

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

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

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

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

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

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

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

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

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

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

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

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

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

87606 CARE OF BEDRIDDEN RESIDENTS**87606**

- (a) Unless otherwise specified, this section applies to licensees who accept or retain residents who are bedridden. The licensee shall be permitted to accept and retain residents who are or shall become bedridden, if all the following conditions are met.

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Health and Safety Code Section 1569.72(b)(1) provides in part:

"(b)(1) ...'bedridden' means either requiring assistance in turning and repositioning in bed, or being unable to independently transfer to and from bed..."

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- (b) A facility shall notify the local fire jurisdiction within 48 hours of accepting or retaining any bedridden person, as specified in Health and Safety Code Section 1569.72(f).

87606 CARE OF BEDRIDDEN RESIDENTS (Continued)**87606**

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Health and Safety Code Section 1569.72(f) provides:

"(f) Notwithstanding the length of stay of a bedridden resident, every facility admitting or retaining a bedridden resident, as defined in this section, shall, within 48 hours of the resident's admission or retention in the facility, notify the local fire authority with jurisdiction in the bedridden resident's location of the estimated length of time the resident will retain his or her bedridden status in the facility."

HANDBOOK ENDS HERE

- (c) To accept or retain a bedridden person, other than for a temporary illness or recovery from surgery, a facility shall obtain and maintain an appropriate fire clearance as specified in Section 87202(a).
- (d) For the purposes of this section, "temporary illness" is defined in Health and Safety Code Section 1569.72(d)(1).

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Health and Safety Code Section 1569.72(d)(1) provides:

"(d)(1) For purposes of this section, 'temporary illness' means any illness which persists for 14 days or less."

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- (e) A facility may retain a bedridden resident for more than 14 days if all of the requirements of Health and Safety Code Section 1569.72(e) are met.

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Health and Safety Code Section 1569.72(e) provides:

"(e) A bedridden resident may be retained in a residential care facility for the elderly in excess of 14 days if all of the following requirements are satisfied:

- "(1) The facility notifies the department in writing regarding the temporary illness or recovery from surgery.

HANDBOOK CONTINUES

87606 CARE OF BEDRIDDEN RESIDENTS (Continued)**87606**

HANDBOOK CONTINUES

"(2) The facility submits to the department, with the notification, a physician and surgeon's written statement to the effect that the resident's illness or recovery is of a temporary nature. The statement shall contain an estimated date upon which the illness or recovery will end or upon which the resident will no longer be confined to a bed.

"(3) The department determines that the health and safety of the resident is adequately protected in that facility and that transfer to a higher level of care is not necessary.

"(4) This section does not expand the scope of care and supervision of a residential care facility for the elderly."

HANDBOOK ENDS HERE

- (1) If it is determined that a resident will be temporarily bedridden for more than 14 days, the facility shall notify the fire authority having jurisdiction of the revised estimated length of time that the resident will be bedridden, as required in Section 87606(b).
- (f) To accept or retain a bedridden person, a facility shall ensure the following:
 - (1) The facility's Plan of Operation includes a statement of how the facility intends to meet the overall health, safety and care needs of bedridden persons.
 - (A) The facility's Emergency Disaster Plan, addresses fire safety precautions specific to evacuation of bedridden residents in the event of an emergency or disaster.
 - (B) In addition to the requirements specified in Care of Persons with Dementia, the needs of residents with dementia who are bedridden, shall be met.
 - (C) The needs of residents who are terminally ill and who are bedridden shall be met.
 - (2) Each bedridden resident's record includes sufficient documentation to demonstrate that the facility is meeting the needs of the individual resident as specified in Section 87506.
 - (3) Staff records include documentation of staff training specific to Care of Bedridden Residents.
 - (4) The facility's Register of Residents shall include:
 - (A) compliance with Section 87508,
 - (B) information related to resident room locator,

87606 CARE OF BEDRIDDEN RESIDENTS (Continued) 87606

- (C) register of residents be made available, upon request, to emergency personnel, and
- (D) facility staff have knowledge of the location of the register of residents at all times.
- (g) Nothing contained in this section or in Chapter 8 precludes the licensing agency from requiring the relocation of a bedridden resident whose needs are not being met in a facility, or whose needs are beyond the scope of care of the facility.

NOTE: Authority Cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.2, 1569.31, 1569.312, 1569.54, 1569.62, 1569.625, 1569.72, and 1569.80, Health and Safety Code.

87607 AUTOMATED EXTERNAL DEFIBRILLATORS (AEDS) 87607

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

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87607 AUTOMATED EXTERNAL DEFIBRILLATORS (AEDS) (Continued) 87607

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

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

87608 POSTURAL SUPPORTS**87608**

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

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

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

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

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

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

87611 GENERAL REQUIREMENTS FOR ALLOWABLE HEALTH CONDITIONS (Continued) 87611

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

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

87612 RESTRICTED HEALTH CONDITIONS 87612

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

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

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

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

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

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

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

87615	PROHIBITED HEALTH CONDITIONS	87615
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- (a) 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 (Continued)	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."

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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.

