



KIM JOHNSON
DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES
744 P Street • Sacramento, CA 95814 • www.cdss.ca.gov



GAVIN NEWSOM
GOVERNOR

December 6, 2019

PIN 19-23-ASC

TO: ALL ADULT AND SENIOR CARE FACILITY LICENSEES

FROM: *Original signed by Pamela Dickfoss*
PAMELA DICKFOSS
Deputy Director
Community Care Licensing Division

SUBJECT: **2019 CHAPTERED LEGISLATION AFFECTING ADULT AND SENIOR CARE FACILITIES: SUMMARY AND IMPLEMENTATION**

Provider Information Notice (PIN) Summary

PIN 19-23-ASC provides a summary of and implementation information for legislation chaptered in 2019 affecting licensed Adult and Senior Care facilities. The changes to statute referenced in this document are operative January 1, 2020, unless otherwise specified.

Action Required

The following implementation information requires action by a facility licensee.

[Senate Bill 172 \(Portantino\), Chapter 840, Statutes of 2019](#)

Firearms

Summary

Senate Bill (SB) 172 added the following sections to the Health and Safety Code: 1567.90 et seq.; 1568.095 et seq.; and 1569.280 et seq. and amended Section 4684.53 of the Welfare and Institutions Code.

For licensees of specified Adult and Senior Care facilities who permit clients/residents to possess firearms on facility premises, beginning January 2020, SB 172 stipulates new requirements around the acceptance and storage of firearms and ammunition. The bill requires the Department to promulgate regulations pertaining to firearms and ammunition and specifies until regulations are adopted, the Department may implement written directives.

Note: SB 172 does not require a licensee to accept, store, or retain firearms or ammunition on the facility premises.

SB 172 also gives the Department the authority to create a stand-alone chapter in Title 22 of the California Code of Regulations for Adult Residential Facilities for Persons with Special Health Care Needs (ARFPSHNs).

New Requirements for Firearms and Ammunition

Beginning January 1, 2020, licensees of Adult Residential Facilities, ARFPSHNs, Community Crisis Homes, Enhanced Behavioral Supports Homes, Residential Care Facilities for the Chronically Ill, and Residential Care Facilities for the Elderly (RCFE) who permit clients/residents to possess firearms or ammunition on the facility premises shall:

- accept and centrally store a client's/resident's firearms, ammunition, or both;
- retain and centrally store a licensee's firearms, ammunition, or both;
- centrally store all firearms unloaded, in a locked gun safe that meets the regulatory standards established by the Department of Justice (DOJ) in Section 4100 of Title 11 of the California Code of Regulations; and
- centrally store ammunition separately in a locked location different from firearms.

Licensees shall not accept, retain or store any deadly weapon, as defined, of a client/resident or licensee, nor accept, retain, or store any of the following firearms owned or possessed by a client/resident or licensee:

- A firearm regulated pursuant to Chapter 1 (commencing with Section 18710) of Division 5 of Title 2 of Part 6 of the Penal Code.
- A firearm regulated pursuant to Chapter 2 (commencing with Section 30500) of Division 10 of Title 4 of Part 6 of the Penal Code.
- A firearm regulated pursuant to Chapter 6 (commencing with Section 32610) of Division 10 of Title 4 of Part 6 of the Penal Code.
- A firearm regulated pursuant to Article 2 (commencing with Section 33300) of Chapter 8 of Division 10 of Title 4 of Part 6 of the Penal Code.
- A firearm required to be registered with the DOJ pursuant to Section 29180 of the Penal Code unless the licensee verifies it is in fact registered with the DOJ.

Licensees may accept, retain, or store a firearm that is otherwise required to be registered with the DOJ, but is exempt from the registration requirements because it was entered into the centralized registry in Section 11106 of the Penal Code prior to July 1, 2018.

As of July 1, 2021, licensees shall not accept, retain or store a firearm unless the owner provides documentation that the person is listed with the DOJ as the registered owner of that firearm. Antique firearms are exempted from this requirement.

Regulations and Interim Licensing Standards for Firearms and Ammunition

SB 172 requires the Department to promulgate regulations to implement the following articles in Health and Safety Code related to firearms and ammunition:

- Article 9.9 commencing with Section 1567.90;
- Article 2 commencing with Section 1568.095; and
- Article 2.7 commencing with Section 1569.280.

