757 LICENSE COMPLAINTS 87757

- (a) Each licensee shall have the right, without prejudice, to bring to the attention of the Department or the licensing agency, or both, any alleged misapplication or capricious enforcement of regulations by any licensing representative, or any substantial differences in opinion as may occur between the licensee and any licensing representative concerning the proper application of the Residential Care Facilities for the Elderly Act or of these regulations.
- (b) Where applicable, a review of the complaint shall be conducted in accordance with Section 87763, Appeal Process.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Section 1569.335, Health and Safety Code.

87758 SERIOUS DEFICIENCIES - EXAMPLES 87758

- (a) Regulations including, but not limited to, the following may result in serious deficiencies when a failure to comply presents an immediate or substantial threat to the physical health, mental health, or safety of the residents:
 - (1) Section 87355 relating to criminal record clearance.

87758 **SERIOUS DEFICIENCIES - EXAMPLES (Continued)****87758**

- (2) Section 87202 relating to fire clearance.
- (3) Section 87204 relating to limitations on the number or types of facility residents.
- (4) Section 87311 relating to telephone service.
- (5) Sections 87455(c)(1) or (2), or (4), or Section 87615 relating to persons with communicable diseases, persons requiring inpatient health care, persons who are bedridden, or persons with a prohibited health condition.
- (6) Section 87204(b) relating to nonambulatory residents.
- (7) Section 87468(a)(3) relating to resident rights.
- (8) Section 87608(a) relating to restraints.
- (9) Sections 87307(d)(3) through (7) or (e) relating to safety of resident accommodations.
- (10) Section 87555(b)(24), (25), or (27) relating to storage, preparation and service of food.
- (11) Section 87465(b)(3) relating to medical and dental care of residents.
- (12) Section 87465(c) relating to storing and dispensing medications.
- (13) Section 87303(e)(2) relating to hot water temperature.
- (14) Section 87303(e)(4), (5), or (6) relating to toilet, handwashing and bathing accommodations.
- (15) Section 87303(f)(1) or (2) relating to storage and disposal of solid wastes, syringes and needles.
- (16) Section 87415 relating to night supervision.
- (17) Section 87638 relating to licensees forwarding to the Department a resident's request for review by an interdisciplinary team of a health condition relocation order.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.2, 1569.31, 1569.312, 1569.315, 1569.335, 1569.485, 1569.49 and 1569.54, Health and Safety Code.

87759 FOLLOW-UP VISITS TO DETERMINE COMPLIANCE**87759**

- (a) A follow-up visit shall be conducted within 10 working days following the latest date of correction specified in the notice of deficiency, unless the licensee has demonstrated that the deficiency was corrected as required in the notice of deficiency. No penalty shall be assessed unless a follow-up visit is conducted.
- (b) If a follow-up visit indicates that a deficiency was not corrected on or before the date specified in the notice of deficiency, the evaluator shall issue a notice of penalty.
- (c) A notice of penalty shall be in writing and shall include:
 - (1) The amount of penalty assessed, and the date the payment is due.
 - (2) The name and address of the agency responsible for collection of the penalty.
- (d) When an immediate penalty has been assessed pursuant to Sections 87761(c), (d), (e) and (f) and correction is made when the evaluator is present, a follow-up visit is not required.

NOTE: Authority cited: Sections 1569.30 and 1569.49, Health and Safety Code. Reference: Sections 1569.33, 1569.335, 1569.35, 1569.485 and 1569.49, Health and Safety Code.

87761 PENALTIES**87761**

- (a) A penalty of \$50 per day, per cited violation, shall be assessed for all serious deficiencies that are not corrected by the date specified in the notice of deficiency, up to a maximum of \$150 per day.
- (b) Notwithstanding Section 87761(a) above, an immediate penalty of \$100 per cited violation per day for a maximum of five (5) days shall be assessed if any individual required to be fingerprinted under Health and Safety Code Section 1569.17(b) has not obtained a California clearance or a criminal record exemption, requested a transfer of a criminal record clearance or requested and be approved for a transfer of an exemption as specified in Section 87355(e) prior to working, residing or volunteering in the facility.
 - (1) Subsequent violations within a twelve (12) month period will result in a civil penalty of one hundred dollars (\$100) per violation per day for a maximum of thirty (30) days.
 - (2) The Department may assess civil penalties for continued violations as permitted by Health and Safety Code Section 1569.49.
 - (3) Progressive civil penalties specified in Sections 87761(d) and (e) shall not apply.

87761 PENALTIES (Continued)**87761**

- (c) Notwithstanding Section 87761(a) above, an immediate penalty of \$150 per day shall be assessed for any of the following:
- (1) Sickness, injury or death of a client has occurred as a result of the deficiency.
- (d) When a facility is cited for a deficiency and violates the same regulation subsection within a 12-month period, the facility shall be cited and an immediate penalty of \$150 per cited violation shall be assessed for one day only. Thereafter a penalty of \$50 per day, per cited violation, shall be assessed until the deficiency is corrected.
- (e) When a facility that was cited for a deficiency subject to the immediate penalty assessment specified in Section 87761(d) above violates the same regulation subsection within a 12-month period of the last violation the facility shall be cited and an immediate penalty of \$1,000 per cited violation shall be assessed for one day only. Thereafter, a penalty of \$100 per day, per cited violation, shall be assessed until the deficiency is corrected.
- (1) For purposes of Sections 87761(d) and (e) above, a regulation subsection is the regulation denoted by a lower-case letter after the main regulation number.

