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July 3, 2015

Regulation Package No. 0713-07

CDSS MANUAL LETTER NO. CCL-15-12

TO: HOLDERS OF THE COMMUNITY CARE LICENSING MANUAL, DIVISION 6

Regulation Package # 0713-07

Effective 7/1/15

Sections 87102 87455, 87465, 87469, 87615, 87616, 87632, 87633

This manual letter has been posted on the Office of Regulations Development website at <http://www.cdss.ca.gov/ord/PG646.htm>.

Assembly Bill (AB) 1961 amended Health and Safety (H&S) Code section 1569.73 to allow for the acceptance of terminally ill persons already receiving hospice care into a Residential Care Facilities for the Elderly (RCFE). AB 1166 affected both Adult Residential Facilities (ARFs) and RCFEs respectively by amending H&S Code sections 1507.3 and 1569.74 to accept a terminally ill person already receiving hospice care into an ARF and to allow licensees in both facility types to contact the hospice agency in lieu of calling 9-1-1 during an emergency situation for hospice terminally ill client/residents under certain conditions. The regulations also incorporate prohibited health conditions into the hospice care plan and hospice waiver. Similarly, the ARF regulations incorporate restricted and prohibited health conditions into the hospice care plan and the hospice waiver.

The benefits of the regulatory action to the health and welfare of terminally ill individuals already receiving hospice care into a RCFE will provide the option for RCFE licensees to notify a terminally ill resident's hospice agency in lieu of calling 9-1-1 during a life threatening emergency related to the terminal illness for residents with an advance directive or request regarding resuscitative measures.

FILING INSTRUCTIONS

Revisions to all manuals are indicated by a vertical line in the left margin. 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-15-11. The latest prior manual letter containing RCFE regulations changes was Manual Letter No. CCL-15-07.

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Attachment

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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 (2/01) - Renewal of Continuing Education Course Approval, Administrator Certification Program.
- (b) LIC 9140 (6/01) - Request for Course Approval, Administrator Certification Program.
- (c) LIC 9141 (5/01) - Vendor Application/Renewal, Administrator Certification Program.
- (d) PUB 325 (3/12) - Your Right To Make Decisions About Medical Treatment.
- (e) 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."

HANDBOOK ENDS HERE

- (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.

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 bedridden provided the requirements of Section 87606 are met.
 - (7) 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.
 - (8) Persons who have been diagnosed as terminally ill and who have obtained the services of hospice, certified in accordance with federal medicare conditions of participation and licensure, provided the licensee has obtained a facility hospice care waiver in accordance with the provisions of Section 87632, Hospice Care Waiver, and hospice care is being provided in accordance with the provisions of Section 87633, Hospice Care for Terminally Ill Residents.
- (c) No resident shall be accepted or retained if any of the following apply:
 - (1) The resident has active communicable tuberculosis.

87455 ACCEPTANCE AND RETENTION LIMITATIONS (Continued)

87455

- (2) The resident requires 24-hour, skilled nursing or intermediate care as specified in Health and Safety Code Sections 1569.72(a) and (a)(1):

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Health and Safety Code Sections 1569.72(a) and (a)(1) provide in part:

"(a) ...no resident shall be admitted or retained in a residential care facility for the elderly if any of the following apply:

- (1) The resident requires 24-hour, skilled nursing or intermediate care."

HANDBOOK ENDS HERE

- (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
- (B) Dementia, unless the requirements of Section 87705, Care of Persons with Dementia, are met.
- (d) 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.

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Health and Safety Code section 1569.73(a) provides in relevant part:

"(a) Notwithstanding Section 1569.72 or any other provision of law, a residential care facility for the elderly may obtain a waiver from the department for the purpose of allowing a resident who has been diagnosed as terminally ill by his or her physician and surgeon to remain in the facility, or allowing a person who has been diagnosed as terminally ill by his or her physician and surgeon to become a resident of the facility if that person is already receiving hospice services and would continue to receive hospice services without disruption if he or she became a resident, when all of the following conditions are met:

- (1) The facility agrees to retain the terminally ill resident, or accept as a resident the terminally ill person, and to seek a waiver on behalf of the individual, provided the individual has requested the waiver and is capable of deciding to obtain hospice services.