Until regulations are adopted, the Department may implement and administer the provisions of the articles specified above through the issuance of written directives that have the same force and effect as regulations. The directives shall be exempt from the rulemaking provisions of the Administrative Procedure Act. These are currently under development.

Note: Written directives are also referred to as Interim Licensing Standards.

Stand-Alone Chapter for ARFPSHNs in Title 22 of the California Code of Regulations

SB 172 amended Section 4684.53 of the Welfare and Institutions Code to give the Department the authority to create a stand-alone chapter for ARFPSHNs in Title 22 of the California Code of Regulations.

Information Only

The following summaries are provided for informational purposes only.

[Assembly Bill 5 \(Gonzalez\), Chapter 296, Statutes of 2019](#)

Worker status: employees and independent contractors

AB 5 codifies the decision of the California Supreme Court in *Dynamex Operations West, Inc. v. Superior Court of Los Angeles* (2018) that presumes a worker is an employee rather than an independent contractor unless the hiring entity demonstrates that all of the following conditions are satisfied. This is referred to in the bill as the “ABC test.”

- A.** The person is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact.
- B.** The person performs work that is outside the usual course of the hiring entity’s business.
- C.** The person is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed.

AB 5 exempts from the ABC test certain professions and business to business relationships. A licensee has the burden of proving if any exemptions apply to workers in their facility.

Note: All employees of the facility, whether they were previously classified as independent contractors or not, are entitled to all applicable protections afforded to employees in California (i.e. minimum wage, agreed to contract wages, overtime wages, meal and rest breaks, on-time payment of wages, workers’ compensation if they are injured on the job, unemployment insurance, paid sick leave, paid family leave and other applicable protections provided by the appropriate Industrial Welfare Commission (IWC) Order).

[Assembly Bill 737 \(Eggman\), Chapter 180, Statutes of 2019](#)

Residential care facilities for the elderly: licensing and regulation

AB 737 amended Health and Safety Code (HSC) section 1569.15 related to application for RCFE licensure. This bill:

- clarifies that, in addition to any “person” seeking RCFE licensure being required to fill out an application, any “entity, or agent signing on behalf of an entity” must also complete an application.
- requires an applicant, when requested by the CDSS, to provide, or cause to be provided, any additional information related to the consideration of the

application regarding any entity that is an applicant or holds a beneficial ownership interest of 10 percent or more.

[Senate Bill 80 \(Committee on Budget and Fiscal Review\), Chapter 27, Statutes of 2019](#)

Human Services Omnibus

SB 80 provided the statutory changes necessary to enact human-services related provisions of the Budget Act of 2019.

Specific to RCFEs, this bill requires the office of the State Long-Term Care Ombudsman to provide residents regular and timely access to their services through quarterly facility visits to both RCFEs and skilled nursing facilities.

[Senate Bill 314 \(Dodd\), Chapter 314, Statutes of 2019](#)

Elder and dependent adults: abandonment

SB 314 amended Welfare and Institutions Code section 15657 to include abandonment (as defined in Welfare and Institutions Code section 15610.05) in the enhanced civil remedies section of the Elder Abuse and Dependent Adult Civil Protection Act.

[Senate Bill 601 \(Morrell\), Chapter 854, Statutes of 2019](#)

State agencies: licenses: fee waiver

SB 601 added Section 11009.5 to the Government Code pertaining to required fees for licensure. The bill permits state agencies that issue business licenses to establish a process, as specified, to allow a person or business displaced by, or experiencing economic hardship as a result of, an emergency to apply to the agency within one year of the date the emergency was proclaimed or declared to obtain a reduction or waiver of licensing fees. SB 601 applies to a reduction or waiver of fees the agency requires to obtain a license, renew or activate a license, or replace a physical license for display.

Note: A licensed facility operates both for the care and supervision of clients and residents and as a business for gain, benefit, or advantage. Thus, the California Supreme Court's broad definition of "business" includes California Department of Social Services issued licenses as a category of "business license".

The Department will be developing regulations to implement the provisions of SB 601.

If you have any questions, please contact your local [Regional Office](#).