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An example of the same regulation subsection are Sections 87155(a)(2) and 87155(a)(5). Sections 87155(a) and 87155(b) are not the same regulation subsection.

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- (f) If any deficiency is not corrected by the date specified in the notice of deficiency, a penalty shall be assessed for each day following that date until compliance has been demonstrated.
- (1) Immediate penalty assessments as specified in (c), (d) and (e) above shall begin on the day the deficiency is cited.
- (g) If a licensee or his/her representative reports to the licensing agency that a deficiency has been corrected, the penalty shall cease as of the day the licensing agency receives notification that the correction was made.
- (1) If the deficiency has not been corrected, civil penalties shall continue to accrue.
 - (2) If it can be verified that the correction was made prior to the date of notification, the penalty shall cease as of that earlier date.

87761 PENALTIES (Continued)**87761**

- (h) If necessary, a site visit shall be made immediately or within five working days to confirm that the deficiency has been corrected.
- (i) If an immediate civil penalty is assessed and the deficiency is corrected on the same day, the penalty shall still be assessed for that day.
- (j) Unless otherwise ordered by the Department all penalties are due and payable upon receipt of notice for payment, and shall be paid only by check or money order made payable to the agency indicated in the notice.
- (k) The licensing agency shall have the authority to file a claim in a court of competent jurisdiction or to take other appropriate action for failure to pay penalties as specified in (j) above.

NOTE: Authority cited: Sections 1569.30 and 1569.49(a), Health and Safety Code. Reference: Sections 1569.17, 1569.33, 1569.335, 1569.35, 1569.485 and 1569.49, Health and Safety Code.

87763 APPEAL PROCESS**87763**

- (a) A licensee or his/her representative may request in writing a review of a notice of deficiency, notice of penalty and/or health condition relocation order within 10 working days of receipt of the notice or order. This review shall be conducted by a higher level staff person other than the evaluator who issued the notice of deficiency, notice of penalty, and/or health condition relocation order.
 - (1) Additional review requirements pertaining to Incidental Medical Services are specified in Section 87639, Administrative Review - Health Conditions.
- (b) If the reviewer determines that a notice of deficiency or notice of penalty was not issued in accordance with applicable statutes and regulations of the Department, he/she shall amend or dismiss the notice. In addition, the reviewer may extend the date specified for correction of a deficiency if warranted by the facts or circumstances presented to support a request for extension.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.33, 1569.335, 1569.35, 1569.485, 1569.49 and 1569.54, Health and Safety Code.

87766 DENIAL OR REVOCATION OF LICENSE FOR FAILURE TO PAY CIVIL PENALTIES 87766

- (a) The licensee shall be responsible for paying civil penalties.
 - (1) Unless otherwise provided, the transfer, surrender, forfeiture or revocation of a license shall not affect the licensee's responsibility for paying any civil penalties accrued while the license was in effect.
- (b) The Department shall have the authority to deny or revoke any license for failure to pay civil penalty assessments.
 - (1) The Department shall have the authority to approve payment arrangements acceptable to the Department.
 - (2) The Department shall have the authority to approve the form of payment.
 - (3) The licensee's failure to pay civil penalty assessments pursuant to a payment plan approved by the Department may result in the denial or revocation of any license, and/or any other appropriate action.
- (c) Any denial or revocation of the license for failure to pay civil penalties may be appealed as provided by Health and Safety Code Section 1569.51.

NOTE: Authority cited: Sections 1569.30 and 1569.49, Health and Safety Code. Reference: Sections 1569.17, 1569.33, 1569.335, 1569.35, 1569.485, 1569.49 and 1569.51, Health and Safety Code.

87768 UNLICENSED FACILITY PENALTIES 87768

- (a) A penalty of \$100 per day per resident shall be assessed for the operation of an unlicensed facility under either of the following conditions:
 - (1) The operator has not submitted a completed application for licensure within 15 calendar days of issuance of the Notice of Operation in Violation of Law pursuant to Section 87106.
 - (A) For purposes of this section, an application shall be deemed completed if it includes the information required in Section 87155, Application for License.
 - (B) The completed application shall be deemed to be submitted when received by the licensing agency.

87768 UNLICENSED FACILITY PENALTIES (Continued)**87768**

- (2) Unlicensed operation continued after denial of the initial application.
 - (A) Notwithstanding any appeal action, facility operation must cease within 10 calendar days of the mailing of the notice of denial or upon receipt of the denial notice by the operator, whichever occurs first.
- (b) A \$200 per day per resident penalty shall be assessed for the continued operation of an unlicensed facility as follows:
 - (1) On the 16th calendar day after the operator has been issued the Notice of Operation in Violation of Law, and has not submitted a completed application as required.
 - (A) The \$200 per day per resident penalty shall continue until the operator ceases operation, or submits a completed application pursuant to Sections 87768(a)(1)(A) and (B).
 - (2) Within 10 calendar days of the mailing of the notice of denial or upon receipt of the denial notice by the operator, whichever occurs first.
 - (A) The \$200 per day per resident penalty shall continue until the operator ceases operation.
- (c) If the unlicensed operator or his/her representative reports to the licensing agency that unlicensed operation, as defined in Section 1569.44 of the Health and Safety Code, has ceased, the penalty shall cease as of the day the licensing agency receives the notification.
 - (1) A site visit shall be made immediately or within five working days to verify that the unlicensed facility operation has ceased.
 - (2) Notwithstanding (c) above, if the unlicensed facility operation has not ceased, penalties shall continue to accrue without interruption from the date of initial penalty assessment.
- (d) All penalties shall be due and payable upon receipt of the Notice of Payment from the licensing agency, and shall be paid by check or money order made payable to the agency indicated in the notice.
- (e) The licensing agency shall have the authority to file a claim in a court of competent jurisdiction or to take other appropriate action for failure to pay penalties as specified in (d) above.

