

Manual of Policies and Procedures
COMMUNITY CARE LICENSING DIVISION

**RESIDENTIAL CARE
FACILITIES
FOR THE CHRONICALLY ILL**

**Title 22
Division 6
Chapter 8.5**



**STATE OF CALIFORNIA
HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES**

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TABLE OF CONTENTS

TITLE 22, DIVISION 6

CHAPTER 8.5 RESIDENTIAL CARE FACILITIES FOR THE CHRONICALLY ILL

Article 1. License

	Section
General	87800

Article 2. Definitions

Definitions	87801
License Required	87805
Operation Without a License	87806
Exemption from Licensure	87807
Licensing of Integral Facilities	87808
Repealed by Manual Letter No. CCL-96-17, effective 12/4/96	87809
Limitations on Capacity and Ambulatory Status	87810
False Claims	87812

Article 3. Application Procedures

Application Qualifications	87817
Application for License	87818
Criminal Record Clearance	87819
Exemption of Criminal Record	87819.1
Fire Clearance	87820
Water Supply Clearance	87821
Plan of Operation	87822
Disaster and Mass Casualty Plan	87823
Waivers and Exceptions	87824
Bonding	87825
Safeguards for Cash Resources, Personal Property, and Valuables of Residents	87826
Initial Application Review	87827
Capacity Determination	87828
Withdrawal of Application	87829
Provisional License	87830
Issuance of License	87831
Repealed by Manual Letter No. CCL-96-17, effective 12/4/96	87832
Repealed by Manual Letter No. CCL-96-17, effective 12/4/96	87833
Submission of New Application	87834
Conditions for Forfeiture of a Residential Care Facility for the Chronically Ill License	87835
Licensing Fees	87836

TABLE OF CONTENTS (Continued)

Article 4. Administrative Actions

	Section
Denial of Initial License	87840
Repealed by Manual Letter No. CCL-96-17, effective 12/4/96.....	87841
Revocation or Suspension of License.....	87842
Licensee/Applicant Complaints.....	87843
Inspection Authority of the Department	87844
Evaluation Visits	87845

Article 5. Enforcement Provisions

Deficiencies in Compliance.....	87852
Follow-Up Visits to Determine Compliance	87853
Penalties	87854
Administrative Review	87855
Denial or Revocation of License for Failure to Pay Civil Penalties.....	87855.1
Unlicensed Facility Penalties.....	87858
Unlicensed Facility Administrative Appeal.....	87859

Article 6. Continuing Requirements

Basic Services to be Provided by the Facility.....	87860
Reporting Requirements.....	87861
Finances	87862
Accountability	87863
Administrator - Qualifications and Duties.....	87864
Facility Manager.....	87864.1
Personnel Requirements	87865
Staffing Ratios for Day and Night Care and Supervision	87865.1
Personnel Records	87866
Admission AgreementsGeneral.....	87868
Resident Eviction Procedures.....	87868.1
Resident Relocation Plan.....	87868.2
Department Relocation Determination	87868.3
Resident Requests for Review of Relocation Decision	87868.4
Resident Records.....	87870
Personal Rights.....	87872
Telephones	87873
Transportation	87874
Food Service.....	87876
Personal Services (Reserved)	87877
Responsibility for Providing Care and Supervision.....	87878
Activities (Reserved).....	87879

TABLE OF CONTENTS (Continued)**Article 7. Physical Environment**

	Section
Alterations to Existing Buildings or New Facilities	87886
Buildings and Grounds.....	87887
Fixtures, Furniture, Equipment and Supplies	87888
Safety and Sanitation.....	87889
Animals and Pets in Facilities	87899.1

Article 8. Medical and Health Related Care

Allowable Conditions.....	87890
Prohibited Conditions.....	87891
General Requirements for Allowable Conditions.....	87893
Resident Medical Assessments.....	87894
Functional Capabilities.....	87895
Resident Individual Services Plan/Team	87896
Resident Services	87896.1
Oxygen Administration	87897
Colostomy/Ileostomy.....	87898
Enema and/or Suppository and Fecal Impaction Removal	87899
Indwelling Urinary Catheter/Catheter Procedure/Intermittent Catherization.....	87900
External Catheters	87901
Managed Bowel and/or Bladder Incontinence.....	87902
Diabetes.....	87903
Injections	87904
Wounds	87905
Transfer Dependency	87906
Dementia	87907
Tracheostomy	87908
Total Parental Nourishment.....	87909
Gastrostomy Tube Feeding.....	87910
Naso-Gastric Tube Feeding.....	87911
Care of Residents Confined to Bed	87912

TABLE OF CONTENTS (Continued)

Article 8. Medical and Health Related Care (Continued)

Smoking	87913
Medications	87914
Storage of Medications.....	87915
Self-Administered Medications	87916
Medication Procedures	87918
Medication Documentation	87919
Scheduled and Controlled Drugs/Medications	87920
Disposal of Scheduled and Controlled Drugs/Medications	87920.1
PRN Medications	87921
Disposal of Routine Prescription Medications	87922
First Aid Requirements	87923
Do Not Resuscitate Order.....	87924
Automated External Defibrillators (AEDs)	87925

CHAPTER 8.5. RESIDENTIAL CARE FACILITIES FOR THE CHRONICALLY ILL**Article 1. LICENSE****87800 GENERAL****87800**

The provisions of Chapters 1 and 8, Division 6 of Title 22 of the California Code of Regulations shall not apply to the provisions of Chapter 8.5, Division 6, Residential Care Facilities For the Chronically Ill.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.02 and 1568.072, Health and Safety Code.

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Article 2. DEFINITIONS**87801 DEFINITIONS****87801**

- (a) The following definitions shall apply wherever the terms are used throughout Division 6, Chapter 8.5, except where specifically noted otherwise.
- (1) "Activities of daily living" mean various chores that must be completed by or for a person on a daily basis to meet his/her personal needs.
 - (A) Such chores shall include but not be limited to housework, meal preparation, laundry of clothes/linens and other washable items, taking medication, money management, transportation for personal or medical appointments, communicating with others either through telephone or in writing, dressing, eating, toileting, bathing, grooming, and ambulation.
 - (2) "Administrator" means the licensee, or the adult designated by the licensee to act in his/her behalf in the overall management of the facility.
 - (3) "Adult" means a person who is 18 years of age or older.
 - (4) "Ambulatory Person" means a person who is capable of demonstrating the mental competence and physical ability to leave a building without the assistance of any other person and without the use of any mechanical aid in case of an emergency.
 - (5) "Applicant" means any adult, firm, partnership, association, corporation, county, city, public agency or other governmental entity that has applied for a Residential Care Facility for the Chronically Ill license.
 - (6) "Appropriately Skilled Professional" means an individual who is licensed in California to perform the necessary medical procedures within his/her scope of practice as prescribed by a physician. This includes, but is not limited to, the following: Registered Nurse (RN), Licensed Vocational Nurse (LVN), Physical Therapist (PT), Occupational Therapist (OT) and Respiratory Therapist (RT). These professionals may include, but are not limited to, those persons employed by a home health agency, the resident, or the facility.

87801 DEFINITIONS (Continued)**87801**

- (7) "Authorized Representative" means any person or entity authorized by law to act on behalf of any resident. Such person or entity includes, but is not limited to, a conservator, a public placement agency, or the person who has durable power of attorney for health care for the resident.
- (8) "Automated External Defibrillator" (AED) means a light-weight, portable device used to administer an electric shock through the chest wall to the heart. Built-in computers assess the patient's heart rhythm, determine whether defibrillation (electrical shock) is needed and then administer the shock. Audible and/or visual prompts guide the user through the process.
- (b) (1) "Basic Rate" means the rate charged by a facility to provide basic services. For SSI/SSP recipients, the basic rate means the established nonmedical out-of-home care rate which includes any exempt income allowance but does not include that amount allocated for the recipient's personal and incidental needs.
- (2) "Basic Services" means those services specified in Section 87860 required by applicable laws and regulations, which are to be provided by the licensee in order to obtain and maintain a license to operate a Residential Care Facility for the Chronically Ill.
- (c) (1) "California Clearance" means an individual has no felony or misdemeanor convictions reported by the California Department of Justice. However, the individual may have been arrested with no criminal conviction, convicted of a minor traffic offense or adjudicated as a juvenile.
- (2) "Capacity" means the maximum number of persons authorized to be provided care and supervision at any one time in any licensed facility.
- (3) "Care and Supervision" means any one or more of the following activities provided or promised to be provided in the future by a person or facility to meet the needs of the residents:
- (A) Assistance in dressing, grooming, bathing and other personal hygiene.
 - (B) Assistance with taking medication.
 - (C) Central storing and/or distribution of medications.
 - (D) Arrangement of and assistance with medical and dental care.
 - (E) Maintenance of house rules for the protection of residents.
 - (F) Arrangement and managing of resident schedules and activities.
 - (G) Maintenance and/or management of resident cash resources or property.

87801	DEFINITIONS (Continued)	87801
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- (H) Monitoring food intake or special diets.
- (I) Providing basic services as defined in Subsection (b)(2) above.
- (4) "Cash Resources" means:
 - (A) Monetary gifts.
 - (B) Tax credits and/or refunds.
 - (C) Earnings from employment or workshops.
 - (D) Personal and incidental need allowances from funding sources including but not limited to, SSI/SSP.
- (5) "Chronic, Life-Threatening Illness" means HIV disease or AIDS.
- (6) "Close Friend" means a person who is attached to another by feelings of personal regard as indicated by both parties involved.
- (7) "Completed Application" means:
 - (A) The applicant has submitted and the Department has received all required materials including: an approved fire clearance from the appropriate fire authority, a criminal record clearance on the applicant and any other individuals subject to such clearance.
- (8) "Conservator" means a person appointed by the Superior Court pursuant to the provisions of Section 1800 et seq. of the Probate Code or Section 5350 of the Welfare and Institutions Code, to care for the person, or estate, or person and estate, of another.
- (9) "Consultant" means a person professionally qualified by training or experience to provide expert information on a particular subject.
- (10) "Control of Property" means the right to enter, occupy, and maintain the operation of the facility property within regulatory requirements. Evidence of control of property may include, but is not limited to the following:
 - (A) a Grant Deed showing ownership; or

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87801	DEFINITIONS (Continued)	87801
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- (B) the lease agreement or rental agreement; or
 - (C) a court order or similar documents which shows the authority to control the property pending outcome of a probate proceeding or an estate settlement.
- | (11) "Conviction" means:
- (A) A criminal conviction in California; or
 - (B) Any criminal conviction of another state, federal, military or other jurisdiction, which if committed or attempted in California, would have been punishable as a crime in California.
- | (12) "Criminal Record Clearance" means an individual has a California clearance and an FBI clearance.
- | (13) "Culturally Appropriate Services" mean those services which are planned, offered, and provided by taking into consideration such characteristics of the residents as ethnic/racial group; primary language; preferred foods/diet and meal preparation; preferred manner of dress and clothing; religious affiliation; sexual preference; and educational background.
- (d) (1) "Deficiency" means any failure to comply with any provision of the Residential Care Facilities for Persons with Chronic, Life-Threatening Illness statute (Health and Safety Code, Section 1568.01, et seq.) and/or regulations adopted by the Department pursuant to this statute.
- (2) "Dementia" means a deterioration of intellectual function and other cognitive skills, leading to a decline in one's ability to perform activities of daily living.
- (3) "Department" means the California State Department of Social Services.

