

FINAL STATEMENT OF REASONS

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

Section 87224(a)(4)

Specific Purpose:

This subsection is amended to correct the appropriate cross-referenced regulation section from 87587 to 87463.

Factual Basis:

The amended cross-referenced regulation section is an editorial change without regulatory effect. Renumbering former section 87587 to section 87463 filed 3-5-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 10).

Section 87224(d)(1) through (d)(1)(D)

Specific Purpose:

These subsections are adopted to require licensees to include specified information in a notice to quit that is given to a resident upon eviction. These sections are included to assist in completing the eviction notice, ensuring that residents are clear on the effective date of their eviction, providing residents with resources to assist in locating other housing options, and ensuring residents are aware of their right to file a complaint with licensing, and of their rights during the eviction process.

Factual Basis:

The Department is adopting these regulations to meet the "necessity," "clarity," and "consistency" standards of the Administrative Procedures Act, Government Code Sections 11349(a), (c), and (d). These regulations are necessary to be consistent with and comply with the provisions of Senate Bill 781 (Leno) Statutes of 2009 which implemented Health and Safety Code Section 1569.683.

Subsection (d)(1)(A) is necessary to ensure that licensees provide residents with notice of the effective date of the eviction from the facility. Affording residents a specified eviction date allows for strategic planning for transfers, mitigates transfer trauma, and allows residents time to make an informed decision about their housing options after the eviction. The effective date of the eviction is also necessary in cases when the resident does not leave the facility as specified in the notice, and the licensee files an unlawful detainer action

against the resident. The effective date of the eviction is necessary when filing this type of action.

Subsections (d)(1)(B), (d)(1)(B)1. and (d)(1)(B)2. are necessary to eliminate ambiguity by clarifying the specific types of resources licensees are required to provide in the notice which assist residents in identifying other housing and care options. Providing resource options are necessary to ensure the health and safety of residents, as such information will aid in mitigating transfer trauma, and will avoid the homelessness of elderly persons. Requiring licensees to provide a list of resources maintains, and is consistent with, the Department's health and safety standards while assisting residents through the relocation process. The handbook section is necessary to provide examples of public and private referral services and case management organizations. This list is not exhaustive.

Subsection (d)(1)(C) is necessary to provide consistency with current regulations that afford residents the right to file a complaint with Community Care Licensing. This subsection is also necessary to eliminate ambiguity by clarifying which licensing office residents are to file a complaint.

Subsection (d)(1)(D) is necessary to ensure that the statement explaining the unlawful detainer procedures are consistent with Health and Safety Code Section 1569.683. This statement ensures that residents are informed of their rights during the eviction process, including their right to contest the eviction in writing and through a hearing.

Duplication

Health and Safety Code Section 1569.683 added requirements to eviction procedures. The CDSS is reciting the text, in whole or in part, into the proposed amended regulations to ensure that the regulations capture all the requirements for clarity, consistency, and so there is no misunderstanding between Health and Safety Code Section 1569.683 and Section 87224(d)(1) through (d)(1)(D) of these regulations.

Final Modification:

The CDSS has broadened the sample list within the Handbook. In addition, CDSS has added "Long Term Care" to Subsection (d)(1)(C) to clarify the State Ombudsman office.

b) Identification of Documents Upon Which Department Is Relying

Senate Bill (SB) NO. 781(Chapter 617, Statutes of 2009)

c) Local Mandate Statement

These regulations do impose a mandate on local agencies, but not on local school districts. There are no reimbursable state-mandated costs under Section 17500 et seq. of the Government Code because these regulations only make technical and clarifying changes.

d) Statement of Alternatives Considered

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

e) Statement of Significant Adverse Economic Impact On Business

The CDSS has determined that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This regulation action makes Title 22, Division 6, Chapter 8 (Residential Care Facilities for the Elderly), Section 87224 (Eviction Procedures) consistent with Health and Safety Code section 1569.683. Therefore, CDSS has determined there are no impacts or requirements to private persons or businesses, including small business, relating to this regulatory action.

f) Testimony and Response

These regulations were considered as Item #1 at the public hearing held on February 15, 2012, in Sacramento, California. No oral testimony was received, however, written testimony was received during the 45-day comment period from December 30, 2011, to 5:00 p.m. February 15, 2012.

The following organizations concurred with the Regulations as written. However, all four expressed concerns with the limited list of "sample" resource options provided in the Handbook section. In addition, two organizations had specific comments also addressed.

- California Advocates for Nursing Home Reform (CANHR)
- Disability Rights California
- Aging Services of California
- Consumer Advocates for RCFE Reform

Response to All:

Thank you for your comments. The CDSS has broadened its "sample" list of resources. The "sample" list of resources now includes some national agency contacts, as well as California Department of Aging, which provides links to some local resource agencies:

The following list is a sample of resource options:

- (1) California Advocates for Nursing Home Reform: Residential Care Guide
<http://www.residentialcareguide.org>
(415) 974-5171
- (2) Elder Care Locator
www.eldercare.gov
1-800-677-1116

- (3) California Health Care Foundation
www.calqualitycare.org
- (4) Community Care Licensing Division Facility Search
<http://www.cclcd.ca.gov/PG477.htm>
- (5) California Department of Aging: local services
http://www.aging.ca.gov/call_for_services.asp#ombudsman
- (6) The Alzheimer's Association – <http://www.alz.org/>
- (7) National Association of Professional Geriatric Care Managers
<http://www.caremanager.org/>
- (8) Jewish Family Services Association
[http://www.acronymfinder.com/Jewish-Family-Service-Association-\(various-locations\)-\(JFSA\).html](http://www.acronymfinder.com/Jewish-Family-Service-Association-(various-locations)-(JFSA).html)
- (9) California Registry – <http://calregistry.com/>
- (10) The statewide Senior Information Hotline (800-510-2020)
- (11) Licensees may contact vendors, advocacy organizations and provider associations to assist in developing a list of resources.

Aging Services of California:

Comment:

Section 87224:

Suggested change: "The following list is a sample of resource options."

Response:

The CDSS concurs and has made the typo correction from "lis" to "list" in Section 87224.

Consumer Advocates For RCFE Reform (CARR):

Comment:

CARR is making a formal request to be added to the Handbook list of sample resources. "CARR is a California public benefit corporation and 501(c)3 organization. Its site (www.rcfereform.org) has detailed facility profiles and public documents for the approximately 700 facilities located in San Diego and Imperial counties – about 10% of the state's facilities. We believe our services and voice are unique, offering a one-of-a-kind resource to consumers of assisted living services seeking placement in one of this region's facilities. At this time our site hosts nearly 10,000 documents (inspection and complaint reports, non-compliance conference summaries, LIC203As, and related facility documents) for consumer scrutiny."

Response:

Unfortunately, CDSS is unable to specifically include Consumer Advocates for RCFE Reform in the list of resources. The list of resources provided are those entities which provide national and or state-wide resource information. CARR as noted above provides local information dedicated to the San Diego and Imperial county region. The CDSS has, however, modified the list of resources to add "advocacy organizations" to item 11).

g) 15-Day Renotice Statement

The CDSS did not renotice these regulations because no changes requiring renotice were made to the regulations following the public hearing.