

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



September 30, 2002

Regulation Package #0401-10

CDSS MANUAL LETTER NO. CCL-02-09

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

Regulation Package #0401-10**Effective 8/31/02****Sections 87101, 87565, 87566, 87568, and 87589**

This manual letter has been posted on the Office of Regulations Development website at http://www.dss.cahwnet.gov/ord/Residentia_635.htm.

These proposed regulations implement and make specific Senate Bill 1670, Mello (Chapter 1169), Statutes of 1992) which adopted Health and Safety Code Section 1569.625 relating to Residential Care Facilities for the Elderly. This section requires that direct care staff have the knowledge and proficiency to carry out the tasks of their jobs, receive 10 hours of training within the first four weeks of employment and four hours annually thereafter.

Under existing law, all personnel are required to receive on-the-job training in the job assigned to them. Staff who assist with personal activities of daily living are subject to the same on-the-job training requirements as all other personnel. These proposed regulations will require staff who assist with personal activities of daily living to receive 10 hours of training within the first four weeks of employment, and four hours annually thereafter. Additionally, the proposed regulations require documentation of the 10 hours of training, and four hours of annual continuing education to be maintained in the employee's personnel record.

These regulations are also necessary to make amendments consistent with current terminology as used in Continuing Care Contract statutes of Health and Safety Code Section 1771(c)(8).

These regulations were adopted on August 31, 2002 and were considered at the Department's public hearings held on September 19, 2001.

FILING INSTRUCTIONS

Revisions to all manuals are shown in graphic screen. The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Community Care Licensing changes was Manual Letter No. CCL-02-08. The latest prior manual letter containing Residential Care Facilities for the Elderly regulation changes was Manual Letter No. CCL-02-08.

Page(s)

7.1 and 7.2
13.1 through 15.1
11 and 12
81.7 through 84.1
87 and 88
116 and 117

Replace(s)

Page 7.1
Pages 13.1 through 15.1
Pages 11 and 12
Pages 81.7 through 84.1
Pages 87 and 88
Pages 116 and 117

Attachments

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87101 DEFINITIONS (Continued)**87101**

- (6) Close friend. "Close friend" means a person who is attached to another by feelings of personal regard as indicated by both parties involved.
- (7) Co-locate. "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.
- (8) Community Care Facility. "Community Care Facility" means any facility, place or building providing nonmedical care and supervision, as defined in Section 87101c.(2).
- (9) Complete request. "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.
- (10) Conservator. "Conservator" means a person appointed by the Superior Court pursuant to the provisions of Section 1800 et seq. of the Probate Code or Section 5350 of the Welfare and Institutions Code, to care for the person, or estate, or person and estate, of another.
- (11) Consultant. "Consultant" means a person professionally qualified by training and experience to provide expert information on a particular subject.
- (12) Continuing Care Contract. "Continuing Care Contract" is defined in Health and Safety Code Section 1771(c)(8).

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“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.”

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- (13) Continuing Education Training Program Vendor. "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**

- (14) Control of Property. "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.
- (15) Course. "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.

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(A) Health and Safety Code Section 1569.2(g) reads:

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

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- (2) Licensee. "Licensee" means the individual, firm, partnership, corporation, association or county having the authority and responsibility for the operation of a licensed facility.
- (3) Licensing Agency. "Licensing Agency" means a state, county or other public agency authorized by the Department to assume specified licensing, approval or consultation responsibilities pursuant to Section 1569.13 of the Health and Safety Code.
- (4) Repealed by Manual Letter No. CCL-02-09, effective 8/31/02.
- (m) (Reserved)
- (n) (1) New Facility. "New Facility" means any facility applying for an initial license whether newly constructed or previously existing for some other purpose.
- (2) Nonambulatory Person. "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) Nutritionist. "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.

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(o) (Reserved)

- (p) (1) Physician. "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. "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.
- (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. "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 87231.

(q) (Reserved)

- (r) (1) Relative. "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.
- (2) Renewal Vendor Application. "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.

87101 DEFINITIONS (Continued)**87101**

- (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) Singular-Plural. Whenever in these regulations the singular is used, it can include the plural.
- (5) Social Worker. "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.
- (6) SSI/SSP. "SSI/SSP" means the Supplemental Security Income/State Supplemental Program.
- (7) Substantial Compliance. "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 87451 and the presence of any uncorrected serious deficiencies for which civil penalties could be assessed.
- (8) Standard Precautions. See "Universal Precautions."
- (9) 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. "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. "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. "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.
 3. After using the toilet.

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87101 DEFINITIONS (Continued)

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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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- (A) Health and Safety Code Section 1569.44 provides in part:

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

- (B) A facility which is "providing care and supervision" as defined in Section 87101c.(2) includes, but is not limited to, one in which individual has been placed by a placement agency or family members.
- (C) 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.
 - (3) A licensed facility that moves to a new location.
 - (4) A facility which advertises as providing care and supervision.
- (D) 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. "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 and/or a Continuing Education Training Program.
- (2) Vendor applicant. "Vendor applicant" means any institution, association, individual(s), or other entity that submits a request for approval of an Initial Certification Training Program and/or a Continuing Education Training Program.
- (3) Voluntary. "Voluntary" means resulting from free will.
- (w) (1) Waiver. "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.