87801 DEFINITIONS (Continued)**87801**

- (4) "Developmental Disability" means a disability which originates before an individual attains age 18, continues, or can be expected to continue, indefinitely and constitutes a substantial handicap for such individual, as specified in Welfare and Institutions Code Section 4512(a).

Persons who are developmentally disabled shall include persons who have been diagnosed as having mental retardation, cerebral palsy, epilepsy, autism, or who have handicapping conditions found to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, but shall not include other handicapping conditions that are solely physical in nature.

- (5) "Direct Care Attendant" means an individual, employed by a Home Health Agency, who renders direct care services to a resident.
- (6) "Direct Care Services" means the assistance with or performance of services to meet the needs of the resident, including but not limited to, activities of daily living.
- (7) "Direct Care Staff" means those individuals employed by the facility and who provide direct care services to the residents including, but not limited to, assistance with activities of daily living.
- (8) "Director" means the Director of the California State Department of Social Services.
- (9) "Documentation" means written information required to be completed and maintained at the facility by the licensee.
- (10) "Do Not Resuscitate Directive" means the written directions of the resident or the person who holds Durable Power of Attorney for Health Care for the resident to the resident's primary care physician to withhold emergency resuscitation should the resident stop breathing and to request the issuance of a Do Not Resuscitate Order by the physician.
- (11) "Do Not Resuscitate Order" means the order of the resident's primary care physician to alert appropriately skilled professionals that the resident does not want measures to be taken to resuscitate him/her and to withhold emergency resuscitation should the resident stop breathing.
- (12) "Durable Power of Attorney for Health Care" means a power given to a person to act on behalf of another person in the event that the resident becomes unable to give informed consent to health care as specified in California Civil Code, Sections 2430 et seq.

87801	DEFINITIONS (Continued)	87801
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- (e) (1) "Emergency Approval to Operate" (LIC 9117 4/93) (EAO) means a temporary approval to operate a facility for no more than 60 days pending the Department's decision on whether to approve or deny a provisional license.
- (2) "Evaluator" means any person who is a duly authorized officer, employee or agent of the Department.
- (3) "Evidence of Licensee's Death" shall include, but is not limited to, a copy of the death certificate, obituary notice, certification of death from the decedent's mortuary or a letter from the attending physician or coroner's office verifying the licensee's death.
- (4) "Exception" means a written authorization issued by the Department to use alternative means which meet the intent of a specific regulation(s) and which are based on the unique needs or circumstances of a specific resident(s) or staff person(s). Exceptions are granted for particular resident(s) or staff person(s) and are not transferable or applicable to other residents, staff persons, facilities or licensees.
- (5) "Exemption" means an exception to the requirements of Health and Safety Code Section 1568.09 and applicable regulations. Exemptions are not transferable.

HANDBOOK BEGINS HERE

- (A) Section 1568.09(a) of the Health and Safety Code states:

If it is found that the applicant or any other person specified in Subdivision (b) has been convicted of a crime, other than a minor traffic violation, the Department of Justice shall notify the California Department of Social Services of that fact and the application shall be denied, unless the director grants an exemption pursuant to subdivision (f).

HANDBOOK ENDS HERE

- (f) (1) "Family unit" means a group composed of at least one parent or guardian and at least one of that person's minor children and in which at least one adult or child, or both, has HIV disease or AIDS.
- (2) "Federal Bureau of Investigation (FBI) Clearance" means an individual has no felony or misdemeanor convictions reported by the FBI. The individual may also have been arrested with no criminal conviction, convicted of a minor traffic offense or adjudicated as a juvenile.

87801	DEFINITIONS (Continued)	87801
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- (g) (Reserved)

- (h) (1) "Hazardous Waste" means "medical waste" as defined by Health and Safety Code Section 25023.2 and "hazardous waste" as defined in Health and Safety Code Section 25117.

- (2) "Home Health Agency" means a provider licensed by the Department of Health Services in accordance with Health and Safety Code Section 1725 et seq. to perform various health related services to a person in his/her own home or in a licensed or exempt facility.

- (i) (1) "Individual Services Plan" means the documentation of the needs and services required by the resident as specified in Section 87896.

- (2) "Individual Services Team" means those individuals who are involved in the planning and/or delivery of services or care to the resident as specified in Section 87896(b).

- (3) "Instruct" means to furnish an individual with knowledge or to teach, give orders, or directions regarding a process or procedure.

- (4) "Intermittent Home Health Care" is the treatment and/or observation of a resident by an appropriately skilled professional for a maximum of eight (8) hours per day per resident in the facility.

- (j) (Reserved)

- (k) (Reserved)

- (l) (1) "License" means written authorization to operate a Residential Care Facility for the Chronically Ill and to provide care and supervision. The license is not transferable.

- (2) "Licensee" means the adult, firm, partnership, association, corporation, county, city, public agency, or other governmental entity having the authority and responsibility for the operation of a licensed Residential Care Facility for the Chronically Ill.

- (m) (1) "Medical Professional" means an individual who is licensed or certified in California to perform the necessary medical procedures within his/her scope of practice. This includes, but is not limited to, Medical Doctor (MD), Registered Nurse (RN) and Licensed Vocational Nurse (LVN).

87801	DEFINITIONS (Continued)	87801
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- (2) "Mental Disorder" means any of the disorders which render a person eligible for the services enumerated under the Lanterman-Petris-Short Act, commencing with Section 5000 of the Welfare and Institutions Code.
- (n) (1) "Nonambulatory persons" means persons unable to leave a building unassisted under emergency conditions. It includes any person who is unable, or likely to be unable, to physically and mentally respond to a sensory signal approved by the State fire Marshal, or an oral instruction relating to fire danger, and persons who depend upon mechanical aids such as crutches, walkers, and wheelchairs. A person is not deemed nonambulatory solely because he/she is deaf, blind or prefers to use a mechanical aid.
- (2) "Nutritionist" means a person who has a master's degree in food and nutrition, dietetics, or public health nutrition, or who is employed as a nutritionist by a county health department.
- (o) (Reserved)
- (p) (1) "Physician" means a person licensed as a physician by the California Medical Board or by the California Board of Osteopathic Examiners.
- (2) "Provision" or "Provide" means the licensee shall make available any service, personnel, or meet other requirements, directly or present evidence to the Department that the requirement has been met by some other means.
- (3) "Provisional License" means a license which is temporary, nonrenewable and issued for a period not to exceed twelve months.
- (4) "Psychosocial Support Services" means counseling services provided to the resident to enable him/her to accept/acknowledge his/her chronic illness and its probable cause and outcome.
- (q) (Reserved)
- (r) (1) "Registered Nurse Case Manager" means the registered nurse who is responsible for coordinating the delivery of services as identified in the Individual Services Plan.

87801 DEFINITIONS (Continued)**87801**

- (2) "Rehabilitation" means the effort to reestablish good character since the date of the last conviction, including, but not limited to, education, counseling or therapy, training, stable employment, restitution, remorse, changes in lifestyle, or community service.
- (3) "Relative" means the resident's spouse, parent, stepparent, son, daughter, brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin or any such person denoted by the prefix "grand" or "great" or the spouse of any of the persons specified in this definition, even after the marriage has been terminated by death or dissolution. Such relationships include kinships formed by birth or adoption.
- (4) "Resident" means any or all of the following: any adult receiving care and supervision, any emancipated minor receiving care and supervision, and any adult or unemancipated minor in a family unit.
- (5) "Residential Care Facility for the Chronically Ill" means any place, building, or housing arrangement which is maintained and operated to provide care and supervision to all or any of the following:
- (A) Adults with HIV disease or AIDS,
 - (B) Emancipated minors with HIV disease or AIDS, or
 - (C) Family units as defined in Section 87801(f)(1) with adults or children or both with HIV disease or AIDS.
- (s) (1) "Serious Deficiency" means any deficiency that presents an immediate or substantial threat to the physical health, mental health or safety of the residents of Residential Care Facilities for the Chronically Ill.
- (2) "Shall" means mandatory.
- (3) "Significant Other" means a person, including a person of the same sex, with whom a resident was sharing a partnership prior to his/her placement in a Residential Care Facility for the Chronically Ill. The partnership involves two adults who have chosen to share one another's lives in an intimate and committed relationship of mutual caring.
- (4) "Simplified Exemption" means an exemption granted on the Department's own motion, as authorized in Health and Safety Code Section 1568.09(c)(5), if the individual's criminal history meets specific criteria established by Department regulation.

87801	DEFINITIONS (Continued)	87801
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- | (5) "Social Worker" means a person who has a graduate degree from an accredited school of social work or social welfare.

- | (6) "SSI/SSP" means the Supplemental Security Income/State Supplementary Program which is a federal/state program that provides financial assistance to aged, blind and/or disabled residents of California.

- | (7) "Substantial Compliance" means the absence of any serious deficiencies.

- | (8) "Substantiated Complaint" means a complaint which has been investigated by the Department, and as a result, a violation of regulations or statute has been found.

- | (9) "Supervision" means to oversee or direct the activity of a subordinate but does not necessarily require the immediate presence of the supervisor.

- | (10) "Support Staff" means those individuals working in the facility, in an ancillary position, including but not limited to, housekeeper, cook, or maintenance personnel.

- (t) (1) "Transfer Trauma" means the consequences of the stress and emotional shock caused by an abrupt, involuntary relocation of a resident from one facility to another.

- (2) "Tuberculin Skin Test" means using the Mantoux technique and recording test results in millimeters of induration (swelling).