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- (2) The terminally ill resident, or the terminally ill person to be accepted as a resident, has obtained the services of a hospice certified in accordance with federal medicare conditions of participation and licensed pursuant to Chapter 8 (commencing with Section 1725) or Chapter 8.5 (commencing with Section 1745).
- (3) The facility, in the judgment of the department, has the ability to provide care and supervision appropriate to meet the needs of the terminally ill resident or the terminally ill person to be accepted as a resident, and is in substantial compliance with regulations governing the operation of residential care facilities for the elderly.
- (4) The hospice has agreed to design and provide for care, services, and necessary medical intervention related to the terminal illness as necessary to supplement the care and supervision provided by the facility.
- (5) An agreement has been executed between the facility and the hospice regarding the care plan for the terminally ill resident or terminally ill person to be accepted as a resident. The care plan shall designate the primary caregiver, identify other caregivers, and outline the tasks the facility is responsible for performing and the approximate frequency with which they shall be performed. The care plan shall specifically limit the facility's role for care and supervision to those tasks allowed under this chapter..."

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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, 1569.72 and 1569.73, 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.

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), (c)(3), or (c)(4).
- (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.

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 DIRECTIVES AND REQUESTS REGARDING RESUSCITATIVE MEASURES 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, (3/12) and a copy of Sections 87469(b), (c) and (d) 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 DIRECTIVES AND REQUESTS REGARDING RESUSCITATIVE MEASURES (Continued) 87469

- (c) If a resident who has an advance directive and/or request regarding resuscitative measures form on file experiences a medical emergency, facility staff shall do one of the following:
- (1) Immediately telephone 9-1-1, present the advance directive and/or request regarding resuscitative measures form to the responding emergency medical personnel and identify the resident as the person to whom the order refers.
 - (2) Immediately give the advance directive and/or request regarding resuscitative measures 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) Specifically for a terminally ill resident that is receiving hospice services and has completed an advance directive and/or request regarding resuscitative measures form pursuant to Health and Safety Code section 1569.73(c), and is experiencing a life-threatening emergency as displayed by symptoms of impending death that is directly related to the expected course of the resident's terminal illness, the facility may immediately notify the resident's hospice agency in lieu of calling emergency response (9-1-1). For emergencies not directly related to the expected course of the resident's terminal illness, the facility staff shall immediately telephone emergency response (9-1-1).
 - (4) Facilities that employ health care providers, other than Home Health Agencies or Hospice Agencies, may comply with Health and Safety Code section 1569.74.
- (d) After following the procedure in Section 87469(c)(1), (2), (3), or (4), facility staff shall notify the resident's hospice agency and Health Care Surrogate Decision Maker, if applicable.

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Health and Safety Code section 1569.73(c) provides in relevant part:

- "(c) A facility that has obtained a hospice waiver from the department pursuant to this section need not call emergency response services at the time of a life-threatening emergency if the hospice agency is notified instead and all of the following conditions are met:
- (1) The resident is receiving hospice services from a licensed hospice agency.
 - (2) The resident has completed an advance directive, as defined in Section 4605 of the Probate Code, requesting to forego resuscitative measures.

HANDBOOK CONTINUES

87469 ADVANCE DIRECTIVES AND REQUESTS REGARDING RESUSCITATIVE MEASURES (Continued) 87469**HANDBOOK CONTINUES**

- (3) The facility has documented that facility staff have received training from the hospice agency on the expected course of the resident's illness and the symptoms of impending death."

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 Section 4780 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.
 - (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 in either of the following ways:
- (1) By a licensed health care provider who is employed by the facility and on the premises at the time of the life threatening emergency.

HANDBOOK CONTINUES

87469 ADVANCE DIRECTIVES AND REQUESTS REGARDING RESUSCITATIVE MEASURES (Continued) 87469

- (2) By notifying, under those conditions specified in subdivision (c) of Section 1569.73, the hospice agency that is caring for a resident receiving hospice services.