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

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

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

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

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

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

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

OR

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

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

- (1) Ensuring that ostomy care is provided by an appropriately skilled professional.
 - (A) The ostomy bag and adhesive may be changed by facility staff who have been instructed by the professional.
 - (B) There shall be written documentation by an appropriately skilled professional outlining the instruction of the procedures delegated and the names of the facility staff who have been instructed.
 - (C) The professional shall review the procedures and techniques no less than twice a month.
- (2) Ensuring that used bags are discarded as specified in Section 87303(f)(1).
- (3) Privacy shall be afforded when ostomy care is provided.

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

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

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

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

87623 INDWELLING URINARY CATHETER 87623

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

87623 INDWELLING URINARY CATHETER (Continued) 87623

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

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

87625 MANAGED INCONTINENCE 87625

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

87625 MANAGED INCONTINENCE (Continued)**87625**

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

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

87626 CONTRACTURES**87626**

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

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

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

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

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

87629 INJECTIONS**87629**

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

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

87631 HEALING WOUNDS**87631**

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

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

87632 HOSPICE CARE WAIVER

87632

- (a) In order to 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.

87633 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.

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

(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
(Continued)**87633**

(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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HANDBOOK BEGINS HERE

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
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- (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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87637 HEALTH CONDITION RELOCATION ORDER (Continued)

87637

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

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

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

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

**87638 RESIDENT REQUEST FOR REVIEW OF HEALTH CONDITION
RELOCATION ORDER 87638**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

87707

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

87707

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

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

87707

1. Name, address, and telephone number;
2. Date(s) when consultation was provided;
3. Organization affiliation (if any), as specified in Section 87707(a)(2)(C), and/or educational and professional qualifications specific to dementia; and
4. The training topics, specified in Section 87707(a)(2)(A), for which consultation was provided.

(E) All trainers shall meet the following education and experience requirements:

1. A minimum of eight hours of certifiable continuing education or three semester units, or the equivalent, from an accredited educational institution, on topics relevant to caring for individuals with dementia.
 - a. Examples of acceptable instruction include, but are not limited to, classes in aging, gerontology, geriatrics, and/or psychosocial needs of the elderly.
2. One of the following experience requirements:
 - a. Current employment as a consultant with expertise in dementia care, as specified in Section 87707(a)(2)(C).
 - b. Two years full-time experience, or the equivalent, within the last four years, as an RCFE administrator or as a direct care provider for individuals with dementia.

(F) The licensee shall maintain the following documentation on the trainer(s) described in Section 87707(a)(2)(E):

1. Name, address, and telephone number;
2. Topics/subject matter taught;
3. Dates/hours of training provided;

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

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

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

87725.2	ADVERTISING DEMENTIA SPECIAL CARE, PROGRAMMING, AND/OR ENVIRONMENTS AS OF JULY 3, 2004	87725.2
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Repealed by Manual Letter No. CCL-08-01, effective 3/5/08.

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

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

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

HANDBOOK BEGINS HERE

Health and Safety Code section 1569.24 provides in part:

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

Health and Safety Code section 1569.32 provides:

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

Health and Safety Code section 1569.33 provides in part:

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

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Regulations	RESIDENTIAL CARE FACILITIES FOR THE ELDERLY	87755
87755	INSPECTION AUTHORITY OF THE LICENSING AGENCY (Continued)	87755

HANDBOOK CONTINUES

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

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

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

HANDBOOK ENDS HERE

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

87756 EVALUATION VISIT**87756**

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

HANDBOOK BEGINS HERE

Health and Safety Code section 1569.33 provides in part:

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

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

87756 EVALUATION VISIT (Continued)**87756**

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

87756 EVALUATION VISIT (Continued)**87756**

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

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

87757 LICENSE COMPLAINTS**87757**

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

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

87758 SERIOUS DEFICIENCIES - EXAMPLES**87758**

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

87758	SERIOUS DEFICIENCIES - EXAMPLES (Continued)	87758
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- (2) Section 87202 relating to fire clearance.
- (3) Section 87204 relating to limitations on the number or types of facility residents.
- (4) Section 87311 relating to telephone service.
- (5) Sections 87455(c)(1) or (2), or (4), or Section 87615 relating to persons with communicable diseases, persons requiring inpatient health care, persons who are bedridden, or persons with a prohibited health condition.
- (6) Section 87204(b) relating to nonambulatory residents.
- (7) Section 87468(a)(3) relating to resident rights.
- (8) Section 87608(a) relating to restraints.
- (9) Sections 87307(d)(3) through (7) or (e) relating to safety of resident accommodations.
- (10) Section 87555(b)(24), (25), or (27) relating to storage, preparation and service of food.
- (11) Section 87465(b)(3) relating to medical and dental care of residents.
- (12) Section 87465(c) relating to storing and dispensing medications.
- (13) Section 87303(e)(2) relating to hot water temperature.
- (14) Section 87303(e)(4), (5), or (6) relating to toilet, handwashing and bathing accommodations.
- (15) Section 87303(f)(1) or (2) relating to storage and disposal of solid wastes, syringes and needles.
- (16) Section 87415 relating to night supervision.
- (17) Section 87638 relating to licensees forwarding to the Department a resident's request for review by an interdisciplinary team of a health condition relocation order.