- (u) (1) "Unlicensed Residential Care Facility for the Chronically Ill" means a facility is providing or has promised to provide care and supervision, as defined in Subsection (c) (2) above. Examples of unlicensed facilities shall include, but not be limited to, any one of the following circumstances:
 - (A) The facility accepts or retains residents who demonstrate the need for care or supervision, without being licensed as a Residential Care Facility for the Chronically Ill. Such unlicensed facilities shall include, but not be limited to:
 - (1) A facility whose license has been revoked or denied, but the facility continues to provide care for the same residents or different residents with similar needs.
 - (2) A facility where a change of ownership has occurred and the same residents are retained and the new owner has not filed an application for license.
 - (3) A licensed facility which moves to a new location without filing a new application for license.

87801	DEFINITIONS (Continued)	87801
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- (4) An unlicensed facility which advertises as providing care and/or supervision.
 - (5) A facility with residents requiring care and/or supervision, even though the facility is providing board and room only, or board only, or room only.
 - (6) A facility, where it is apparent that care and/or supervision are being provided by virtue of the resident's needs being met.
- (2) "Urgent Need" means a situation where prohibiting the operation of the facility would be detrimental to the residents' physical health, mental health, safety, or welfare. Circumstances constituting urgent need include, but are not limited to, the following:
- (A) A change in facility location when residents are in need of services from the same operator at the new location.
 - (B) A change of facility ownership when residents are in need of services from a new operator.
- (v) "Voluntary" means resulting from free will.
- (w) (1) "Waiver" means a nontransferable written authorization by the Department to use alternative means which meet the intent of a specific regulation and which are based on a facility-wide need or circumstance.
- (2) "Wound" means a surgical incision, laceration of the skin, Stage I or II decubitus ulcers, skin eruptions or skin lesions.
- (x) (Reserved)
- (y) (Reserved)
- (z) (Reserved)

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.01, 1568.02, 1568.03, 1568.061, 1568.064, 1568.072, and 1797.196, Health and Safety Code.

87805	LICENSE REQUIRED	87805
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- (a) Unless a facility is exempt from licensure as specified in Section 87807, no adult, firm, partnership, association, corporation, county, city, public agency or other governmental entity shall operate, establish, manage, conduct or maintain a Residential Care Facility for the Chronically Ill, or hold out, advertise or represent by any means to do so, without first obtaining a current valid license from the Department.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Section 1568.03, Health and Safety Code.

87806	OPERATION WITHOUT A LICENSE	87806
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- (a) An unlicensed facility, as defined in Section 87801 (u)(1), is in violation of Section 1568.03 (a) of the Health and Safety Code unless exempted from licensure pursuant to Section 87807.
- (b) If the facility is alleged to be operating without a license in violation of Section 1568.03 of the Health and Safety Code, the Department shall conduct a site visit and evaluation of the facility to determine if it is operating without a license.
- (c) If the facility is operating without a license, the Department shall issue a notice of operation in violation of law.
- (d) The Department shall have the authority to assess an immediate penalty to unlicensed operations as specified in Section 87858.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.03, 1568.072 and 1568.0821, Health and Safety Code.

87807 EXEMPTION FROM LICENSURE**87807**

- (a) The Residential Care Facility for the Chronically Ill regulations contained in this chapter shall not apply to any of the following:
- (1) Any health facility, as defined by Section 1250 of the Health and Safety Code.
 - (2) Any clinic, as defined by Section 1200 of the Health and Safety Code.
 - (3) Any house, institution, hotel, share housing project, or other similar place that supplies board and room only, or board only, which provides no element of care and supervision and no resident requires any element of care and supervision or protective supervision.
 - (4) Any arrangement for the receiving of care and supervision provided to one person with a chronic, life-threatening illness or to one family unit as defined in Section 87801(f)(1) by a relative, guardian, conservator, significant other, or close friend.
 - (5) Any arrangement for the receiving of care and supervision of one person with chronic, life-threatening illness or of one family unit as defined in Section 87801(f)(1) from only one family as respite for the relative, conservator, significant other, or a close friend, if the arrangement is not for financial profit and does not exceed 48 hours per month.
 - (6) Any housing project for elderly or disabled individuals that meets federal requirements specified in Health and Safety Code Section 1568.03(c)(5).

HANDBOOK BEGINS HERE

(A) Health and Safety Code Section 1568.03(c)(5) provides:

“Any housing for elderly or disabled persons, or both, that is approved and operated pursuant to Section 202 of Public Law 86-372 (12 U.S.C.A. Sec. 1701q), or Section 811 of Public Law 101-625 (42 U.S.C.A. Sec 8013), or whose mortgage is insured pursuant to Section 236 of Public Law 90-448 (12 U.S.C.A. Sec. 1715z), or that receives mortgage assistance pursuant to Section 221d (3) of Public Law 87-70 (12 U.S.C.A. Sec.17151), where supportive services are made available to residents at their option, as long as the project owner or operator does not contract for or provide the supportive services. The project owner or operator may coordinate, or help residents gain access to, the supportive services, either directly, or through a service coordinator.”

HANDBOOK ENDS HERE

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.03 and 1568.072, Health and Safety Code.

87808 LICENSING OF INTEGRAL FACILITIES 87808

- (a) Upon written application from the licensee, the Department shall have the authority to issue a single license for separate buildings which might otherwise require separate licenses, provided that all of the following requirements are met:
- (1) Separate buildings or portions of the facility are integral components of a single program.
 - (2) All components of the program are managed by the same licensee.
 - (3) All components of the program are conducted at a single site with a common address.
- (b) If (a) above does not apply, each separately licensed component of a single program shall be capable of independently meeting the provisions of applicable regulations, as determined by the Department.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Section 1568.072, Health and Safety Code.

87809 PROHIBITION OF DUAL LICENSURE 87809

| Repealed by Manual Letter No. CCL-96-17, effective 12/4/96.

87810	LIMITATIONS ON CAPACITY AND AMBULATORY STATUS	87810
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- (a) A licensee shall not operate a facility beyond the conditions and limitations specified on the license.
 - (1) Unemancipated minors who are not residing in the facility with a guardian or custodial parent shall be prohibited from residing in the facility.
 - (2) The maximum capacity for which a license may be issued shall not exceed 50 persons, including all of the following:
 - (A) adults with HIV disease or AIDS,
 - (B) adults in residence as members of family units whether or not they have HIV disease or AIDS,
 - (C) emancipated minors with HIV disease or AIDS, and
 - (D) children as members of family units whether or not they have HIV disease or AIDS.
- (b) Facilities or rooms restricted to ambulatory residents only shall not be used by nonambulatory residents.
 - (1) Residents whose status becomes nonambulatory shall not use rooms or areas restricted to ambulatory residents.
 - (2) The Department shall have the authority to require licensees to demonstrate that only ambulatory residents use rooms restricted to ambulatory residents.
- (c) The facility capacity shall not exceed 25 residents.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.01, 1568.02, 1568.072, 1568.083 and 13143, Health and Safety Code.

87812	FALSE CLAIMS	87812
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- (a) No licensee, officer, or employee of a licensee shall make or disseminate any false or misleading statement regarding the facility or any of the services provided by the facility.
- (b) No licensee, officer, or employee of a licensee shall alter a license, or disseminate an altered license.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Section 1568.072, Health and Safety Code.

Article 3. APPLICATION PROCEDURES**87817 APPLICANT QUALIFICATIONS****87817**

- (a) Any adult shall be permitted to apply for a license regardless of age, sex, race, religion, color, political affiliation, national origin, disability, marital status, actual or perceived sexual orientation or ancestry.
- (b) Prior to filing an application, the applicant shall attend an orientation program provided by the Department.
 - (1) The orientation shall cover, but not be limited to, the following areas:
 - (A) Completion of the application for license.
 - (B) Scope of responsibility for operation of a Residential Care Facility for the Chronically Ill.
 - (C) Information pertaining to community services and resources.
 - (D) Applicable laws and regulations.
 - (2) If the applicant is a partnership, the orientation shall be attended by a general partner.
 - (3) If the applicant is a firm, corporation, county, city, public agency or other governmental entity, the orientation shall be attended by a chief executive officer or authorized representative.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.06 and 1568.072, Health and Safety Code; and Section 51, Civil Code.

87818 APPLICATION FOR LICENSE**87818**

- (a) Any adult, firm, partnership, association, corporation, county, city, public agency or other governmental entity desiring to obtain a license shall file with the Department a verified application on forms specified below and furnished by the Department:
 - (1) Application -- LIC 200 (9/87)
 - (2) Applicant Information -- LIC 215 (8/87)
 - (3) Designation of Administrative Responsibility -- LIC 308 (3/87)
 - (4) Administrative Organization -- LIC 309 (8/86)

87818 APPLICATION FOR LICENSE (Continued)**87818**

- (5) Affidavit Regarding Client Cash Resources -- LIC 400 (9/86)
 - (6) Estimated Operating Budget -- LIC 401 (11/82)
 - (7) Surety Bond -- LIC 402 (1/87)
 - (8) Financial Statement -- LIC 403 (3/83)
 - (9) Financial Information Release and Verification -- LIC 404 (10/86)
 - (10) Personnel Report -- LIC 500 (10/86)
 - (11) Personnel Record -- LIC 501 (8/87)
 - (12) Health Screening Report - Facility Personnel -- LIC 503 (9/86)
 - (13) Disaster and Mass Casualty Plan -- LIC 610 (10/88)
- (b) The applicant/licensee shall cooperate with the Department in providing verification and/or documentation as requested by the Department.
- (c) The application and supporting documents shall contain the following:
- (1) Name or proposed name and address of facility.
 - (2) Name, and residence and mailing addresses of applicant.
 - (A) If the applicant is a partnership, the name, and principal business address of each partner.
 - (B) If the applicant is a corporation or association, the name, title and principal business address of each officer, executive director and member of the governing board.
 - (C) If the applicant is a corporation, each member of the board of directors, executive director, and any officer shall list the name of all facilities which they have been licensed to operate, employed by or a member of the board of the directors, executive director or an officer.
 - (D) If the applicant is a corporation which issues stock, the name and address of each person owning more than 10 percent of stock in such corporation.