87768	UNLICENSED FACILITY PENALTIES (Continued)	87768
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- (f) Payment of civil penalties or application for licensure in response to a citation under this section do not permit the operation of a residential facility for the elderly without a license.

Health and Safety Code section 1569.10 provides:

"No person, firm, partnership, association, or corporation within the state and no state or local public agency shall operate, establish, manage, conduct, or maintain a residential facility for the elderly in this state, without a current valid license or current valid special permit therefor, as provided in this Chapter."

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NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.3, 1569.10, 1569.11, 1569.14, 1569.145, 1569.15, 1569.19, 1569.20, 1569.21, 1569.22, 1569.312, 1569.35, 1569.44, 1569.45, 1569.485 and 1569.495, Health and Safety Code.

87769	UNLICENSED FACILITY ADMINISTRATIVE APPEAL	87769
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- (a) An unlicensed operator or his/her representative shall have the right to appeal the penalty assessment within 10 working days after service of the penalty assessment.
- (1) If the unlicensed facility operation has not ceased, the \$200 per day penalty shall continue to accrue during the appeal process.
- (b) The appeal review shall be conducted by a higher level staff person than the evaluator who issued the penalty.
- (c) If the reviewer of the appeal determines that the penalty assessment was not issued in accordance with applicable statutes and regulations of the Department, he/she shall have the authority to amend or dismiss the penalty assessment.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.10, 1569.44, 1569.45 and 1569.485, Health and Safety Code.

Article 14. Administrative Actions - General

87775 REVOCATION OR SUSPENSION OF LICENSE

87775

- (a) Pursuant to the provisions of Chapter 5, (commencing with Section 11500), Part 1, Division 3, Title 2, of the Government Code, the Department may suspend or revoke any license on any of the grounds stipulated in Health and Safety Code Sections 1569.1515(c) and 1569.50.

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Health and Safety Code section 1569.1515(c) reads:

"(c) The department may revoke the license of any corporate licensee that has a member of the board of directors, the executive director, or an officer who is not eligible for licensure pursuant to Sections 1569.16 and 1569.59."

Health and Safety Code section 1569.50 reads in part:

"The department may deny an application for a license or may suspend or revoke any license issued under this chapter upon any of the following grounds and in the manner provided in this chapter:

- "(a) Violation by the licensee of this chapter, or of the rules and regulations adopted under this chapter.
- (b) Aiding, abetting or permitting the violation of this chapter or of the rules and regulations adopted under this chapter.
- (c) Conduct which is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility or the people of the State of California.
- (d) The conviction of a licensee, or the other person mentioned in Section 1569.17 at any time before or during licensure, of a crime as defined in Section 1569.17.
- (e) Engaging in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services for the care of clients."

..."

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- (b) When the Director intends to seek revocation of a license, the Director shall notify the licensee of the proposed action and at the same time shall serve such person with an accusation. The licensee has a right to a hearing prior to the revocation or suspension of a license, except as provided in (c) below.

87775 REVOCATION OR SUSPENSION OF LICENSE (Continued)**87775**

- (c) The Director may temporarily suspend any license prior to any hearing when in the Director's opinion such action is necessary to protect the residents in the facility from any physical or mental abuse or any other substantial threat to health and safety. When the Director intends to temporarily suspend a license prior to a hearing, the Director shall notify the licensee of the temporary suspension and the effective date thereof and at the same time serve the licensee with an accusation.
- (d) For either a revocation action or a revocation and temporary suspension action, the Director shall within fifteen (15) days of receipt of notice of defense ask the Office of Administrative Hearings to set the matter for hearing.
- (e) For a revocation and temporary suspension action, the Director shall ask the Office of Administrative Hearings to hold the hearing as soon as possible but not later than thirty (30) days after receipt of the Notice of Defense.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1515, 1569.50, 1569.51, 1569.52 and 1569.53, Health and Safety Code.

87777 EXCLUSIONS**87777**

- (a) The Department may prohibit an individual from serving as a board of directors, executive director, or officer; being employed or allowed in a licensed facility as specified in Health and Safety Code Sections 1569.58 and 1569.59.

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Health and Safety Code section 1569.58 reads in part:

"(a) The department may prohibit any person from being a member of the board of directors, an executive director, a board member, or an officer of a licensee, or a licensee from employing, or continuing the employment of, or allowing in a licensed facility, or allowing contact with clients of a licensed facility by, any employee, prospective employee, or person who is not a client who has:

- (1) Violated, or aided or permitted the violation by any other person of, any provisions of this chapter or of any rules or regulations promulgated under this chapter.
- (2) Engaged in conduct which is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility, or the people of the State of California.

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(3) Been denied an exemption to work or to be present in a facility, when that person has been convicted of a crime as defined in Section 1569.17.

(4) Engaged in any other conduct which would constitute a basis for disciplining a licensee.

(5) Engaging in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services for the care of clients.