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

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

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

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

87761 PENALTIES**87761**

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

87761 PENALTIES (Continued)**87761**

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

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

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

87761 PENALTIES (Continued)**87761**

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

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

87763 APPEAL PROCESS**87763**

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

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

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

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

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

87768 UNLICENSED FACILITY PENALTIES**87768**

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

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

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

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

Health and Safety Code section 1569.10 provides:

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

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

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

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

Article 14. Administrative Actions - General**87775 REVOCATION OR SUSPENSION OF LICENSE****87775**

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

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Health and Safety Code section 1569.1515(c) reads:

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

Health and Safety Code section 1569.50 reads in part:

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

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

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

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

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

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

..."

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

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

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

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

87777 EXCLUSIONS**87777**

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

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Health and Safety Code section 1569.58 reads in part:

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

(1) Violated, or aided or permitted the violation by any other person of, any provisions of this chapter or of any rules or regulations promulgated under this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

Health and Safety Code section 1569.59 reads:

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

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

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

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

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

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

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

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

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

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

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

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

- (a) Initial Certification Training Programs shall be approved by the Department prior to being offered to applicants for licensure or administrator certification.
- (b) Any vendor applicant seeking approval of an Initial Certification Training Program shall submit a written request to the Department's Administrator Certification Section using the Request for Course Approval form LIC 9140 and the Vendor Application/Renewal form LIC 9141. The request shall be signed by an authorized representative of the vendor applicant certifying that the information submitted is true and correct, and contain the following:
 - (1) Name, type of entity, physical address, e-mail address and phone number of the vendor applicant requesting approval and the name of the person in charge of the program.
 - (2) Subject title, classroom hours, proposed dates, duration, time, location and proposed instructor of each component.
 - (3) Written description and educational objectives for each subject matter component, hourly topical outline, teaching method, and description of course and participant evaluation methods.
 - (A) The use of videos, videotapes, video clips, or other visual recordings are permitted as media teaching aids in an Initial Certification Training Program but shall not, in themselves, constitute the Program or any subject matter component thereof.
 - (4) Qualifications of each proposed instructor as specified in Section 87785(i)(7).
 - (5) Locality(ies) areas in which the Training Program will be offered.
 - (6) A list and the locations of records to be maintained, pursuant to Section 87785(i)(5).
 - (7) A statement of whether or not the vendor applicant and each proposed instructor held or currently holds a license, certification or other approval as a professional in a specified field and the certificate or license number(s).
 - (8) A statement of whether or not the vendor applicant and each proposed instructor held or currently holds a State-issued care facility license or was or is employed by a State-licensed care facility and the license number.
 - (9) A statement of whether or not the vendor applicant and each proposed instructor was the subject of any legal, administrative, or other action involving licensure, certification or other approvals as specified in Sections 87785(b)(7) and (8).
 - (10) A non-refundable processing fee of one hundred-fifty dollars (\$150).

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

- (c) Initial Certification Training Program approval shall expire two (2) years from the date the Initial Certification Training Program vendorship is approved by the Department.
- (d) A written request for renewal of the Initial Certification Training Program shall be submitted to the Department's Administrator Certification Section using the Request for Course Approval form LIC 9140 and the Vendor Application/Renewal form LIC 9141, and shall contain the information and processing fee specified in Section 87785(b).
 - (1) A vendor must have a current approved Residential Care Facilities for the Elderly Initial Certification Training Program in order to renew its Residential Care Facilities for the Elderly Initial Certification Training Program vendorship.
- (e) If a request for approval or renewal of an Initial Certification Training Program is incomplete, the Department shall, within thirty (30) days of receipt, give written notice to the vendor applicant that:
 - (1) The request is deficient, describing which documents or information are outstanding and/or inadequate, and informing the vendor applicant that the information must be submitted within thirty (30) days of the date of the notice.
- (f) If the vendor applicant does not submit the requested information within thirty (30) days, the request for approval or renewal shall be deemed withdrawn provided that the Department has not denied or taken action to deny the request.
- (g) Within thirty (30) days of receipt of a complete request for an approval, the Department shall notify the vendor applicant in writing whether the request has been approved or denied.
- (h) The Residential Care Facilities for the Elderly Initial Certification Training Program shall consist of the following components:
 - (1) A minimum of eighty (80) hours of coursework, including at least sixty (60) classroom hours of in-person instruction in a classroom setting, as defined in Sections 87101(c)(6) and (7), with the following uniform Core of Knowledge curriculum:
 - (A) Eight (8) hours of instruction in laws, including regulations, policies, and procedural standards that impact the operations of residential care facilities for the elderly.
 - (B) Six (6) hours of instruction in business operations.
 - (C) Six (6) hours of instruction in management and supervision of staff.
 - (D) Seven (7) hours of instruction in the psychosocial needs of the elderly.
 - (E) Eight (8) hours of instruction in the physical needs of the elderly.