87818	APPLICATION FOR LICENSE (Continued)	87818
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- (E) If the applicant is a corporation, a copy of the articles of incorporation and bylaws.
- (F) If the applicant is an association, a copy of the bylaws.
- (3) Name and address of owner of facility premises, if applicant is leasing or renting.
- (4) The category of facility to be operated.
- (5) Capacity requested.
- (6) Age range, sex and target group of persons to be served.
- (7) Name of administrator.
- (8) Information regarding the applicant's prior or present service as an administrator, general partner, corporate officer or director of, or as a person who has held or holds a beneficial ownership of 10 percent or more in any community care facility, residential care facility for the chronically ill, residential care facility for the elderly, or child day care facility, or in any facility licensed pursuant to Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), or Chapter 3 (commencing with Section 1500) of the Health and Safety Code.
- (9) Information regarding any revocation or disciplinary action taken or in the process of being taken against a license held or previously held by the entities as specified in Subsection (8) above.
- (10) Facility Transfer Agreement with an acute care hospital for the care of residents who require a higher level of care.
- (11) Copy of contract with a hazardous waste disposal company for disposal of hazardous materials.
- (12) Copy of contract with a Nutritionist.
- (13) Copy of contract with a home health agency for case management of the residents and other services as needed.
- (14) Copy of contract with a psychologist, psychiatrist, social worker, or other appropriately skilled professional to provide psychosocial support services to the residents, unless the facility will be staffed to provide such services.

87818 APPLICATION FOR LICENSE (Continued)**87818**

- (15) Copy of contract with an individual or agency which provides substance abuse counseling, unless the facility will be staffed to provide such services.
 - (16) Specification of the services to be provided to the targeted population.
 - (17) Name, address and telephone number of the city or county fire department, the district providing fire protection services, or the State Fire Marshal's Office having jurisdiction in the area where the facility is located.
 - (18) A plan of operation as specified in Section 87822.
 - (19) Fingerprint cards as specified in Section 87819 (b).
 - (20) The bonding affidavit specified in Section 87825.
 - (21) A health screening report on the applicant.
 - (22) The fee for processing the application as specified in Section 87836.
 - (23) Such other information as may be required by the Department.
- (d) The application shall be signed by the applicant(s).
- (1) If the applicant is a partnership, the application shall be signed by each general partner.
 - (2) If the applicant is a firm, association, corporation, county, city, public agency or other governmental entity, the application shall be signed by the chief executive officer or authorized representative.
- (e) The application shall be filed with the licensing office of the Department which serves the geographical area in which the facility is located.
- (1) Within 60 days of receipt of the completed application, the Department shall complete a site visit to the facility.
- (f) For licensees of existing licensed facilities, the Department shall not require the licensee to complete the entire application process when he/she applies for a new license due to a change in the facility location.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.04, 1568.042, 1568.05, and 1568.072, Health and Safety Code.

87819 CRIMINAL RECORD CLEARANCE**87819**

- (a) The Department shall conduct a criminal record review of all the persons listed in Subsection (b) below and shall have the authority to approve or deny a facility license, or employment, residence, or presence in the facility based upon the results of such review.
- (1) Prior to the Department issuing a license, the applicant, administrator and any adults, other than a client residing in the facility shall obtain a California criminal record clearance or exemption.

HANDBOOK BEGINS HERE

- (A) Section 1568.09(b) of the Health and Safety Code states in part:

If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in that capacity.

HANDBOOK ENDS HERE

- (2) A licensee or applicant for a license may request a transfer of a criminal record clearance from one state licensed facility to another, or from TrustLine to a state licensed facility by providing the following documents to the Department:
- (A) A signed Criminal Background Clearance Transfer Request, LIC 9182 (Rev. 4/02).
- (B) A copy of the individual's:
1. Driver's license, or
 2. Valid identification card issued by the Department of Motor Vehicles, or
 3. Valid photo identification issued by another state or the United States government if the individual is not a California resident.
- (C) Any other documentation required by the Department (e.g., LIC 508, Criminal Record Statement [Rev. 1/03] and job description).

87819 CRIMINAL RECORD CLEARANCE (Continued)**87819****HANDBOOK BEGINS HERE**

- (D) Section 1568.09(g) of the Health and Safety Code states:

The California Department of Social Services shall hold criminal record clearances in its active files for a minimum of two years after an employee is no longer employed at a licensed facility in order for the criminal records clearances to be transferred.

HANDBOOK ENDS HERE

- (3) All individuals subject to criminal record review shall be fingerprinted and sign a Criminal Record Statement (LIC 508 [Rev. 1/03]) under penalty of perjury.

- (A) A person signing the LIC 508 must:

1. Declare whether he/she has been convicted of a crime, other than a minor traffic violation as specified in Section 87819(g) regardless of whether the individual was granted a pardon for the conviction, received an expungement pursuant to Penal Code 1203.4 or the individual's record was sealed as a result of a court order.
2. If convicted of a crime other than a minor traffic violation, as specified in Section 87819(g), provide information regarding the conviction.

- (4) The licensee shall submit the fingerprints to the California Department of Justice, along with a second set of fingerprints for the purpose of searching the records of the Federal Bureau of Investigation, or complying with Section 87819(a)(2) prior to the individual's employment, residence, or initial presence in the facility.

- (A) Fingerprints shall be submitted to the California Department of Justice by the licensee or sent by electronic transmission to the California Department of Justice by a fingerprinting entity approved by the California Department of Social Services.

87819 **CRIMINAL RECORD CLEARANCE** (Continued) **87819**

- (b) The following persons and any other adults specified in Health and Safety Code Section 1568.09 shall be required to be fingerprinted and comply with applicable criminal records requirements:
- (1) The applicant for the license.
 - (A) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity.
 - (2) Adults responsible for administration or direct supervision of staff.
 - (3) Any person, other than a resident, residing in the facility.
 - (4) Any facility personnel who provides resident assistance in dressing, grooming, bathing, or personal hygiene. Any nurse assistant or home health aide meeting the requirements of Health and Safety Code Section 1338.5 or 1736.6, respectively, who is not employed, retained or contracted by the licensee, and who has been certified or recertified on or after July 1, 1998, shall be deemed to meet the criminal record clearance requirements of this section. A certified nurse assistant and certified home health aide who will be providing client assistance and who fall under this exemption shall provide one copy of his or her current certification, prior to providing care, to the adult community care facility. Nothing in this paragraph restricts the right of the Department to exclude a certified nurse assistant or certified home health aide from a licensed community care facility pursuant to Health and Safety Code Section 1558.
 - (5) Any staff person or employee who has contact with the residents.

87819 CRIMINAL RECORD CLEARANCE (Continued)**87819**

- (c) The following individual's are exempt from the requirements applicable under Section 87819(b).
- (1) A medical professional, as defined in Section 87801(m)(1), who holds a valid license or certification from the individual's governing California medical care regulatory entity and who is not employed, retained, or contracted by the licensee if all of the following apply:
 - (A) The criminal record of the individual has been cleared as a condition of licensure or certification by the individual's governing California medical care regulatory entity.
 - (B) The individual is providing time-limited specialized clinical care or services.
 - (C) The individual is providing care or services within the individual's scope of practice.
 - (D) The individual is not a community care facility licensee or an employee of the facility.
 - (2) A third-party repair person or similar retained contractor, if all of the following apply:
 - (A) The individual is hired for a defined, time-limited job.
 - (B) The individual is not left alone with clients.
 - (C) When clients are present in the room in which the repair person or contractor is working, a staff person who has a criminal record clearance or exemption is also present.
 - (3) Employees of a licensed home health agency and other members of licensed hospice interdisciplinary teams who have a contract with a client of the facility, and are in the facility at the request of that client or client's legal decision maker.
 - (A) The exemption shall not apply to an individual who is a community care facility licensee or an employee of the facility.

87819	CRIMINAL RECORD CLEARANCE (Continued)	87819
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- (4) Clergy and other spiritual caregivers who are performing services in common areas of the residential care facility, or who are advising an individual client at the request of, or with permission of, the client.
 - (A) The exemption shall not apply to an individual who is a community care facility licensee or an employee of the facility.

- (5) Members of fraternal, service and similar organizations who conduct group activities for clients if all of the following apply:
 - (A) Members are not left alone with the clients.
 - (B) Members do not transport clients off the facility premises.
 - (C) The same group does not conduct such activities more often than once a month.

- (6) A volunteer if all of the following apply:
 - (A) The volunteer is directly supervised by the licensee or a facility employee with a criminal record clearance or exemption.
 - (B) The volunteer is never left alone with clients.
 - (C) The volunteer does not provide any client assistance with dressing, grooming, bathing or personal hygiene.

87819 CRIMINAL RECORD CLEARANCE (Continued)**87819**

- (7) The following individuals unless contraindicated by the client's needs and service plan:
- (A) A spouse, relative, significant other, or close friend of a client.
 - (B) An attendant or facilitator if the attendant or facilitator is not employed, retained or contracted by the licensee.
 - (C) The exemptions in Sections 87819(d)(7)(A) or (B) apply only if the individual is visiting the client or providing direct care and supervision to that client only.
- (8) Nothing in this paragraph shall prevent a licensee from requiring a criminal record clearance of any individual exempt from the requirements of this section, provided that the individual has client contact.
- (d) All individuals subject to a criminal record review pursuant to Health and Safety Code Section 1568.09 shall prior to working, residing or volunteering in a licensed facility:
- (1) Obtain a California clearance or a criminal record exemption as required by the Department or
 - (2) Request a transfer of a criminal record clearance as specified in Section 87819(a)(2) or
 - (3) Request and be approved for a transfer of a criminal record exemption, as specified in Section 87819.1(r), unless, upon request for a transfer, the Department permits the individual to be employed, reside or be present at the facility.
- (e) Violation of Section 87819(d) will result in a citation of a deficiency and an immediate assessment of civil penalties of one hundred dollars (\$100) per violation per day for a maximum of five (5) days by the Department.
- (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 1568.0822.
- (f) Violation of Section 87819(d) may result in a denial of the license application or suspension and/or revocation of the license.

87819 CRIMINAL RECORD CLEARANCE (Continued) 87819

- (g) If the criminal record transcript of any individuals specified in the Health and Safety Code Section 1568.09 discloses a plea or verdict of guilty or a conviction following a plea of nolo contere for a crime other than a minor traffic violation, for which the fine was less than \$300, and an exemption pursuant to Section 87219.1(a) has not been granted, the Department shall take the following actions:
- (1) For initial applicant, denial of the application.
 - (2) For current licensees, the Department may institute an administrative action, including, but not limited to, revocation of the license.
 - (3) For current employees, exclude the affected individual pursuant to Health and Safety Code Section 1568.092 and deny the application or revoke the license if the individual continues to provide services and/or reside at the facility.
 - (4) For individuals residing in the facility, including spouses of the applicant, licensee or employee, exclusion of the affected individual pursuant to Health and Safety Code Section 1568.092 and denial of the application or revocation of the license if the individual continues to provide services and/or reside in the facility.
- | (h) The licensee shall maintain documentation of criminal record clearances or criminal record exemptions of employees in the individual's personnel file as required in Section 87866.
- | (i) The licensee shall maintain documentation of criminal record clearances or criminal record exemptions of volunteers that require fingerprinting and non-client adults residing in the facility.
- (1) Documentation shall be available at the facility for inspection by the Department.