(b) The excluded person, the facility, and the licensee shall be given written notice of the basis of the department's action and of the excluded person's right to an appeal. The notice shall be served either by personal service or by registered mail. Within 15 days after the department serves the notice, the excluded person may file with the department a written appeal of the exclusion order. If the excluded person fails to file a written appeal within the prescribed time, the department's action shall be final.

(c)(1) The department may require the immediate removal of a member of the board of directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility pending a final decision of the matter, when, in the opinion of the director, the action is necessary to protect residents or clients from physical or mental abuse, abandonment, or any other substantial threat to their health or safety.

(2) If the department requires the immediate removal of a member of the board of directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility the department shall serve an order of immediate exclusion upon the excluded person that shall notify the excluded person of the basis of the department's action and of the excluded person's right to a hearing.

(3) Within 15 days after the department serves an order of immediate exclusion, the excluded person may file a written appeal of the exclusion with the department. The department's action shall be final if the excluded person does not appeal the exclusion within the prescribed time. The department shall do the following upon receipt of a written appeal:

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- (A) Within 30 days of receipt of the appeal, serve an accusation upon the excluded person.
- (B) Within 60 days of receipt of a notice of defense by the excluded person pursuant to Section 11506 of the Government Code, conduct a hearing on the accusation.
- (4) An order of immediate exclusion of the excluded person from the facility shall remain in effect until the hearing is completed and the director has made a final determination on the merits. However, the order of immediate exclusion shall be deemed vacated if the director fails to make a final determination on the merits within 60 days after the original hearing has been completed.
- (d) An excluded person who files a written appeal of the exclusion order with the department pursuant to this section shall, as part of the written request, provide his or her current mailing address. The excluded person shall subsequently notify the department in writing of any change in mailing address, until the hearing process has been completed or terminated.
- (e) Hearings held pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code. The standard of proof shall be the preponderance of the evidence and the burden of proof shall be on the department.
- (f) The department may institute or continue a disciplinary proceeding against a member of the board of directors, an executive director, or an officer of a licensee or an employee, prospective employee, or person who is not a client upon any ground provided by this section. The Department may enter an order prohibiting any person from being a member of the board of directors, an executive director, or an officer of a licensee, or prohibiting the excluded person's employment or presence in the facility, or otherwise take disciplinary action against the excluded person, notwithstanding any resignation, withdrawal of employment application, or change of duties by the excluded person, or any discharge, failure to hire, or reassignment of the excluded person by the licensee or that the excluded person no longer has contact with clients at the facility.
- (g) A licensee's failure to comply with the department's exclusion order after being notified of the order shall be grounds for disciplining the licensee pursuant to Section 1569.50.
- (h)(1)(A) In cases where the excluded person appealed the exclusion order and there is a decision and order of the department upholding the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or from being a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

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(B) The excluded individual may petition for reinstatement one year after the effective date of the decision and order of the department upholding the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the decision and order."

(2)(A) In cases where the department informed the excluded person of his or her right to appeal the exclusion order and the excluded person did not appeal the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

(B) The excluded individual may petition for reinstatement after one year has elapsed from the date of the notification of the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the exclusion order."

Health and Safety Code section 1569.59 reads:

(a)(1) If the department determines that a person was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.2 (commencing with Section 1569), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) and the prior license was revoked within the preceding two years, the department shall exclude the person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to the chapter.

(2) If the department determines that a person previously was issued a certificate of approval by a foster family agency which was revoked by the department pursuant to subdivision (b) of Section 1534 within the preceding two years, the department shall exclude the person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter.

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(b) If the department determines that the person had previously applied for a license under any of the chapters listed in paragraph (1) of subdivision (a) and the application was denied within the last year, the department shall exclude the person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter and as follows:

(1) In cases where the applicant petitioned for a hearing, the department shall exclude the person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall exclude the person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(c) If the department determines that the person had previously applied for a certificate of approval with a foster family agency and the department ordered the foster family agency to deny the application pursuant to subdivision (b) of Section 1534, the department shall exclude the person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter and as follows:

(1) In cases where the applicant petitioned for a hearing, the department shall exclude the person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall exclude the person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(d) Exclusion or removal of an individual pursuant to this section shall not be considered an order of exclusion for purposes of Section 1569.58 or any other law.

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(e) The department may determine not to exclude a person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter if it has been determined that the reasons for the denial of the application or revocation of the facility license or certificate of approval were due to circumstances or conditions that either have been corrected or are no longer in existence."

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NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.58 and 1569.59, Health and Safety Code.

Article 15. Administrator Certification Training Programs - Vendor Information**87785 INITIAL CERTIFICATION TRAINING PROGRAM APPROVAL REQUIREMENTS 87785**