87785 INITIAL CERTIFICATION TRAINING PROGRAM VENDOR AND PROGRAM APPROVAL REQUIREMENTS (Continued) 87785

- (F) Two (2) hours of instruction in the use of community and support services to meet residents' needs.
- (G) Eight (8) hours of instruction in medication management, including the use, misuse and interaction of drugs commonly used by the elderly, including antipsychotics, and the adverse effects of psychotropic drugs for use in controlling the behavior of persons with dementia.
- (H) Ten (10) hours of instruction on in resident admission, retention, and assessment procedures.
- (I) Eight (8) hours of instruction in the care of residents with Alzheimer's Disease and other dementias, including nonpharmacologic, person-centered approaches to dementia care.
- (J) One (1) hour of instruction in cultural competency and sensitivity in issues relating to the underserved aging lesbian, gay, bisexual, and transgender community.
- (K) Four (4) hours in managing the physical environment, including maintenance and housekeeping.
- (L) Four (4) hours in residents' rights, and the importance of initial and ongoing training for all staff to ensure residents' rights are fully respected and implemented.
- (M) Eight (8) hours in postural supports, restricted health conditions, and hospice care.

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Topics within the basic curriculum must include, but are not limited to, topics as specified in the Department's Core of Knowledge Standards chart for each of the Core of Knowledge components specified in Sections 87785(h)(l). The chart is incorporated in Section 87102(k) and available from the Department.

Core of Knowledge information is derived from a variety of sources governing the operation of licensed residential care facilities for the elderly, including but not limited to, pertinent statutory provisions of the Health and Safety Code, Welfare and Institutions Code, Education Code, Business and Professions Code, Government Code, Penal Code, and applicable provisions of Title 22 of the California Code of Regulations, Sections 87100 et. seq.

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- (2) A standardized exam developed and administered by the Department.

- (A) Individuals completing an Initial Certification Training Program must pass the exam with a minimum score of seventy percent (70%).

87785 INITIAL CERTIFICATION TRAINING PROGRAM VENDOR AND PROGRAM APPROVAL REQUIREMENTS (Continued) 87785

- (B) The exam questions shall reflect the hour value of the Core of Knowledge areas specified in Sections 87785(h)(1) and further detailed in the Core of Knowledge Standards chart incorporated in Section 87102(k).
- (i) Initial Certification Training Program vendors shall:
- (1) Offer all eighty (80) of the hours required for certification, as described in Section 87785(h)(1).
 - (2) Establish a procedure to allow participants to make up any component necessary to complete the total program hours and content.
 - (3) Issue certificates of completion to participants who successfully complete the program.
 - (A) The certificate of completion shall be signed by the vendor or its authorized representative and include the approved vendor's name and vendor number, approved course number, and the date(s), time(s) and location(s) of program classes.
 - (4) Submit to the Department upon request a Roster of Participants (LIC 9142A or other document which includes the same information) who completed the program.
 - (5) Maintain and ensure that records are available for review by Department representatives. Records shall be maintained for three (3) years from the date of vendorship approval, course approval, or course offering, whichever is applicable and most recent. These records shall include the following information:
 - (A) Course schedules, dates, descriptions and course outlines.
 - (B) A list of instructors and documentation of qualifications of each, as specified in Section 87785(i)(7).
 - (C) A Roster of Participants (LIC 9142A or other document which includes the same information) and documentation of who completed the program.
 - (D) Evaluations by participants of courses and instructors.
 - (E) Audio-visual recordings of all Initial Certification Training Programs and program components offered outside of California.
 - (6) Upon request, submit to the Department's Administrator Certification Section a schedule for at least the next calendar quarter specifying the subject title, approved course number, classroom hours, proposed dates, time, duration, location and proposed instructor(s) for each future program /component.

87785 INITIAL CERTIFICATION TRAINING PROGRAM VENDOR AND PROGRAM APPROVAL REQUIREMENTS (Continued) 87785

- (7) Have persons as instructors who have verifiable knowledge and/or experience in the subject matter and content to be taught and who meet at least one of the following criteria:
 - (A) Hold a bachelor's or higher degree from an accredited institution in a discipline or field related to the subject(s) to be taught, and have at least two (2) years of experience relevant to the subject(s) to be taught, or
 - (B) Four (4) years of experience relevant to the course(s) to be taught, or
 - (C) Be a professional, in a field related to the subject(s) to be taught, with a valid license or certification to practice in California and at least two (2) years of related field experience, or
 - (D) Have at least four (4) years of experience in California as an administrator of a residential care facility for the elderly, within the last six (6) years, with a record of administering the facility(ies) in substantial compliance, as defined in Section 87101(s)(9), and have verifiable training in the subject(s) to be taught.
 - (8) A minimum of twenty (20) hours of instruction must be provided by an instructor(s) who meet(s) the criteria specified in Section 87785(i)(7)(D).
 - (A) Where good faith efforts to employ an instructor who meets the criteria specified in Section 87785(i)(7)(D) are unsuccessful, vendors may apply to the Department's Administrator Certification Section for a waiver of this requirement.
 - (9) Before adding or replacing an approved instructor, obtain the Department's approval by submitting a completed Request to Add or Replace Instructor form LIC 9140A and supporting documentation to the Department's Administrator Certification Section.
 - (10) Encourage course instructors to elicit and respond appropriately to participants' questions.
 - (11) Develop and provide to each course participant an end-of-course evaluation requesting feedback on, at minimum, instructor(s) knowledge of the subject(s), quality of instruction provided, attainment of learning objectives, and opportunity of participants to ask questions.
 - (12) Report any changes of the information in 87785(b)(1) within thirty (30) days to the Department's Administrator Certification Section.
- (j) Initial Certification Training Program Vendors shall allow Department representatives to monitor and inspect Training Programs.
- (1) Any duly authorized Department representative may, upon proper identification and upon stating the purpose of his/her visit, enter, inspect, and monitor Initial Certification Training Programs with or without advance notice. Such representatives may also request information and copies of records in advance of such visits and/or for desk monitoring.