87819	CRIMINAL RECORD CLEARANCE (Continued)	87819
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- (j) The Department may seek verification from a law enforcement agency or court of an individual's criminal record as reported to the Department from any member of the public or affected individual.
 - (1) Upon obtaining confirmation from a law enforcement agency or court of the offense, the Department shall proceed as if this criminal record information was provided by the California Department of Justice.

NOTE: Authority cited: Section 1568.072 and 1568.0822(e), Health and Safety Code. Reference: Sections 1568.072, 1568.09 and 1568.22, Health and Safety Code.

87819.1 CRIMINAL RECORD EXEMPTION**87819.1**

- (a) The Department will notify a licensee to act immediately to terminate the employment of, remove from the facility or bar from entering the facility any person described in Sections 87819.1(a)(1) through (5) below while the Department considers granting or denying an exemption. Upon notification, the licensee shall comply with the notice.
- (1) Any person who has been convicted of, or is awaiting trial for, a sex offense against a minor;
 - (2) Any person who has been convicted of a felony;
 - (3) Any person who has been convicted of an offense specified in Sections 243.4, 273a, 273d, 273g, or 368 of the Penal Code or any other crime specified in Health and Safety Code Section 1568.09(c)(4);
 - (4) Any person who has been convicted of any crime specified below:
 - (A) Battery
 - (B) Shooting at Inhabited Dwelling
 - (C) Corporal Injury on Spouse/Cohabitant
 - (D) Discharging Firearm with Gross Negligence
 - (E) Exhibiting Weapon/Firearm
 - (F) Threat to Commit a Crime Resulting in Gross Bodily Injury or Death
 - (G) Criminal Threat to Harm or Injure Another Person
 - (H) Cruelty to Animals
 - (I) Willful Harm or Injury to Child; or
 - (5) Any other person ordered to be removed by the Department.

87819.1 CRIMINAL RECORD EXEMPTION (Continued)**87819.1**

- (b) In addition to the requirements of Section 87819.1(a), the licensee must return the confirmation of removal form that is sent by the Department, within five (5) days of the date of the form, that confirms under penalty of perjury that the individual has been removed from the facility.
- (1) Confirmation must be made on either a Removal Confirmation – Exemption Needed, LIC 300A (Rev. 9/03), Removal Confirmation - Denial, LIC 300B (Rev. 9/03), Removal Confirmation - Rescinded, LIC 300C (Rev. 9/03), or Removal Confirmation - Nonexemptible, LIC 300D (Rev. 9/03).
- (c) After a review of the criminal record transcript, the Department may grant an exemption if:
- (1) The applicant/licensee requests an exemption for himself or herself, or
- (2) The applicant/licensee requests an exemption in writing for an individual associated with the facility, or
- (3) The applicant/licensee chooses not to seek an exemption on the affected individual's behalf, the affected individual requests an individual exemption in writing, and
- (4) The affected individual presents substantial and convincing evidence satisfactory to the Department that he/she has been rehabilitated and presently is of such good character as to justify being issued or maintaining a license, employment or residence in a licensed facility.
- (d) To request a criminal record exemption, a licensee or license applicant must submit information that indicates that the individual meets the requirements of Section 87819.1(c)(4). The Department will notify the licensee or license applicant and the affected individual, in concurrent, separate notices, that the affected individual has a criminal conviction and needs to obtain a criminal record exemption.
- (1) The notice to the affected individual shall include a list of the conviction(s) that the Department is aware of at the time the notice is sent that must be addressed in an exemption request.
- (2) The notice will list the information that must be submitted to request a criminal record exemption.
- (3) The information must be submitted within forty-five (45) days of the date of the Department's notice.
- (A) Individuals who submit a criminal record exemption request shall cooperate with the Department by providing any information requested by the Department, including, but not limited to, police reports and certified court documents to process the exemption request, pursuant to Section 87819.1(e).

87819.1	CRIMINAL RECORD EXEMPTION (Continued)	87819.1
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- (B) If the individual for whom the criminal record exemption is requested is an employee or resident other than a spouse or dependent family member and the licensee/license applicant does not submit the information listed in the Department's written notice within 45 days of the date of the notice, the Department may cease processing the exemption request and close the case.

- (C) If the individual for whom the criminal record exemption is requested is an applicant, licensee, spouse or dependent family member and the licensee/license applicant does not submit the information listed in the Department's written notice within 45 days of the date of the notice, the Department may deny the exemption request.

- (D) Individuals may request a criminal record exemption on their own behalf if the licensee or license applicant:
 - 1. Chooses not to request the exemption and
 - 2. Chooses not to employ or terminates the individual's employment after receiving notice of the individual's criminal history, or
 - 3. Removes the individual who resides in the facility after receiving notice of the individual's criminal history.

- (e) The Department shall consider factors including, but not limited to, the following as evidence of good character and rehabilitation:
 - (1) The nature of the crime including, but not limited to, whether it involved violence or a threat of violence to others.
 - (2) Period of time since the crime was committed and number of offenses.
 - (3) Circumstances surrounding the commission of the crime that would demonstrate the unlikelihood of repetition.
 - (4) Activities since conviction, including employment or participation in therapy or education, that would indicate changed behavior.
 - (5) Granting by the Governor of a full and unconditional pardon.
 - (6) Character references.
 - (A) All character references shall be on a Reference Request form (LIC 301E - Exemptions [Rev. 7/03]).

87819.1 CRIMINAL RECORD EXEMPTION (Continued)**87819.1**

- (7) A certificate of rehabilitation from a superior court.
- (8) Evidence of honesty and truthfulness as revealed in exemption application documents.
 - (A) Documents include, but are not limited to:
 - 1. A Criminal Record Statement (LIC 508, Criminal Record Statement [Rev. 1/03]) and
 - 2. The individual's written statement/explanation of the conviction and the circumstances about the arrest.
- (9) Evidence of honesty and truthfulness as revealed in exemption application interviews and conversations with the Department.
- (f) The Department shall also consider the following factors in evaluating a request for an exemption:
 - (1) Facility and type of association.
 - (2) The individual's age at the time the crime was committed.
- (g) The Department may deny the individual's exemption request if:
 - (1) The licensee and/or the affected individual fails to provide documents requested by the Department, or
 - (2) The licensee and/or the affected individual fails to cooperate with the Department in the exemption process.
- (h) The reasons for any exemption granted or denied shall be in writing and kept by the Department.
 - (1) Exemption denial notices shall specify the reason the exemption was denied.
- (i) The Department has the authority to grant a criminal record exemption that places conditions on the individual's continued licensure, and employment or presence in a licensed facility.
- (j) It shall be conclusive evidence that the individual is not of such good character as to justify issuance of an exemption if the individual:
 - (1) Makes a knowingly false or misleading statement regarding:
 - (A) Material relevant to their application for a criminal record clearance or exemption,
 - (B) His or her criminal record clearance or exemption status to obtain employment or permission to be present in a licensed facility, after the Department has ordered that they be excluded from any or all licensed facilities, or

87819.1	CRIMINAL RECORD EXEMPTION (Continued)	87819.1
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- (C) His or her criminal record clearance or exemption status in order to obtain a position with duties that are prohibited to him/her by a conditional exemption; or
- (2) Is on probation or parole.
 - (A) If the individual is currently on probation, and provides sufficient proof that the probationary period(s) is informal, unsupervised and no probation officer is assigned, the Department may, in its discretion, grant a criminal record exemption notwithstanding Section 87819.1(j)(2).
- (k) The Department shall consider granting a criminal record exemption if the individual's criminal record history meets all of the applicable criteria specified in Sections 87819.1(k)(1) through (6) and the individual provides the Department with substantial and convincing evidence of good character as specified in Section 87819.1(c)(4). For purposes of this section, a violent crime is a crime that, upon evaluation of the code section violated and/or the reports regarding the underlying offense, presents a risk of harm or violence.
 - (1) The individual has been convicted of one nonviolent misdemeanor, and one year has lapsed since completing the most recent period of incarceration or probation.
 - (2) The individual has been convicted of two or more nonviolent misdemeanors and four consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.
 - (3) The individual has been convicted of one or more violent misdemeanors and 15 consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.
 - (4) The individual has been convicted of one nonviolent felony and four consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.
 - (5) The individual has been convicted of two or more nonviolent felonies and ten consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.
 - (6) The individual has not been convicted of a violent felony.
 - (7) If the individual is currently on probation, and provides sufficient proof that the probationary period(s) is informal, unsupervised and no probation officer is assigned, the period of lapsed time required in Sections 87819.1(k)(1) through (5) above shall begin from the last date of conviction(s).

87819.1 CRIMINAL RECORD EXEMPTION (Continued)**87819.1**

- (l) It shall be a rebuttable presumption that an individual is not of such good character as to justify the issuance of an exemption if the individual fails to meet the requirements specified in Sections 87819.1(k)(1) through (6).
- (m) The Department shall not grant an exemption if the individual has a conviction for any offense specified in Section 1568.09(f)(1) of the Health and Safety Code.

HANDBOOK BEGINS HERE

Health and Safety Code Section 1568.09(f)(1) provides that no exemption shall be granted if an individual has been convicted of any of the following offenses:

- (1) Penal Code Sections 136.1 and 186.22 – Gang related/Intimidation of witnesses or victims.
- (2) Penal Code Sections 187, 190 through 190.4 and 192(a) – Any murder/Attempted murder/Voluntary manslaughter.
- (3) Penal Code Section 203 – Any mayhem.
- (4) Penal Code Section 206 - Felony torture.
- (5) Penal Code Sections 207, 208, 209, 209.5, 210 – Kidnapping.
- (6) Penal Code Sections 211, 212.5, 213, 214 – Any robbery.
- (7) Penal Code Section 215 – Carjacking.
- (8) Penal Code Section 220 – Assault with intent to commit mayhem, rape, sodomy or oral copulation.
- (9) Penal Code Section 243.4 – Sexual battery.
- (10) Penal Code Section 261(a), (a)(1), (2), (3), (4) or (6) – Rape.