- (a) Initial Certification Training Programs shall be approved by the Department prior to being offered to applicants for licensure or administrator certification.
- (b) Any vendor applicant seeking approval of an Initial Certification Training Program shall submit a written request to the Department using the forms LIC 9140 and LIC 9141, or a replica. The request shall be signed under penalty of perjury and contain the following:
- (1) Name, address and phone number of the vendor applicant requesting approval and the name of the person in charge of the program.
 - (2) Subject title, classroom hours, proposed dates, duration, time, location and proposed instructor of each component.
 - (3) Written description and educational objectives for each component.
 - (4) Qualifications of each proposed instructor as specified in Section 87785(i)(6).
 - (5) Geographic areas in which the Training Program will be offered.
 - (6) Types of records to be maintained, as required by Section 87785(i)(4).
 - (7) A statement of whether or not the vendor applicant held or currently holds a license, certification or other approval as a professional in a specified field and the certificate or license number(s).
 - (8) A statement of whether or not the vendor applicant held or currently holds a community care facility license or was or is employed by a licensed community care facility and the facility number.
 - (9) A statement of whether or not the vendor applicant was the subject of any administrative, legal or other action involving licensure, certification or other approvals as specified in Sections 87785(b)(7) and (8).
 - (10) A processing fee of one hundred-fifty dollars (\$150).
- (c) Initial Certification Training Program approval shall expire two (2) years from the date the program is approved.
- (d) A written request for renewal of the Initial Certification Training Program shall be submitted to the Department using the forms LIC 9140 and LIC 9141, or a replica, and shall contain the information and processing fee specified in Section 87785(b).

**87785 INITIAL CERTIFICATION TRAINING PROGRAM
APPROVAL REQUIREMENTS (Continued)****87785**

- (e) If a request for approval or renewal of an Initial Certification Training Program is incomplete, the Department shall, within thirty (30) days of receipt, give written notice to the vendor applicant that:
- (1) The request is deficient, describing which documents or information are outstanding and/or inadequate, and informing the vendor applicant that the information must be submitted within thirty (30) days of the date of the notice.
- (f) If the vendor applicant does not submit the requested information within thirty (30) days, the request for approval or renewal shall be deemed withdrawn provided that the Department has not denied or taken action to deny the request.
- (g) Within thirty (30) days of receipt of a complete request for an approval, the Department shall notify the vendor applicant in writing whether the request has been approved or denied.
- (h) The Initial Certification Training Program shall consist of the following components:
- (1) A minimum of forty (40) classroom hours with the following Core of Knowledge curriculum:
 - (A) Eight (8) hours of instruction in laws, including residents' personal rights, regulations, policies, and procedural standards that impact the operations of residential care facilities for the elderly.
 - (B) Three (3) hours of instruction in business operations.
 - (C) Three (3) hours of instruction in management and supervision of staff.
 - (D) Five (5) hours of instruction in the psychosocial needs of the elderly.
 - (E) Five (5) hours of instruction in the physical needs of the elderly.
 - (F) Two (2) hours of instruction in the use of community and support services to meet residents' needs.
 - (G) Five (5) hours of instruction in the use, misuse and interaction of drugs commonly used by the elderly.
 - (H) Five (5) hours of instruction on admission, retention, and assessment procedures.

**87785 INITIAL CERTIFICATION TRAINING PROGRAM
APPROVAL REQUIREMENTS (Continued)****87785**

- (I) Four (4) hours of instruction in the care of residents with Alzheimer's Disease and other dementias.

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- (J) Topics within the basic curriculum may include, but not be limited to, topics as specified in the Department's Core of Knowledge Guideline for each of the nine (9) Core of Knowledge components specified in Sections 87785(h)(1)(A) through (I). The guideline is available from the Department upon request.
- (K) Core of Knowledge information is derived from a variety of sources governing the operation of licensed residential care facilities for the elderly, including but not limited to, pertinent statutory provisions of the Health and Safety Code, Welfare and Institutions Code, Education Code, Business and Professions Code, Penal Code, and applicable provisions of Title 22 of the California Code of Regulations, Sections 87100 et. seq.

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- (2) A standardized test administered by the Department.
- (A) Individuals completing an Initial Certification Training Program must pass the test with a minimum score of seventy percent (70%).
- (B) The test questions shall reflect the hour value of the nine (9) Core of Knowledge areas specified in Sections 87785(h)(1)(A) through (I).
- (i) Initial Certification Training Program vendors shall:
- (1) Offer all forty (40) of the classroom hours required for certification.
- (2) Establish a procedure to allow participants to make up any component necessary to complete the program.
- (3) Within seven (7) days of determination that an individual has completed 40 hours of class instruction, submit the participant's name to the Department.

**87785 INITIAL CERTIFICATION TRAINING PROGRAM
APPROVAL REQUIREMENTS (Continued)****87785**

- (4) Maintain and ensure that written records are available for review by Department representatives. Records shall be maintained for three (3) years. These records shall include the following information:
 - (A) Class schedules, dates and descriptions.
 - (B) List of instructors and documentation of qualifications of each, as specified in Section 87785(i)(6).
 - (C) Names of registered participants and documentation of completion of the program.
 - (D) Evaluations by participants of courses and instructors.
- (5) Ensure that all classes are open to monitoring and inspection by Department representatives.
- (6) Have persons as instructors who have knowledge and/or experience in the subject area to be taught and who meet at least one of the following criteria:
 - (A) Possession of a four (4) year college degree and two (2) years' experience relevant to the course(s) to be taught, or
 - (B) Four (4) years' experience relevant to the course(s) to be taught, or
 - (C) Be a professional, in a related field, with a valid license to practice in California, or
 - (D) Have at least four (4) years' experience in California as an administrator of a residential care facility for the elderly, within the last eight (8) years, and with a record of administering facilities in substantial compliance, as defined in Section 87101(s)(6).
- (7) A minimum of ten (10) hours of instruction must be provided by an instructor(s) who meet(s) the criteria specified in Section 87785(i)(6)(D).
 - (A) Where good faith efforts to employ an instructor who meets the criteria specified in Section 87785(i)(6)(D) are unsuccessful, vendors may apply to the administrator certification section for a waiver of this requirement.
- (j) Initial Certification Training Program Vendors shall allow Department representatives to monitor and inspect Training Programs.