87101 DEFINITIONS (Continued)**87101**

- (x) (Reserved)
- (y) (Reserved)
- (z) (Reserved)

NOTE: Authority cited: Sections 1569.23(d), 1569.30, 1569.616(j), and 1569.698(c), 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(e), 1569.193(a) and (d), 1569.20, 1569.21, 1569.23, 1569.30, 1569.31, 1569.312, 1569.38, 1569.44, 1569.47, 1569.54, 1569.616, 1569.699(a), 1569.73, 1569.74, and 1569.82, and 1771(c)(8), Health and Safety Code; Section 15610.13, Welfare and Institutions Code; and Sections 1800, 4615, 4650, and 4753, Probate Code.

87102 DEFINITIONS - FORMS**87102**

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 (3/99) – 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: Sections 1530 and 1569.616(i), Health and Safety Code; and Section 15376, Government Code.

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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 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.

(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 1558, 1568.092, 1569.16, 1569.58, 1569.616 and 1569.8897, Health and Safety Code.

87565 PERSONNEL REQUIREMENTS - GENERAL**87565**

- (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 87578. 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.
- (c) All RCFE staff who assist residents with personal activities of daily living shall receive at least ten (10) hours of initial training within the first four (4) weeks of employment and at least four (4) hours annually thereafter.
- (1) This training shall be administered on the job, in a classroom setting, or any combination of the two.
 - (2) 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 87572.
 - (D) Policies and procedures regarding medications, including the knowledge in Section 87565(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 87565(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.

87565 PERSONNEL REQUIREMENTS - GENERAL (Continued)**87565**

- (3) 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 (2) years of experience in California as an administrator of an RCFE, within the last eight (8) years, and with a record of administering facilities in substantial compliance, as defined in Section 87101(s)(8).
- (4) 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 87565(c)(3).
- (5) Documentation of the training shall be retained in the employee's file. For classroom courses, documentation shall consist of notices of course completion signed by the trainer. 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 87565(c)(3) is met by the trainer.

87565 PERSONNEL REQUIREMENTS - GENERAL (Continued)**87565**

- (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.

87565 PERSONNEL REQUIREMENTS - GENERAL (Continued)**87565**

- (g) Pending receipt of a criminal record transcript, as specified in Section 87219, and prior to employment or at initial presence in the facility, all employees and volunteers determined by the licensing agency to require criminal record clearances shall sign a statement under penalty of perjury, on a form provided by the Department, which contains either of the following:
- (1) A declaration that he/she has not been convicted of a crime, other than a minor traffic violation as specified in Section 87219(e).
 - (2) Information regarding any prior convictions of a crime, with the exception of any minor traffic violation as specified in Section 87219(e).
 - (A) If a person has been convicted of a crime, other than a minor traffic violation as specified in Section 87219(e), he/she shall also acknowledge that his/her continued employment or presence in the facility is conditioned on approval of the licensing agency.
- (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, 1569.30, 1569.31, 1569.312, and 1569.625, Health and Safety Code; and Section 42001, Vehicle Code.

87566 PERSONNEL RECORDS**87566**

- (a) Employment application forms shall be completed and maintained on each employee and shall be available to the Department or licensing agency for review. 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 employee is at least 18 years of age, which shall include but not be limited to a copy of his birth certificate or driver's license.
 - (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 87564(b) and (c).
 - (7) Past experience, including types of employment and former employers.

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- (A) Section 1569.17(b)(2) of the Health and Safety Code provides:

Any person, other than a client, residing in the facility.

- (B) Section 1569.17(c)(4) of the Health and Safety Code provides in part:

Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision.

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- (8) Type of position for which employed.
- (9) Termination date if no longer employed by the facility.
- (10) Reasons for leaving.

87566 PERSONNEL RECORDS (Continued)**87566**

- (b) For all persons working in the facility, including the licensee, the administrator and employees, there shall be a record of the health screening or volunteer statement specified in Section 87565.
- (c) For RCFE staff who assist with personal activities of daily living, there shall be documentation of at least ten (10) hours of initial training within the first four (4) weeks of employment, and at least four (4) hours of annual continuing education in one or more of the content areas as specified in Section 87565(c)(2).
- (d) The licensee shall maintain documentation that an administrator has met the certification requirements specified in Section 87564.2.
- (e) All personnel records shall be retained for at least three (3) years following termination of employment.
- (f) In all cases, personnel records shall demonstrate adequate staff coverage necessary for facility operation by documenting the hours actually worked.

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

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87568 **ADMISSION AGREEMENTS (Continued)****87568**

- (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.
- (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, 1569.30, 1569.31, 1569.312, 1569.313, 1569.54, and 1770 et seq., Health and Safety Code.

87569 MEDICAL ASSESSMENT**87569**

- (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.
 - (3) A record of current prescribed medications, and an indication of whether the medication should be centrally stored, pursuant to Section 87575(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) A determination of the person's ambulatory status as defined by Section 87101a.(4), and bedridden status, as defined in Section 87582(d).
 - (6) Information applicable to the pre-admission appraisal specified in Section 87583.
- (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, 1569.30, 1569.31, 1569.312, 1569.315, and 1569.54, Health and Safety Code.

87589 EVICTION PROCEDURES**87589**

- (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 87587, 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.

87589 EVICTION PROCEDURES (Continued)**87589**

- (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.
- (h) Nothing in this section is intended to preclude the licensee or resident from invoking any other available remedy.
- (i) Nothing in Section 87589 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 87701.1(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, 1569.30, 1569.31, 1569.312, 1569.315, 1569.54, 1569.73, and 1770 et seq., Health and Safety Code.

87590 BASIC SERVICES**87590**

- (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 87583 and providing the other basic services specified below, either directly or through outside resources.