HANDBOOK CONTINUES

HANDBOOK CONTINUES

- (11) Penal Code Section 262(a)(1) or (4) – Rape of a spouse.
- (12) Penal Code Section 264.1 – Rape in concert.
- (13) Penal Code Section 266 – Enticing a minor into prostitution.
- (14) Penal Code Section 266c – Induce to sexual intercourse, etc. by fear or consent through fraud.
- (15) Penal Code Section 266h(b) – Pimping a minor.
- (16) Penal Code Section 266i(b) – Pandering a minor.
- (17) Penal Code Section 266j – Providing a minor under 16 for lewd or lascivious act.
- (18) Penal Code Section 267 – Abduction for prostitution.
- (19) Penal Code Section 269 – Aggravated assault of a child.
- (20) Penal Code Section 272 – Contributing to the delinquency of a minor (must involve lewd or lascivious conduct).
- (21) Penal Code Sections 273a(a) [or 273a(1) if the conviction was prior to January 1, 1994] – Willfully causing or permitting any child to suffer under circumstances or conditions likely to produce great bodily harm or death.
- (22) Penal Code Section 273d – Willfully inflicting any cruel or inhuman corporal punishment or injury on a child.
- (23) Penal Code Section 285 – Incest.
- (24) Penal Code Section 286 – Sodomy.
- (25) Penal Code Section 288 – Lewd or lascivious act upon a child under 14.

HANDBOOK CONTINUES

87819.1 CRIMINAL RECORD EXEMPTION (Continued)**87819.1****HANDBOOK CONTINUES**

- (26) Penal Code Section 288a – Oral copulation.
- (27) Penal Code Section 288.2 – Felony conviction for distributing lewd material to children.
- (28) Penal Code Section 288.5(a) – Continuous sexual abuse of a child.
- (29) Penal Code Section 289 – Genital or anal penetration or abuse by any foreign or unknown object.
- (30) Penal Code Section 290(a) – All crimes for which one must register as a sex offender including attempts and not guilty by insanity.
- (31) Penal Code Section 311.2(b), (c) or (d) – Transporting or distributing child-related pornography.
- (32) Penal Code Section 311.3 – Sexual exploitation of a child.
- (33) Penal Code Section 311.4 – Using a minor to assist in making or distributing child pornography.
- (34) Penal Code Section 311.10 – Advertising or distributing child pornography.
- (35) Penal Code Section 311.11 – Possessing child pornography.
- (36) Penal Code Sections 314 paragraphs 1 or 2 – Lewd or obscene exposure of private parts.
- (37) Penal Code Section 347(a) – Poisoning or adulterating food, drink, medicine, pharmaceutical products, spring, well, reservoir or public water supply.
- (38) Penal Code Section 368 – Elder or dependent adult abuse.
- (39) Penal Code Section 417(b) – Drawing, exhibiting or using a loaded firearm.
- (40) Penal Code Section 451(a) or (b) – Arson.

HANDBOOK CONTINUES

HANDBOOK CONTINUES

- (41) Penal Code Section 460(a) – First degree burglary if it is charged and proved that a non-accomplice was present in the residence during the burglary.
- (42) Penal Code Sections 186.22 and 518 – Gang related/Extortion.
- (43) Penal Code Section 647.6 or prior to 1988 former Section 647a – Annoy or molest a child under 18.
- (44) Penal Code Section 653f(c) – Solicit another to commit rape, sodomy, etc.
- (45) Penal Code Sections 664/187 – Any attempted murder.
- (46) Penal Code Section 667.5(c)(7) – Any felony punishable by death or imprisonment in the state prison for life.
- (47) Penal Code Section 667.5(c)(8) – Enhancement for any felony which inflicts great bodily injury.
- (48) Penal Code Section 667.5(c)(13) – Enhancement for violation of Penal Code Section 12308, 12309 or 12310 – Exploding or igniting or attempting to explode or ignite any destructive device or explosive with intent to commit murder.
- (49) Penal Code Section 667.5(c)(14) - Any kidnapping – Penal Code Sections 207, 208, 209, 209.5 and 210.
- (50) Penal Code Section 667.5(c)(22) - Any violation of Penal Code Section 12022.53 – Enhancement for listed felonies where use of a firearm.
- (51) Penal Code Section 667.5(c)(23) – Use of weapon of mass destruction
- (52) Business and Professions Code Section 729 – Felony sexual exploitation by a physician, psychotherapist, counselor, etc.

HANDBOOK ENDS HERE

87819.1 CRIMINAL RECORD EXEMPTION (Continued)**87819.1**

- (n) The Department shall consider granting a simplified criminal record exemption if the individual has the criminal history profile outlined in Sections 87819.1(n)(1) through (4) below:
- (1) The individual does not have a demonstrated pattern of criminal activity;
 - (2) The individual has no more than one conviction;
 - (3) The conviction is a misdemeanor and is a crime that is nonviolent and does not pose a risk of harm to an individual; and
 - (4) It has been at least five consecutive years since the completion of the most recent period of incarceration or supervised probation.
- (o) At the Department's discretion, an individual who is otherwise eligible for a simplified exemption may be required to go through the standard exemption process if the Department determines such action will help to protect the health and safety of clients.
- (p) If the Department denies or cannot grant a criminal record exemption the Department shall:
- (1) For initial applicants, deny the application.
 - (2) For current licensees, the Department may institute an administrative action including, but not limited to, revocation of the license.
 - (3) For current employees, exclude the affected individual pursuant to Health and Safety Code Section 1568.092, deny the application or revoke the license, if the individual continues to provide services and/or reside at the facility.
 - (4) For individuals residing in the facility or the licensee, exclude the affected individual pursuant to Health and Safety Code Section 1568.092, deny the application or revoke the license, if the individual continues to provide services and/or reside at the facility.

87819.1 CRIMINAL RECORD EXEMPTION (Continued)

87819.1

- (q) If a request for an exemption has been denied, the individual shall be excluded for a period of two years unless the individual has been convicted of a crime for which no exemption may be granted pursuant to Section 87819.1(m). If a request for an exemption has been denied based on a conviction of a crime for which no exemption may be granted, the individual shall be excluded for the remainder of the individual's life.
- (1) If the Department determines during the review of an exemption request, that the individual was denied an exemption for a conviction of a crime for which an exemption may be granted within the preceding two years, the Department shall cease any further review of the request until two years have elapsed from the date of the denial. In cases where the individual requested a hearing on an exemption denial, the Department shall cease review of the request for an exemption until two years from the effective date of the decision and order of the Department upholding the denial. In cases where the individual submitted a petition for reinstatement or reduction in penalty pursuant to Government Code Section 11522 that was denied, the Department shall cease review of the request for an exemption until two years from the effective date of the decision and order of the Department denying the petition.
 - (2) An exclusion order based solely upon a denied exemption shall remain in effect and the individual shall not be employed in or present in a licensed facility or certified home, unless either a petition or an exemption is granted.
 - (3) If an individual who has previously been denied an exemption re-applies after the relevant time period described in Section 87819.1(q)(1) above, the Department may, in accordance with the provisions in Section 87819.1 et seq., grant or deny the subsequent request for an exemption.
 - (4) If an individual submits a petition pursuant to Government Code Section 11522 for reinstatement or reduction of penalty for an exclusion, an individual must submit his/her fingerprints through an electronic fingerprinting system approved by the Department and submit to the Department a statement of the reason why the individual should be permitted to work or be present in a facility, along with all information required of an individual requesting a criminal record exemption as provided in this section. If it is determined, based upon information provided by the Department of Justice, that the individual has been convicted of a crime for which no exemption may be granted, the petition shall be denied. An individual's failure to submit fingerprints or other information as requested by the Department, shall be grounds for denial of the petition. The burden shall be on the petitioner to prove sufficient rehabilitation and good character to justify the granting of the petition.

87819.1 CRIMINAL RECORD EXEMPTION (Continued)**87819.1**

- (r) A licensee or applicant for a license may request a transfer of a criminal record exemption from one state licensed facility to another by providing the following documents to the Department:
- (1) A signed Criminal Record Exemption Transfer Request, LIC 9188 (Rev. 9/03).
 - (2) A copy of the individual's:
 - (A) Driver's license, or
 - (B) Valid identification card issued by the Department of Motor Vehicles, or
 - (C) Valid photo identification issued by another state or the United States government if the individual is not a California resident.
 - (3) Any other documentation required by the Department (e.g., LIC 508, Criminal Record Statement [Rev. 1/03] and job description).
- (s) The Department may consider factors including, but not limited to, the following in determining whether or not to approve the transfer of an exemption from one facility to another:
- (1) The basis on which the Department granted the exemption;
 - (2) The nature and frequency of client contact in the new position;
 - (3) The category of facility where the individual wishes to transfer;
 - (4) The type of clients in the facility where the individual wishes to transfer;
 - (5) Whether the exemption was appropriately evaluated and granted in accordance with existing exemption laws or regulations.
 - (6) Whether the exemption meets current exemption laws or regulations.
- (t) If the Department denies the individual's request to transfer a criminal record exemption, the Department shall provide the individual and the licensee with written notification that states the Department's decision and informs the affected individual of their right to an administrative hearing to contest the Department's decision.

87819.1 CRIMINAL RECORD EXEMPTION (Continued) 87819.1

- (u) At the Department’s discretion, an exemption may be rescinded if it is determined that:
 - (1) The exemption was granted in error or
 - (2) The exemption does not meet current exemption laws or regulations or
 - (3) The conviction for which an exemption was granted subsequently becomes non-exemptible by law.

- (v) The Department may rescind an individual’s criminal record exemption if the Department obtains evidence showing that the individual engaged in conduct which is inconsistent with the good character requirement of a criminal record exemption, as evidenced by factors including, but not limited to, the following:
 - (1) Violations of licensing laws or regulations;
 - (2) Any conduct by the individual that indicates that the individual may pose a risk to the health and safety of any individual who is or may be a client;
 - (3) Nondisclosure of a conviction or evidence of lack of rehabilitation that the individual failed to disclose to the Department, even if it occurred before the exemption was issued; or
 - (4) The individual is convicted of a subsequent crime.

- (w) If the Department rescinds an exemption the Department shall:
 - (1) Notify the licensee and the affected individual in writing; and
 - (2) Initiate an administrative action.

- (x) If the Department learns that an individual has been convicted of a crime after obtaining a criminal record clearance or exemption, the Department, at its sole discretion, may immediately initiate an administrative action to protect the health and safety of clients.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.072, 1568.082, 1568.09, and 1568.092, Health and Safety Code, and Gresher v. Anderson (2005) 127 Cal. App. 4th 88.