87785 INITIAL CERTIFICATION TRAINING PROGRAM VENDOR AND PROGRAM APPROVAL REQUIREMENTS (Continued) 87785

- (2) The vendor shall ensure that provisions are made for the private interview of any participant or instructor, and for the examination of any records relating to the program.
- (3) The Department shall have the authority to inspect, audit, and copy all program records upon demand. Records may be removed if necessary for copying.
- (4) Department representatives shall not remove any current emergency or health related personnel records unless the same information is otherwise readily available in another document or format. Department representatives shall return the records undamaged and in good order within three business days following the date the records were removed.
- (k) If, as a result of an investigation or inspection, the Department determines that a deficiency exists, the Department shall issue a notice of deficiency, unless the deficiency is minor and corrected immediately, and shall provide the Initial Certification Training Program Vendor with the notice of deficiency in person or by registered mail.
 - (1) The notice of deficiency shall be in writing and shall include:
 - (A) A reference to the statute or regulation upon which the deficiency is premised.
 - (B) A factual description of the nature of the deficiency fully stating the manner in which the Initial Certification Training Program Vendor failed to comply with the specified statute or regulation.
 - (C) The amount of penalty pursuant to Section 87794 which shall be assessed if the deficiency is not corrected and the date the penalty begins.
 - (D) The appeal process as specified in Section 87795.
 - (2) The Department and the Initial Certification Training Program Vendor shall develop a plan for correcting each deficiency which shall be added to the notice of deficiency.
 - (3) Absent prior Department approval, all Program deficiencies shall be corrected prior to the next offering of the Initial Certification Training Program, and all other deficiencies (e.g., recordkeeping) shall be corrected within the number of days agreed to in the corrective action plan.
- (l) Initial Certification Training Program Vendors shall not instruct or "co-locate" more than one program type (Adult Residential Facility, Group Home, Residential Care Facility for the Elderly) at one time.
- (m) Initial Certification Training Program Vendors and their instructors who are also seeking administrator certification shall not be permitted to receive credit for attending the vendor's own Initial Certification Training Program.

87785	INITIAL CERTIFICATION TRAINING PROGRAM VENDOR AND PROGRAM APPROVAL REQUIREMENTS (Continued)	87785
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NOTE: Authority cited: Sections 1569.23, 1569.30, 1569.616, and 1569.62, Health and Safety Code.
Reference: Sections 1569.16, 1569.23, 1569.50 and 1569.616, Health and Safety Code.

87786	DENIAL OF REQUEST FOR APPROVAL OF AN INITIAL CERTIFICATION TRAINING PROGRAM	87786
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- (a) The Department may deny a request for approval of an Initial Certification Training Program in accordance with Section 1569.616(i)(1) of the Health and Safety Code. The Department shall provide the applicant with a written notice of denial.

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

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

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

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Health and Safety Code section 1569.16(b) provides:

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

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

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

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

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Health and Safety Code section 1569.16 in pertinent part provides:

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

HANDBOOK CONTINUES

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

HANDBOOK CONTINUES

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

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

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

- (a) Any vendor applicant seeking approval as a vendor of a Continuing Education Training Program shall obtain vendor approval by the Department prior to offering any course to certificate holders.
- (b) Any vendor applicant seeking approval to become a vendor of a Continuing Education Training Program shall submit a written request to the Department's Administrator Certification Section using the Vendor Application/Renewal form LIC 9141. The request shall be signed by an authorized representative of the vendor applicant certifying that the information submitted is true and correct, and contain the following:
 - (1) Name, type of entity, physical address, e-mail address, and phone number of the vendor applicant requesting approval and the name of the person in charge of the Program.
 - (2) A statement of whether or not the vendor applicant held or currently holds a license, certification or other approval as a professional in a specified field and the license or certificate number.
 - (3) A statement of whether or not the vendor applicant held or currently holds a State-issued care facility license or was or is employed by a State-licensed care facility and the license number.
 - (4) A statement of whether or not the vendor applicant was the subject of any legal, administrative or other action involving licensure, certification or other approvals as specified in Sections 87788(b)(2) and (3).
 - (5) A non-refundable processing fee of one hundred dollars (\$100).