87785 **INITIAL CERTIFICATION TRAINING PROGRAM** **87785**
APPROVAL REQUIREMENTS (Continued)

- (k) Initial Certification Training Program Vendors shall not instruct or "co-locate" more than one program type (ARF, RCFE, GH) at one time.
- (l) Initial Certification Training Program Vendors that are also seeking certification shall not be permitted to receive credit for attending the vendor's own Initial Certification Training Program.

NOTE: Authority cited: Sections 1569.23(d), 1569.30 and 1569.616(j), Health and Safety Code. Reference: Sections 1569.23 and 1569.616, Health and Safety Code.

87786 **DENIAL OF REQUEST FOR APPROVAL OF AN** **87786**
INITIAL CERTIFICATION TRAINING PROGRAM

- (a) The Department may deny a request for approval of an Initial Certification Training Program in accordance with Section 1569.616(i)(1) of the Health and Safety Code. The Department shall provide the applicant with a written notice of denial.

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Health and Safety Code section 1569.616(i)(1) provides in part:

The department may deny vendor approval to any agency or person that has not provided satisfactory evidence of their ability to meet the requirements of vendorization set out in the regulations adopted pursuant to subdivision (j).

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- (b) The applicant may appeal the denial of the application in accordance with Section 1569.51 of the Health and Safety Code.
- (c) Any request for approval submitted by a vendor applicant whose application has been previously denied shall be processed by the Department in accordance with the provisions of Health and Safety Code Section 1569.16(b).

**87786 DENIAL OF REQUEST FOR APPROVAL OF AN
INITIAL CERTIFICATION TRAINING PROGRAM (Continued)****87786**

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Health and Safety Code Section 1569.16(b) provides:

"(b) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant had previously applied for a license under any of the chapters listed in paragraph (1) of subdivision (a) and the application was denied within the last year, the department shall, except as provided in Section 1569.22, cease further review of the application until one year has elapsed from the date of the denial letter. In those circumstances where denials are appealed and upheld at an administrative hearing, review of the application shall cease for one year from the date of the decision and order being rendered by the department. The cessation of review shall not constitute a denial of the application."

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NOTE: Authority cited: Sections 1569.23(d), 1569.30, and 1569.616(j), Health and Safety Code. Reference: Sections 1569.16, 1569.23 and 1569.616, Health and Safety Code.

**87787 REVOCATION OF AN INITIAL CERTIFICATION
TRAINING PROGRAM****87787**

- (a) The Department may revoke an Initial Certification Training Program approval and remove the vendor from the list of approved vendors if the vendor does not provide training consistent with Section 87785, Initial Certification Training Program Approval Requirements, or
- (1) Is unable to provide training due to lack of staff, funds or resources, or
 - (2) Misrepresents or makes false claims regarding the training provided, or
 - (3) Demonstrates conduct in the administration of the program that is illegal, inappropriate, or inconsistent with the intent or requirements of the program, or
 - (4) Misrepresents or makes false statements in the vendor application.
- (b) The vendor may appeal the revocation in accordance with Health and Safety Code Section 1569.51.
- (c) Any application for approval of an Initial Certification Training Program submitted by a vendor applicant whose approval has been previously revoked shall be processed by the Department in accordance with the provisions of Health and Safety Code Section 1569.16.

**87787 REVOCATION OF AN INITIAL CERTIFICATION
TRAINING PROGRAM (Continued)****87787**

HANDBOOK BEGINS HERE

Health and Safety Code Section 1569.16 in pertinent part provides:

(a)(1) If an application for a license indicates, or the department determines during the application review process, that the applicant previously was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3 (commencing with Section 1500), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) and the prior license was revoked within the preceding two years, the department shall cease any further review of the application until two years have elapsed from the date of the revocation.

(a)(3) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant was excluded from a facility licensed by the department pursuant to Section 1558, 1568.092, 1569.58, or 1596.8897, the department shall cease any further review of the application unless the excluded individual has been reinstated pursuant to Section 11522 of the Government Code by the department.

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NOTE: Authority cited: Sections 1569.23(d), 1569.30 and 1569.616(j), Health and Safety Code. Reference: Sections 1569.16, 1569.51 and 1569.616, Health and Safety Code.

**87788 CONTINUING EDUCATION TRAINING PROGRAM
VENDOR REQUIREMENTS****87788**

- (a) Any vendor applicant seeking approval as a vendor of a Continuing Education Training Program shall obtain vendor approval by the Department prior to offering any course to certificate holders.
- (b) Any vendor applicant seeking approval to become a vendor of a Continuing Education Training Program shall submit a written request to the Department using the forms LIC 9140 and LIC 9141, or a replica. The request shall be signed under penalty of perjury and contain the following:
- (1) Name, address and phone number of the vendor applicant requesting approval and the name of the person in charge of the Program.
 - (2) A statement of whether or not the vendor applicant held or currently holds a license, certification or other approval as a professional in a specified field and the license or certificate number.