HANDBOOK CONTINUES

- (d) Licensed residential care facilities for the elderly that have not established policies pursuant to subdivision (a) may keep an executed request to forego resuscitative measures form in the resident's file and present it to an emergency medical technician or paramedic when authorized to do so in writing by the resident or his or her legally recognized surrogate decisionmaker. The request may be honored by an emergency medical technician or by any health care provider as defined in Section 4621 of the Probate Code, who, in the course of professional or volunteer duties, responds to emergencies."

Probate Code section 4780 provides in relevant part:

- (a) As used in this part:
- (1) "Request regarding resuscitative measures" means a written document, signed by (A) an individual with capacity, or a legally recognized health care decisionmaker, and (B) the individual's physician, that directs a health care provider regarding resuscitative measures. A request regarding resuscitative measures is not an advance health care directive.
- (2) "Request regarding resuscitative measures" includes one, or both of, the following:
- (A) A prehospital "do not resuscitate" form as developed by the Emergency Medical Services Authority or other substantially similar form.
- (B) A Physician Orders for Life Sustaining Treatment form, as approved by the Emergency Medical Services Authority.
- (3) "Physician Orders for Life Sustaining Treatment form" means a request regarding resuscitative measures that directs a health care provider regarding resuscitative and life-sustaining measures.

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NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.73, 1569.74, and 1569.156, Health and Safety Code; and Sections 4621 and 4780, Probate Code.

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87615	PROHIBITED HEALTH CONDITIONS	87615
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- (a) 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.
- (c) Facilities that have satisfied the requirements of Section 87632, Hospice Care Waiver, are not required to submit written exception requests under this section for residents or prospective residents with restricted health conditions under Section 87612 and/or prohibited health conditions under Section 87615 provided those residents have been diagnosed as terminally ill and are receiving hospice services in accordance with a hospice care plan as required under Section 87633, Hospice Care for Terminally Ill Residents, and the treatment of such restricted and/or prohibited health conditions is specifically addressed in the hospice care plan.

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87616**EXCEPTIONS FOR HEALTH CONDITIONS****87616**

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Health and Safety Code section 1569.73(a) provides in relevant part:

- "(a)(2) The terminally ill resident, or the terminally ill person to be accepted as a resident, has obtained the services of a hospice certified in accordance with federal medicare conditions of participation and licensed pursuant to Chapter 8 (commencing with Section 1725) or Chapter 8.5 (commencing with Section 1745).
- (3) The facility, in the judgment of the department, has the ability to provide care and supervision appropriate to meet the needs of the terminally ill resident or the terminally ill person to be accepted as a resident, and is in substantial compliance with regulations governing the operation of residential care facilities for the elderly.
- (4) The hospice has agreed to design and provide for care, services, and necessary medical intervention related to the terminal illness as necessary to supplement the care and supervision provided by the facility.
- (5) An agreement has been executed between the facility and the hospice regarding the care plan for the terminally ill resident or terminally ill person to be accepted as a resident. The care plan shall designate the primary caregiver, identify other caregivers, and outline the tasks the facility is responsible for performing and the approximate frequency with which they shall be performed. The care plan shall specifically limit the facility's role for care and supervision to those tasks allowed under this chapter."

HANDBOOK ENDS HERE

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1250, 1569.2(a), (e) and (j), 1569.31, 1569.312, 1569.72(a) and (a)(1) and 1569.73, 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.

87632 HOSPICE CARE WAIVER

87632

- (a) In order to accept or 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 residents who may request retention, and any future residents who may request acceptance, along with the provision of 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 statement by the licensee that an agreement with the hospice agency will be entered into regarding the care plan for the terminally ill resident to be accepted and/or retained in the facility. The agreement with hospice shall design and provide for the care, services, and necessary medical intervention related to the terminal illness as necessary to supplement the care and supervision provided by the licensee.
- (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 prospective resident upon admission, or by the resident's or prospective resident's health care surrogate decision maker to allow for his or her acceptance or 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).

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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 for any terminally ill resident in the facility or within five working days of admitting a resident already receiving hospice care services. 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 has been approved or denied.
 - (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.