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

- (c) Continuing Education Training Program vendor approval shall expire two (2) years from the date the vendorship is approved by the Department.
- (d) A written request for renewal of the Continuing Education Training Program vendorship shall be submitted to the Department's Administrator Certification Section using the Vendor Application/Renewal form LIC 9141, and shall contain the information and processing fee specified in Section 87788(b).
 - (1) A continuing education vendor must have one or more current approved Residential Care Facilities for the Elderly continuing education courses in order to renew its Residential Care Facilities for the Elderly continuing education program vendorship.
- (e) If a request for approval or renewal of a Continuing Education Training Program vendorship is incomplete, the Department shall, within thirty (30) days of receipt, give written notice to the vendor applicant that:
 - (1) The request is deficient, describing which documents or information are outstanding and/or inadequate and informing the vendor applicant that the information must be submitted within thirty (30) days of the date of the notice.
- (f) If the vendor applicant does not submit the requested information within thirty (30) days, the request for approval or renewal shall be deemed withdrawn, provided that the Department has not denied or taken action to deny the request.
- (g) Within thirty (30) days of receipt of a complete request for an approval or renewal, the Department shall notify the vendor applicant in writing whether the request has been approved or denied.
- (h) Continuing Education Training Program vendors shall:
 - (1) Issue certificates of completion to participants who successfully complete the program.
 - (A) The certificate of completion shall be signed by the vendor or its authorized representative and include the approved vendor's name and vendor number, the approved course name and course number, the approved course hours, and the date(s), time(s) and location(s) of the course(s).
 - (2) Maintain and ensure that records are available for review by Department representatives. Records shall be maintained for three (3) years from the date of vendorship approval, course approval, or course offering, whichever is applicable and most recent. The records shall include the following:
 - (A) Course schedules, dates, descriptions and course outlines.
 - (B) Lists of instructors and documentation of qualifications of each as specified in Section 87788(h)(3).

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

87788

- (C) Rosters of Participants (LIC 9142A or other document which includes the same information) and documentation of who completed the courses.
 - (D) Evaluations by participants of courses and instructors.
 - (E) Audio-visual recordings of all Continuing Education Training courses offered outside of California.
- (3) Have instructors who have verifiable knowledge and/or experience in the subject matter and content to be taught and who meet at least one of the following criteria:
- (A) Hold a bachelor's or higher degree from an accredited institution in a discipline or field related to the subject(s) to be taught, and have at least two (2) years of experience relevant to the subject(s) to be taught, or
 - (B) Four (4) years of experience relevant to the course to be taught, or
 - (C) Be a professional, in a field related to the subject(s) to be taught, with a valid license or certification to practice in California and at least two (2) years of related field experience, or
 - (D) Have at least four (4) years of experience in California as an administrator of a residential care facility for the elderly, within the last six (6) years, with a record of administering the facility(ies) in substantial compliance as defined in Section 87101(s)(9), and have verifiable training in the subject(s) to be taught.
- (4) Upon request, submit to the Department's Administrator Certification Section a schedule for at least the next calendar quarter specifying the subject title, approved course number, classroom hours, proposed dates, time, duration, location and proposed instructor for each future course.
- (5) Before adding or replacing an approved instructor, obtain the Department's approval by submitting a completed Request to Add or Replace Instructor form LIC 9140A and supporting documentation to the Department's Administrator Certification Section.
- (6) Encourage course instructors to elicit and respond appropriately to participants' questions.
- (7) Develop and provide to each course participant an end-of-course evaluation requesting feedback on, at minimum, instructor(s) knowledge of the subject(s), quality of instruction provided, attainment of learning objectives, and opportunity of participants to ask questions.
- (8) Report any changes of the information in 87788(b)(1) within thirty (30) days to the Department's Administrator Certification Section.

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

- (i) Courses approved for continuing education credit shall require the physical presence of the certificate holder in a classroom setting as defined in Section 87701(c)(7), except that:
- (1) The Department may approve online courses pursuant to Health and Safety Code section 1569.616(i)(2) where the technology permits the interactive participation of the certificate holder and such participation is verifiable. Interactive online training courses require the participant to respond to prompts and receive feedback at various intervals throughout the course in order to progress through the training and to successfully pass a test at the conclusion of the course in order to receive a certificate of completion for the course.
- (A) A Webinar or similar type of live broadcast of a training course may be approved by the Department for online continuing education hours pursuant to Health and Safety Code section 1569.616(i)(2)(B) where the technology permits interactive participation of the certificate holder and such participation is verifiable, and where it can be verified that the certificate holder was logged on and interacting throughout the entire length of the Webinar.
- (B) All online training courses shall be designed to ensure participation for the actual number of hours approved and to ensure that participants cannot print a certificate of completion until the approved course hours have been completed.

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Health and Safety Code section 1569.616(i)(2) provides that:

"(A) A vendor of online programs for continuing education shall ensure that each online course contains all of the following:

(i) An interactive portion where the participant receives feedback, through online communication, based on input from the participant.

(ii) Required use of a personal identification number or personal identification information to confirm the identity of the participant.