87788 CONTINUING EDUCATION TRAINING PROGRAM **87788**
VENDOR REQUIREMENTS (Continued)

- (3) A statement of whether or not the vendor applicant held or currently holds a community care facility license or was or is employed by a licensed community care facility and the license number.
 - (4) A statement of whether or not the vendor applicant was the subject of any administrative, legal or other action involving licensure, certification or other approvals as specified in Sections 87788(b)(2) and (3).
 - (5) A processing fee of one hundred dollars (\$100).
- (c) Continuing Education Training Program vendor approval shall expire two (2) years from the date the vendorship is approved by the Department.
 - (d) A written request for renewal of the Continuing Education Training Program shall be submitted to the Department using the forms LIC 9140 and LIC 9141, or a replica, and shall contain the information and processing fee specified in Section 87788(b).
 - (e) If a request for approval or renewal of a Continuing Education Training Program is incomplete, the Department shall, within thirty (30) days of receipt, give written notice to the vendor applicant that:
 - (1) The request is deficient, describing which documents or information are outstanding and/or inadequate and informing the vendor applicant that the information must be submitted within thirty (30) days of the date of the notice.
 - (f) If the vendor applicant does not submit the requested information within thirty (30) days, the request for approval or renewal shall be deemed withdrawn, provided that the Department has not denied or taken action to deny the request.
 - (g) Within thirty (30) days of receipt of a complete request for an approval or renewal, the Department shall notify the vendor applicant in writing whether the request has been approved or denied.
 - (h) Continuing Education Training Program vendors shall:
 - (1) Maintain and ensure that written records are available for review by Department representatives. Records shall be maintained for three (3) years. The records shall include the following:
 - (A) Course schedules, dates and descriptions.
 - (B) List of instructors and documentation of qualifications of each as specified in Section 87788(h)(2).

87788**CONTINUING EDUCATION TRAINING PROGRAM
VENDOR REQUIREMENTS (Continued)****87788**

- (C) Names of registered participants and documentation of completion of the courses.
- (D) Evaluations by participants of courses and instructors.
- (2) Have instructors who have knowledge and/or experience in the subject area to be taught and who meet at least one of the following criteria:
 - (A) Possession of a four (4) year college degree and two (2) years experience relevant to the course to be taught, or
 - (B) Four (4) years experience relevant to the course to be taught, or
 - (C) Be a professional, in a related field, with a valid license to practice in California, or
 - (D) Have at least four (4) years experience in California as an administrator of a residential care facility for the elderly, within the last eight (8) years, and with a record of administering facilities in substantial compliance as defined in Section 87101(s)(6).
- (i) Courses approved for continuing education credit shall require the physical presence of the certificate holder in a classroom setting, except that:
 - (1) The Department may approve courses where the technology permits the simultaneous and interactive participation of the certificate holder, provided such participation is verifiable.
- (j) Any changes to courses previously approved by the Department must be submitted and approved by the Department prior to being offered.
- (k) Continuing Education Training Program vendors shall allow Department representatives to monitor and inspect Training Programs.
- (l) Continuing Education Training Program vendors who teach courses that the Department has approved for more than one program type (ARF, RCFE, GH), may provide "multiple crediting," that is, more than one certification for the course, to those who complete the course satisfactorily.
- (m) Continuing Education Training Program vendors that the Department has approved for more than one program type (ARF, RCFE, GH), may "co-locate" or instruct specified courses for more than one program type.

87788 CONTINUING EDUCATION TRAINING PROGRAM 87788
VENDOR REQUIREMENTS (Continued)

- (n) Continuing Education Training Program vendors who are also certificate holders shall not be permitted to receive credit for attending the vendor's own Continuing Education Training Program courses.

NOTE: Authority cited: Sections 1569.23(d), 1569.30 and 1569.616(j), Health and Safety Code. Reference: Section 1569.616, Health and Safety Code.

87789 CONTINUING EDUCATION TRAINING PROGRAM 87789
COURSE APPROVAL REQUIREMENTS

- (a) Any Continuing Education Training Program course shall be approved by the Department prior to being offered to certificate holders.
- (1) At the sole discretion of the Department, continuing education credit may be granted for training provided by the Department's licensing staff.
- (b) Any vendor applicant seeking approval of a Continuing Education Training Program course shall submit a written request to the Department using the forms LIC 9140 and LIC 9141, or a replica. The request shall be signed under penalty of perjury and contain the following:
- (1) Subject title, classroom hours, scheduled dates, duration, time, location, and proposed instructor of each course.
- (2) Written description and educational objectives for each course, teaching methods, course content and a description of evaluation methods.
- (3) Qualifications of each proposed instructor, as specified in Section 87788(h)(2).
- (4) Types of records to be maintained, as required in Section 87788(h)(1).
- (5) A statement of whether or not the instructor held or currently holds a license, certification or other approval as a professional in a specified field and the license or certificate number.
- (6) A statement of whether or not the instructor held or currently holds a community care facility license or was, or is, employed by a licensed community care facility and the facility number.
- (7) A statement of whether or not the proposed instructor was the subject of any administrative, legal or other action involving licensure, certification or other approvals as specified in Sections 87789(b)(5) and (6).