HANDBOOK BEGINS HERE

Health and Safety Code section 1569.73 provided in relevant part:

- "(a)(2) The terminally ill resident, or the terminally ill person to be accepted as a resident, has obtained the services of a hospice certified in accordance with federal medicare conditions of participation and licensed pursuant to Chapter 8 (commencing with Section 1725) or Chapter 8.5 (commencing with Section 1745).
- (3) The facility, in the judgment of the department, has the ability to provide care and supervision appropriate to meet the needs of the terminally ill resident or the terminally ill person to be accepted as a resident, and is in substantial compliance with regulations governing the operation of residential care facilities for the elderly.
 - (4) The hospice has agreed to design and provide for care, services, and necessary medical intervention related to the terminal illness as necessary to supplement the care and supervision provided by the facility.
 - (5) An agreement has been executed between the facility and the hospice regarding the care plan for the terminally ill resident or terminally ill person to be accepted as a resident. The care plan shall designate the primary caregiver, identify other caregivers, and outline the tasks the facility is responsible for performing and the approximate frequency with which they shall be performed. The care plan shall specifically limit the facility's role for care and supervision to those tasks allowed under this chapter...

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

- (d) Nothing in this section is intended to expand the scope of care and supervision for a residential care facility for the elderly as defined in this act, nor shall a facility be required to alter or extend its license in order to retain a terminally ill resident or allow a terminally ill person to become a resident of the facility as authorized by this section.
- (e) Nothing in this section shall require any care or supervision to be provided by the residential care facility for the elderly beyond that which is permitted in this chapter...
- (g) The department shall not be responsible for the evaluation of medical services provided to the resident by the hospice and shall have no liability for the independent acts of the hospice..."

HANDBOOK ENDS HERE

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 accept or retain residents who have been diagnosed as terminally ill by his or her physician and surgeon and who may or may not have restrictive and/or prohibited health conditions, to reside in the facility and receive hospice services from a hospice agency in the facility, when 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 or prospective resident individually, or the resident's or prospective resident's Health Care Surrogate Decision Maker if the resident or prospective resident is incapacitated, not by the licensee on behalf of a resident or prospective resident. These hospice agency services must be provided by a hospice agency both licensed by the state and certified by the federal Medicare program.

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HOSPICE CARE FOR TERMINALLY ILL RESIDENTS (Continued)

87633

- (4) A written hospice care plan which specifies the care, services, and necessary medical intervention related to the terminal illness as necessary to supplement the care and supervision provided by the facility is developed for each terminally ill resident or prospective resident by that resident's hospice agency, and agreed to by the licensee and the resident, or prospective resident, or the resident's or prospective 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 acceptance or retention of any terminally ill resident or prospective 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 or prospective 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 or prospective resident's needs will be 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.

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HOSPICE CARE FOR TERMINALLY ILL RESIDENTS

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(Continued)

- (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.
- (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.

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

(Continued)

- (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.
- (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) A written request for acceptance or admittance to or retention in the facility while receiving hospice services, along with any advance directive and/or request regarding resuscitative measures 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.

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

(Continued)

- (5) A statement signed by the resident's roommate, if any, or any resident who will share a room with a person who is terminally ill to be accepted or retained as a resident, 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.
- (i) Prescription medications no longer needed shall be disposed of in accordance with Section 87465(i).
- (j) A written health condition exception request and approval from the Department in accordance with Section 87616, is not needed for any restricted health conditions listed in Section 87612, Restricted Health Conditions, or for any prohibited health conditions listed in Section 87615, Prohibited Health Conditions, provided the resident or prospective resident has been diagnosed as terminally ill and is currently receiving hospice care in compliance with Section 87633, Hospice Care for Terminally Ill Residents, and the treatment of the restricted and/or prohibited health conditions 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 or prospective residents already receiving hospice care when accepted as residents who are bedridden may reside in the facility provided the facility meets the requirements of Section 87606, Care of Bedridden Residents.

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

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Health and Safety Code section 1569.73(h) provides in summary:

"Nothing in this section [which deals with terminally ill residents and hospice care] shall be construed to relieve a licensed residential care facility for the elderly of its responsibility to notify the appropriate fire authority of the presence of a bedridden resident in the facility as required under subdivision (f) of Section 1569.72 and to obtain and maintain a fire clearance as required under Section 1569.149."

HANDBOOK ENDS HERE

- (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, 1569.72, 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.

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