(iii) A final screen displaying a printable statement, to be signed by the participant, certifying that the identified participant completed the course. The vendor shall obtain a copy of the final screen statement with the original signature of the participant prior to the issuance of a certificate of completion. The signed statement of completion shall be maintained by the vendor for a period of three years and be available to the department upon demand. Any person who certifies as true any material matter pursuant to this section that he or she knows to be false is guilty of a misdemeanor.

(B) Nothing in this subdivision shall prohibit the department from approving online programs for continuing education that do not meet the requirements of subparagraph (A) if the vendor demonstrates to the department's satisfaction that, through advanced technology, the course and the course delivery meet the requirements of this section."

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

- (j) Any changes to courses previously approved by the Department must be submitted and approved by the Department prior to being offered.
- (k) Continuing Education Training Program vendors shall allow Department representatives to monitor and inspect Training Courses and Programs.
 - (1) Any duly authorized Department representative may, upon proper identification and upon stating the purpose of his/her visit, enter, inspect, and monitor continuing education training courses with or without advance notice. Such representatives may also request information and copies of records in advance of such visits and/or for desk monitoring.
 - (2) The vendor shall ensure that provisions are made for the private interview of any participant or instructor, and for the examination of any records relating to the program.
 - (3) The Department shall have the authority to inspect, audit, and copy all program records upon demand. Records may be removed if necessary for copying.
 - (4) Department representatives shall not remove any current emergency or health related personnel records unless the same information is otherwise readily available in another document or format. Department representatives shall return the records undamaged and in good order within three business days following the date the records were removed.
- (l) If, as a result of an investigation or inspection, the Department determines that a deficiency exists, the Department shall issue a notice of deficiency, unless the deficiency is minor and corrected immediately, and shall provide Continuing Education Training Program Vendor with the notice of deficiency in person or by registered mail.
 - (1) The notice of deficiency shall be in writing and shall include:
 - (A) A reference to the statute or regulation upon which the deficiency is premised.
 - (B) A factual description of the nature of the deficiency fully stating the manner in which the Vendor failed to comply with the specified statute or regulation.
 - (C) The amount of penalty pursuant to Section 87794 which shall be assessed if the deficiency is not corrected and the date the penalty begins.
 - (D) The appeal process as specified in Section 87795.
 - (2) The Department and the Vendor shall develop a plan for correcting each deficiency which shall be added to the notice of deficiency.
 - (3) Absent prior Department approval, all course deficiencies shall be corrected prior to the next offering of the deficient course(s), and all other deficiencies (e.g., recordkeeping) shall be corrected within the number of days agreed to in the corrective action plan.

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

- (m) Continuing Education Training Program vendors who teach courses that the Department has approved for more than one program type (Adult Residential Facility, Group Home, Residential Care for the Elderly), may provide "multiple crediting," that is, more than one certification for the course, to participants who complete the course satisfactorily.
- (n) Continuing Education Training Program vendors that the Department has approved for more than one program type (Adult Residential Facility, Group Home, Residential Care for the Elderly), may "co-locate" or instruct specified courses for more than one program type.
 - (1) The approved hours for co-located courses may differ depending on the content pertinent to each program type.
- (o) Continuing Education Training Program vendors and their instructors who are also certificate holders shall not be permitted to receive credit for attending the vendor's own Continuing Education Training Program courses.

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

**87789 CONTINUING EDUCATION TRAINING PROGRAM
COURSE APPROVAL REQUIREMENTS****87789**

- (a) Any Continuing Education Training Program course shall be approved by the Department prior to being offered to certificate holders.
 - (1) At the sole discretion of the Department, continuing education credit may be granted for training provided by the Department's licensing staff.
- (b) Any vendor applicant seeking approval of a Continuing Education Training Program course shall submit a written request to the Department using the Request for Course Approval form LIC 9140 for each course. The request shall be signed by an authorized representative of the vendor certifying that the information submitted is true and correct, and contain the following:
 - (1) Subject title, classroom hours, scheduled dates, duration, time, location, and proposed instructor(s).
 - (2) Written description and educational objectives, teaching methods, hourly topical content outline, and a description of course and participant evaluation methods.
 - (A) The use of videos, videotapes, video clips, or other visual recordings, are permitted as media teaching aids in a continuing education course but shall not, in themselves, constitute the course.

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

- (3) Qualifications of each proposed instructor, as specified in Section 87788(h)(3).
 - (4) A list and the location(s) of records to be maintained, pursuant to Section 87788(h)(2).
 - (5) A statement of whether or not the proposed instructor held or currently holds a license, certification or other approval as a professional in a specified field and the license or certificate number.
 - (6) A statement of whether or not the proposed instructor held or currently holds a State-issued care facility license or was, or is, employed by a State-licensed care facility and the license number.
 - (7) A statement of whether or not the proposed instructor was the subject of any legal, administrative or other action involving licensure, certification or other approvals as specified in Sections 87789(b)(5) and (6).
- (c) Course approval shall expire on the expiration date of the vendor's Continuing Education Training Program vendorship approval, as provided in Section 87788(c).
- (1) To renew a course, the vendor applicant shall submit a written request to the Department's Administrative Certification Section using the Renewal of Continuing Education Course Approval forms LIC 9139 and the Vendor Application/Renewal form LIC 9141, at least thirty (30) days prior to the course expiration.
 - (2) Course renewal requests received by the Department after the course expiration date shall be denied, and the vendor required to resubmit the courses for approval pursuant to Section 87789(b).
 - (3) Course renewal requests received for courses where the content is known to have changed, or needs to be updated, shall be denied. The vendor will need to submit the revised course for approval pursuant to Section 87789(b).
- (d) If a request for approval or renewal of a Continuing Education Training Program course is incomplete, the Department shall, within thirty (30) days of receipt, give written notice to the vendor applicant that:
- (1) The request is deficient, describing which documents or information are outstanding and/or inadequate and informing the vendor applicant that the information must be submitted within thirty (30) days of the date of the notice.
- (e) If the vendor applicant does not submit the requested information within thirty (30) days, the request for approval or renewal shall be deemed withdrawn, provided that the Department has not denied or taken action to deny the request.