**87789 CONTINUING EDUCATION TRAINING PROGRAM
COURSE APPROVAL REQUIREMENTS (Continued)****87789**

- (c) Course approval shall expire on the expiration date of the vendor's Continuing Education Training Program vendorship approval, as provided in Section 87788(c).
- (1) To renew a course, the vendor applicant shall submit a written request to the Department using the forms LIC 9139 and LIC 9141, or a replica.
- (d) If a request for approval or renewal of a Continuing Education Training Program course is incomplete, the Department shall, within thirty (30) days of receipt, give written notice to the vendor applicant that:
- (1) The request is deficient, describing which documents or information are outstanding and/or inadequate and informing the vendor applicant that the information must be submitted within thirty (30) days of the date of the notice.
- (e) If the vendor applicant does not submit the requested information within thirty (30) days, the request for approval or renewal shall be deemed withdrawn, provided that the Department has not denied or taken action to deny the request.
- (f) Within thirty (30) days of receipt of a complete request for an approval or renewal, the Department shall notify the vendor applicant in writing whether the course has been approved or denied.
- (g) Any changes to previously approved courses must be submitted to the Department for approval prior to being offered, which shall contain the information specified in Section 87789(b).
- (h) Continuing Education Training Program vendors shall allow Department representatives to monitor and inspect the training courses.

NOTE: Authority cited: Sections 1569.23(d), 1569.30 and 1569.616(j), Health and Safety Code. Reference: Section 1569.616, Health and Safety Code.

87791 ADMINISTRATIVE REVIEW OF DENIAL OR REVOCATION OF A REQUEST FOR AN APPROVAL OF A CONTINUING EDUCATION COURSE 87791

- (a) A vendor may seek administrative review of the denial or revocation of course approval as follows:
- (1) The vendor must request administrative review in writing within ten (10) days of the receipt of the Department's notice denying or revoking course approval.
 - (2) The administrative review shall be conducted by a higher-level staff person than the person who denied or revoked course approval.
 - (3) If the reviewer determines that the denial or revocation of course approval was not issued in accordance with applicable statutes and regulations of the Department, or that other circumstances existed, he/she shall have the authority to amend the denial or revocation of course approval.
 - (4) The decision of the higher-level staff person shall be final.

NOTE: Authority cited: Sections 1569.23(d), 1569.30 and 1569.616(j), Health and Safety Code. Reference: Section 1569.616, Health and Safety Code.

87792 DENIAL OF A REQUEST FOR AN APPROVAL OF A CONTINUING EDUCATION TRAINING PROGRAM 87792

- (a) The Department may deny a request for approval of a Continuing Education Training Program in accordance with Health and Safety Code Section 1569.616(i)(1). The Department shall provide the applicant with a written notice of the denial.

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Section 1569.616(i)(1) of the Health and Safety Code provides in part:

The department may deny vendor approval to any agency or person that has not provided satisfactory evidence of their ability to meet the requirements of vendorization set out in the regulations adopted pursuant to subdivision (j).

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- (b) The vendor applicant may appeal the denial of the application in accordance with Health and Safety Code Section 1569.51.
- (c) Any request for approval submitted by a vendor applicant whose application has been previously denied shall be processed by the Department in accordance with the provisions of Health and Safety Code Section 1569.16(b).

87792 DENIAL OF A REQUEST FOR AN APPROVAL OF A CONTINUING EDUCATION TRAINING PROGRAM (Continued)

87792

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Health and Safety Code Section 1569.16(b) provides:

"(b) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant had previously applied for a license under any of the chapters listed in paragraph (1) of subdivision (a) and the application was denied within the last year, the department shall, except as provided in Section 1569.22, cease further review of the application until one year has elapsed from the date of the denial letter. In those circumstances where denials are appealed and upheld at an administrative hearing, review of the application shall cease for one year from the date of the decision and order being rendered by the department. The cessation of review shall not constitute a denial of the application."

HANDBOOK ENDS HERE

NOTE: Authority cited: Sections 1569.23(d), 1569.30 and 1569.616(j), Health and Safety Code. Reference: Sections 1569.16, 1569.51 and 1569.616, Health and Safety Code.

87793 REVOCATION OF A CONTINUING EDUCATION TRAINING PROGRAM

87793

- (a) The Department may revoke a Continuing Education Training Program approval and remove the vendor from the list of approved vendors if the vendor does not provide training consistent with Sections 87788, Continuing Education Training Program Vendor Requirements, and 87789, Continuing Education Training Program Course Approval Requirements.
- (1) Is unable to provide training due to lack of staff, funds or resources; or
 - (2) Misrepresents or makes false claims regarding the training provided; or
 - (3) Demonstrates conduct in the administration of the program that is illegal or inconsistent with the intent of the program; or
 - (4) Misrepresents or makes false statements in the vendor application.
- (b) The vendor may appeal the revocation in accordance with Health and Safety Code Section 1569.51.
- (c) Any application for approval of a Continuing Education Training Program submitted by a vendor applicant whose approval has been previously revoked shall be processed by the Department in accordance with the provisions of Health and Safety Code Section 1569.16.

**87793 REVOCATION OF A CONTINUING EDUCATION
TRAINING PROGRAM (Continued)****87793**

HANDBOOK BEGINS HERE

Health and Safety Code Section 1569.16 in pertinent part provides:

(a)(1) If an application for a license indicates, or the department determines during the application review process, that the applicant previously was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3 (commencing with Section 1500), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) and the prior license was revoked within the preceding two years, the department shall cease any further review of the application until two years have elapsed from the date of the revocation.

(a)(3) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant was excluded from a facility licensed by the department pursuant to Section 1558, 1568.092, 1569.58, or 1596.8897, the department shall cease any further review of the application unless the excluded individual has been reinstated pursuant to Section 11522 of the Government Code by the department.

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NOTE: Authority cited: Sections 1569.23(d), 1569.30 and 1569.616(j), Health and Safety Code. Reference: Sections 1569.16, 1569.23, 1569.51 and 1569.616, Health and Safety Code.