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87820 FIRE CLEARANCE 87820

- (a) All facilities shall secure and maintain a fire clearance approved by the city or county fire department, the district providing fire protection services, or the State Fire Marshal.
 - (1) The Department shall maintain a copy of the request and the fire clearance report in the facility file.
- (b) The applicant shall notify the Department if the facility plans to admit either of the following categories of residents, so that an appropriate fire clearance, approved by the city or county, fire department, the district providing fire protection services, or the State Fire Marshal, can be obtained prior to the acceptance of such residents:
 - (1) Persons who are bedridden.
 - (2) Persons who are nonambulatory, as defined in Section 87801(n)(1).

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.072 and 13143, Health and Safety Code.

87821 WATER SUPPLY CLEARANCE 87821

- (a) All facilities where water for human consumption is from a private source shall meet the following requirements:
 - (1) As a condition of initial licensure, the applicant shall provide evidence of an on-site inspection of the source of the water and a bacteriological analysis which establishes the safety of the water, conducted by the local health department, the State Department of Health Services or a licensed commercial laboratory.

87821	WATER SUPPLY CLEARANCE (Continued)	87821
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- (2) Subsequent to initial licensure, the licensee shall provide evidence of a bacteriological analysis of the private water supply as frequently as necessary to ensure the safety of the residents, but no less frequently than specified in the following table:

LICENSED CAPACITY	ANALYSIS REQUIRED	PERIODIC SUBSEQUENT ANALYSIS
6 or fewer	Initial Licensing	Not required unless evidence supports the need for such analysis to protect residents.
7 through 15	Initial Licensing	Annually
16 through 25	Initial Licensing	Semiannually

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Section 1568.072, Health and Safety Code.

87822	PLAN OF OPERATION	87822
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- (a) Each licensee shall maintain on file a current, written plan of operation.
- (b) The plan and related materials shall contain the following:
- (1) Statement of purposes, and program methods and goals.
 - (2) Statement of admission policies and procedures regarding acceptance of residents.
 - (3) A copy of the admission agreement.
 - (4) A copy of the planned facility's house rules.
 - (5) Administrative organization, if applicable.
 - (6) Staffing plan, qualifications and duties.
 - (7) Plan for inservice training and continuing educational training of staff.

87822 PLAN OF OPERATION (Continued)**87822**

- (8) A sketch of the building(s) to be occupied, including a floor plan which describes the capacities of the buildings for the uses intended, room dimensions, and designation of the rooms to be used for nonambulatory residents, if any.
- (9) A sketch of the grounds showing buildings, driveways, fences, storage areas, pools and other bodies of water, gardens, recreation areas and other space used by the residents.
 - (A) The sketch shall include the dimensions of all areas which will be used by the residents.
- (10) A sample menu for one calendar week indicating the time of day that meals and snacks are to be served.
- (11) Transportation arrangements for residents who do not have independent arrangements for medical, dental appointments and other appointments for professional services as required by this chapter.
- (12) Rate setting policy including, but not limited to, policy on refunds.
- (13) A statement whether or not the licensee will handle the residents' money, personal property, and/or valuables. If money, personal property, and/or valuables will be handled, the method for safeguarding shall ensure compliance with Section 87826.
- (14) Consultant and community resources to be utilized by the facility as part of its program.
- (15) The facility's policy regarding visiting hours, including the conditions under which a visit may be prohibited.
- (16) The facility's policy regarding the resident's use of the telephone and receiving written communication.
- (17) The facility's policy regarding the designated smoking area.
- (18) The facility's policy governing the use of alcohol and prohibition of illegal drug use.

87822 PLAN OF OPERATION (Continued)**87822**

- (19) A statement regarding whether the facility will accept persons who request a "DO NOT Resuscitate Order".
 - (20) If the facility will accept such persons, a plan for ensuring that the "DO NOT Resuscitate Order" as stipulated by the resident or the person who has durable power of attorney for health care is carried out by the appropriately skilled professional.
 - (21) The facility's plan for the internal handling of hazardous waste.
 - (22) The facility's plan for relocating children when the adult members of their family units are hospitalized, relocate, become unable to meet the child's needs, or die.
- (c) The plan of operation shall include the name, address, telephone number, qualifications, licenses and credentials of the persons or agencies who will provide the following services for the residents, if not provided by the facility:
- (1) Counseling regarding chronic, life-threatening illness, current information on treatment of the illness, and the possible effects of the illness on the resident's physical and/or mental health.
 - (2) Psychosocial support services.
 - (3) Death and dying counseling which must focus, at least in part, on the grieving process.
 - (4) Consultation on housing, health benefits, financial support, community-based and county services system.
 - (5) Home health care services.
 - (6) Alternative language services for residents who do not speak English, if not provided by the facility.
 - (7) Culturally appropriate services.
 - (8) Assistance for residents who have physical disabilities, including but not limited to hearing and motor impairments.
- (d) Any changes in the plan of operation which affect the services to residents shall be subject to Department approval and shall be reported.
- (e) The facility shall operate in accordance with the terms specified in the plan of operation.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.02 and 1568.072, Health and Safety Code.

87823	DISASTER AND MASS CASUALTY PLAN	87823
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- (a) Each licensee shall have and maintain on file a current, written disaster and mass casualty plan of action.
- (b) The plan shall be subject to review by the Department and shall include:
 - (1) Designation of administrative authority and staff assignments.
 - (2) Contingency plans for action in case of fires, floods, and earthquakes, including, but not limited to, the following:
 - (A) Means of exiting.
 - (B) Transportation arrangements.
 - (C) Relocation sites which are equipped to provide safe temporary accommodation for residents.
 - (D) Arrangements for supervision of residents during evacuation and/or relocation, and for contact after relocation to ensure that relocation has been completed as planned.
 - (E) Means of contacting local agencies, including, but not limited to, the fire department, law enforcement agencies, and civil defense and other disaster authorities.
- (c) The licensee shall instruct all residents, age and abilities permitting, all staff, and/or members of the household in their duties and responsibilities under the plan.
- (d) Disaster drills shall be conducted at least every six months.
 - (1) Completion of such drills shall not require travel away from the facility grounds or contact with local disaster agencies.
 - (2) The drills shall be documented and the documentation maintained in the facility for at least one year.
 - (3) Residents who are too ill to participate in the drills shall be excluded.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Section 1568.072, Health and Safety Code.

87824 WAIVERS AND EXCEPTIONS**87824**

- (a) Unless prior written approval is granted by the Department, as specified in (b) below, all licensees shall maintain continuous compliance with licensing regulations.
- (b) The Department shall have the authority to approve the use of alternate concepts, programs, services, procedures, techniques, equipment, space, personnel qualifications or staffing ratios, or the conducting of experimental or demonstration projects under the following circumstances:
- (1) Such alternatives shall be carried out with provisions for safe and adequate services, and shall in no instance be detrimental to the health and safety of any facility resident.
 - (2) The applicant or licensee shall submit to the Department a written request for a waiver or exception, together with substantiating evidence supporting the request.
 - (3) The Department shall provide written approval or denial of the request.
- (c) Within 30 days of receipt of a request for a waiver or an exception, the Department shall notify the applicant or licensee in writing of one of the following:
- (1) The request with substantiating evidence has been received and accepted for consideration.
 - (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 shall result in denial of the request.
- (d) Within 30 days of notification of an acceptable request for a waiver or exception, the Department shall notify the applicant or licensee in writing whether the request has been approved or denied.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Section 15376, Government Code and Section 1568.072, Health and Safety Code.

87825	BONDING	87825
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- (a) The licensee shall submit an affidavit, on a form (Surety Bond -- LIC 402 (1/87)) provided by the Department, stating whether he/she safeguards or will safeguard cash resources of residents and the maximum amount of cash resources to be safeguarded for all residents or each resident in any month.
- (b) All licensees who are entrusted to care for and control residents' cash resources shall file or have on file with the Department, a bond issued by a surety company to the State of California as principal.
- (c) The amount of the bond shall be according to the following schedule:

AMOUNT SAFEGUARDED PER MONTH	BOND REQUIRED
\$750 or less.....	\$1,000
\$751 to \$1,500.....	\$2,000
\$1,501 to \$2,500.....	\$3,000

Every further increment of \$1,000 or fraction thereof shall require an additional \$1,000 on the bond.

- (d) The licensee shall submit a new affidavit and bond to the Department prior to the licensee safeguarding amounts of residents' cash resources in excess of the current bond.
- (e) Whenever the Department determines that the amount of the bond is insufficient to provide necessary protection of residents' cash resources, or whenever the amount of any bond is impaired by any recovery against the bond, the Department shall have the authority to require the licensee to file an additional bond in such amount as the Department determines to be necessary to protect the residents' cash resources.
- (f) The provisions of this section shall not apply if the licensee handles money of residents in amounts less than fifty dollars (\$50) per person and less than five hundred dollars (\$500) for all residents in any month.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.021 and 1568.072, Health and Safety Code.

**87826 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY,
AND VALUABLES 87826**

- (a) A licensee shall not be required to accept for admission or continue to care for any resident whose incapacities, as documented by the initial or subsequent needs appraisals, would require the licensee to handle such resident's cash resources.
- (b) If such a resident is accepted for or maintained in care, his/her cash resources, personal property, and valuables not handled by a person outside the facility who has been designated by the resident or his/her authorized representative shall be handled by the licensee or facility staff, and shall be safeguarded in accordance with the requirements specified in (c) through (n) below.
- (c) No licensee or employee of a licensee shall accept appointment as a conservator of the person, or estate, or person and estate of any resident nor accept any general or special power of attorney except for Medi-Cal or Medicare claims for any resident; nor become the substitute payee for any payments made to any resident, except:
 - (1) a licensee who is appointed by the Social Security Administration may be representative payee for a resident.
- (d) Cash resources, personal property, and valuables of residents handled by the licensee shall be free from any liability the licensee incurs.
- (e) Cash resources, personal property, and valuables of residents shall be separate and intact, and shall not be commingled with facility funds or petty cash.
 - (1) The above requirement shall not prohibit the licensee from providing advances or loans to residents from facility funds.
 - (A) Documentation of such transactions shall be maintained in the facility.
- (f) The licensee or employee of a licensee shall not make expenditures from residents' cash resources for any basic services required by these regulations, or for any basic services identified in a contract/admission agreement between the resident and the licensee.
- (g) The licensee shall not commingle cash resources and valuables of residents with those of another residential care facility of a different license number, regardless of joint ownership.