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

- (f) Within thirty (30) days of receipt of a complete request for an approval or renewal, the Department shall notify the vendor applicant in writing whether the course has been approved or denied.
- (g) Any changes to previously approved courses must be submitted to the Department for approval prior to being offered, as specified in Section 87789(b).

NOTE: Authority cited: Sections 1569.23(d), 1569.30 and 1569.616(j), Health and Safety Code.
Reference: Sections 1522.08 and 1569.616, Health and Safety Code.

**87791 ADMINISTRATIVE REVIEW OF DENIAL OR REVOCATION
OF A CONTINUING EDUCATION COURSE****87791**

- (a) A vendor may seek administrative review of the denial or revocation of course approval as follows:
 - (1) The vendor must request administrative review in writing to the Department's Administrative Certification Section Manager within ten (10) days of the receipt of the Department's notice denying or revoking course approval.
 - (2) The administrative review shall be conducted by a higher-level staff person than the person who denied or revoked course approval.
 - (3) If the reviewer determines that the denial or revocation of course approval was not issued in accordance with applicable statutes and regulations of the Department, or that other circumstances existed that would have led to a different decision, he/she shall have the authority to amend the denial or revocation of course approval.
 - (4) The reviewer shall send a written response to the vendor within thirty (30) days of the Section's receiving the request per Section 87791(a)(1).
 - (5) The decision of the higher-level staff person shall be final.

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

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

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

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

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

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

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

HANDBOOK BEGINS HERE

Health and Safety Code section 1569.16(b) provides:

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

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

**87793 REVOCATION OF A CONTINUING EDUCATION
TRAINING PROGRAM****87793**

- (a) The Department may revoke a Continuing Education Training Program approval and remove the vendor from the list of approved vendors if the vendor does not provide training consistent with Sections 87788, Continuing Education Training Program Vendor Requirements, and 87789, Continuing Education Training Program Course Approval Requirements, or:

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

- (1) Is unable to provide training due to lack of staff, funds or resources; or
 - (2) Misrepresents or makes false claims regarding the training provided; or
 - (3) Demonstrates conduct in the administration or instruction of the program that is illegal, inappropriate, or inconsistent with the intent or requirements of the program; or
 - (4) Misrepresents or knowingly makes false statements in the vendor application or during program instruction; or
 - (5) Fails to correct deficiencies and/or to pay civil penalties due.
- (b) The vendor may appeal the revocation in accordance with Health and Safety Code section 1569.51.
- (c) Any application for approval of a Continuing Education Training Program submitted by a vendor applicant whose approval has been previously revoked shall be processed by the Department in accordance with the provisions of Health and Safety Code section 1569.16.

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Health and Safety Code section 1569.16 in pertinent part provides:

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

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

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

87794 PENALTIES**87794**

- (a) A penalty of \$50 per day, per cited violation, shall be assessed for all deficiencies that are not corrected as specified in the notice of deficiency.
- (b) Unless otherwise ordered by the Department, all penalties are due and payable upon receipt of notice of payment, and shall be paid only by money order or cashier's check made payable to the Department.
- (c) The Department shall have authority to file a claim in a court of competent jurisdiction or to take other appropriate action for failure to pay penalties as specified in (b) above.

NOTE: Authority cited: Sections 1569.30 and 1569.616(i), Health and Safety Code. Reference: Sections 1569.185, 1569.49 and 1569.495, Health and Safety Code.

87795 APPEAL PROCESS**87795**

- (a) A vendor may request in writing to the Department's Administrator Certification Section Manager a review of a notice of deficiency or notice of penalty within ten (10) working days of receipt of the notice. This review shall be conducted by a higher level staff person other than the evaluator who issued the notice.
- (b) If the reviewer determines that a notice of deficiency or notice of penalty was not issued in accordance with applicable statutes and regulations, the reviewer shall amend or dismiss the notice. In addition, the reviewer may extend the date specified for correction of a deficiency if warranted by the facts or circumstances to support a request for extension.
- (c) The reviewer will send a written response to the vendor within thirty (30) days of the Section's receiving a request as described in (a) above.

NOTE: Authority cited: Sections 1569.30 and 1569.616(i), Health and Safety Code. Reference: Section 1569.33, Health and Safety Code.

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