87826	SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, AND VALUABLES (Continued)	87826
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- (h) Each licensee shall maintain accurate records of accounts of cash resources, personal property, and valuables entrusted to his/her care, including, but not limited to, the following:
 - (1) Records of residents' cash resources maintained as a drawing account, which shall include a current ledger accounting, with columns for income, disbursements and balance, for each resident. Supporting receipts for purchases shall be filed in chronological order.
 - (A) Receipts for cash provided to any resident from his/her account(s) shall include the resident's full signature or mark, or authorized representative's full signature or mark, and a statement acknowledging receipt of the amount and date received, as follows:

"(full signature of resident) accepts (dollar amount) (amount written cursive), this date (date), from (payor)."
 - (B) The store receipt shall constitute the receipt for purchases made for the resident from his/her account.
 - (C) The original receipt for cash resources, personal property or valuables entrusted to the licensee shall be provided to the resident's authorized representative, if any, otherwise to the resident.
 - (2) Bank records for transactions of cash resources deposited in and drawn from the account specified in (i) below.
- (i) Immediately upon admission of a resident, all of his/her cash resources entrusted to the licensee and not kept in the licensed facility shall be deposited in any type of bank, savings and loan, or credit union account meeting the following requirements:
 - (1) The account shall be maintained as a trust account separate from the personal or business accounts of the licensee.

**87826 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY,
AND VALUABLES (Continued) 87826**

- (2) The account title shall clearly note that the account contains resident cash resources.
- (3) The licensee shall provide access to the cash resources upon demand by the resident or his/her authorized representative.
- (4) The account shall be maintained in a local bank, savings and loan or credit union authorized to do business in California, the deposits of which are insured by a branch of the Federal Government.
 - (A) A local public agency shall have the authority to deposit such cash resources with the public treasurer.
- (j) Cash resources entrusted to the licensee and kept on the facility premises, shall be kept in a locked and secure location.
- (k) Upon discharge of a resident, all cash resources, personal property, and valuables of that resident which have been entrusted to the licensee shall be surrendered to the resident, or his/her authorized representative, if any.
 - (1) The licensee shall obtain and retain a receipt signed by the resident or his/her authorized representative.
- (l) Upon the death of a resident, all cash resources, personal property and valuables of that resident shall immediately be safeguarded in accordance with the following requirements:
 - (1) All cash resources shall be placed in an account as specified in (i) above.
 - (2) The executor or the administrator of the estate shall be notified by the licensee of the resident's death, and the cash resources, personal property, and valuables shall be surrendered to said party in exchange for a signed, itemized receipt.
 - (3) If no executor or administrator has been appointed, the authorized representative, if any, shall be notified by the licensee of the resident's death, and the cash resources, personal property, and valuables shall be surrendered to said person in exchange for a signed, itemized receipt.

87826	SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, AND VALUABLES (Continued)	87826
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- (4) If the licensee is unable to notify a responsible party as specified in (2) or (3) above, the licensee shall give immediate written notice of the resident's death to the public administrator of the county as provided in Section 1145 of the California Probate Code.

- (m) The following requirements shall be met whenever there is a proposed change of licensee:
 - (1) The licensee shall notify the Department of any pending change of licensee, and shall provide the Department an accounting of each resident's cash resources, personal property and valuables entrusted to his/her care.
 - (A) Such accounting shall be made on a form (Accounting Record for Change Of Licensee -- LIC 424 (1/84)) provided or approved by the Department.
 - (2) Provided the Department approves the application for the new licensee, the form specified in (1)(A) above shall be updated, signed by both the former and new licensee, and forwarded to the Department.

- (n) The licensee shall maintain a record of all monetary gifts and of any other gift exceeding an estimated value of \$100, provided by or on behalf of a resident to the licensee, administrator or staff.
 - (1) The record shall be attached to the account(s) specified in (h) above if the resident's cash resources, personal property or valuables have been entrusted to the licensee.
 - (2) Monetary gifts or valuables given by the friends or relatives of a deceased resident shall not be subject to the requirement specified in (n) and (n)(1) above.

- (o) The licensee shall not become joint tenant on any account specified in Section 87826(i) with a resident.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Section 1568.072, Health and Safety Code; and 20 CFR 416.601.

87827 INITIAL APPLICATION REVIEW**87827**

- (a) Within 90 days of receipt by the Department of the application specified in Section 87818, the Department shall give written notice to the applicant of one of the following:
- (1) The application is complete.
 - (2) The application is deficient, describing what documents are outstanding and/or inadequate, and informing the applicant that the information must be submitted within 30 days of the date of the notice.
- (b) If the applicant does not submit the requested information within the 30 days specified in (a)(2) above, the application shall be deemed withdrawn, provided that the Department has not denied or taken action to deny the application.
- (1) If the applicant plans to continue the application process, the applicant shall be required to submit a new application Form LIC 200 as specified in Section 87834(b).
 - (2) The above requirement shall not apply to applications for facilities under construction.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Section 1568.072, Health and Safety Code and Section 15376, Government Code.

87828 CAPACITY DETERMINATION**87828**

- (a) A license shall be issued for a specific capacity not to exceed 50 persons.
- (b) The number of persons for whom the facility is licensed to provide care and supervision shall be determined on the basis of the application review by the Department, which shall take into consideration the following:
- (1) Whether the appropriate fire clearance has been approved.
 - (2) The applicant/licensee's ability to comply with applicable laws and regulations.

87828	CAPACITY DETERMINATION (Continued)	87828
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(3) Any other household members who reside at the facility and their individual needs.

(A) The applicant's/licensee's responsibilities to other persons in the home may preclude his/her ability to care for residents.

(4) Physical features of the facility, including available living spaces, which are necessary in order to comply with regulations.

(5) Number of qualified staff available to meet the care and supervision needs of the residents.

(c) The Department shall have the authority to issue a license for fewer residents than is requested based upon determinations made pursuant to Section 87828(b) above.

(d) When the license is issued for fewer residents than requested, the licensee shall be notified in writing of the reasons for the limitation and of the licensee's rights to appeal the decision.

(e) The Department shall have the authority to decrease existing licensed capacity when there is a change in any of the factors specified in (b) above.

(1) If the licensee does not comply with the decrease in capacity, the Department shall have the authority to initiate revocation action.

(f) The Department shall have the authority to restrict care to specific individuals:

(1) If care and supervision is limited to specific individuals, the Department shall specify the names of the individuals in a letter to the licensee.

(2) Except where the limitation is requested by the licensee, the licensee shall be notified in writing of the reasons for such limitation and of the licensee's right to appeal the decision.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.02 and 1568.072, Health and Safety Code.

87829	WITHDRAWAL OF APPLICATION	87829
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- (a) An applicant shall have the right to withdraw an application for a license.
 - (1) Such withdrawal shall be in writing.
 - (2) The fee for processing the application shall be forfeited.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.05 and 1568.072, Health and Safety Code.

87830	PROVISIONAL LICENSE	87830
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- (a) The Department shall have the authority to issue a provisional license to an applicant, pending action on a completed application for an initial license, if it determines that all of the following circumstances exist:
 - (1) The facility is in substantial compliance with applicable law and regulation.
 - (2) An urgent need for licensure exists.
 - (3) A corporate applicant's board of directors, executive director and officer are eligible for licensure as specified in Health and Safety Code Section 1568.042(b).

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(A) Health and Safety Code Section 1568.042(b) reads:

"(b) The department shall not issue a provisional license or license to any corporate applicant that has a member of the board of directors, an executive director, or an officer who is not eligible for licensure pursuant to subdivision (f) of Section 1568.065 and Section 1568.093."

HANDBOOK ENDS HERE

- (b) The capacity of a provisional license shall be limited to the number of residents for whom urgent need has been established, or the capacity established for the specific facility, whichever is less.
- (c) The Department shall have the authority to issue a provisional license for a maximum of six months when it determines that full compliance with licensing regulations will be achieved within that time period.
- (d) The Department shall have the authority to issue a provisional license for a maximum of 12 months when it determines, at the time of application, that more than six months is required to achieve full compliance with licensing regulations due to circumstances beyond the control of the applicant.

87830 PROVISIONAL LICENSE (Continued) 87830

- (e) If, during the provisional license period, the Department discovers any serious deficiencies, the Department shall have the authority to institute administrative action or civil proceedings.
- (f) A provisional license shall not be renewable and shall terminate on the date specified on the license, or upon denial of the application, whichever is earlier.

| NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.042(b), 1568.062 and 1568.072, Health and Safety Code.

87831 ISSUANCE OF LICENSE 87831

- (a) Within 90 days of the date that a completed application, as defined in Section 87801(c)(6), has been received, the Department shall give written notice to the applicant of one of the following:
 - (1) The application has been approved.
 - (2) The application has been denied.
 - (A) The notice of denial shall include the information specified in Section 87840.
- (b) The Department shall notify the applicant in writing of the issuance of the license.
 - (1) Issuance of the license shall constitute written notification of license approval.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.062 and 1568.072, Health and Safety Code and Section 15376, Government Code.

87832	TERM OF AN INITIAL OR RENEWAL LICENSE	87832
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| Repealed by Manual Letter No. CCL-96-17, effective 12/4/96.

87833	APPLICATION FOR RENEWAL OF A LICENSE	87833
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| Repealed by Manual Letter No. CCL-96-17, effective 12/4/96.

87834 SUBMISSION OF NEW APPLICATION**87834**

- (a) A licensee shall file a new application as required by Section 87818 whenever there is a change in conditions or limitations described on the current license, including, but not limited to, the following:
- (1) Any change in the location of the facility.
 - (A) Under these circumstances, the licensee shall be required to pay the reduced fee as specified in Section 87836 (c).
 - (2) Any change of licensee, including, but not limited to, the following when the licensee is a corporation.
 - (A) Sale or transfer of the majority of stock.
 - (B) Separating from a parent company.
 - (C) Merger with another company.
 - (3) Any change in facility category.
 - (4) Any increase in capacity.
 - (A) The Department shall have the authority to grant capacity increases without resubmission of a total application package, following a Department review and the securing of an appropriate fire clearance.
 - (B) The applicant shall pay the fee as specified in Health and Safety Code Section 1568.05(b)(1)(c).

HANDBOOK BEGINS HERE

Health and Safety Code Section 1568.05(b)(1)(c) provides in pertinent part:

"(c) A fee of twenty-five dollars (\$25) when an existing licensee seeks to either increase or decrease the licensed capacity of the facility."

HANDBOOK ENDS HERE

- (5) A permanent change in the number of nonambulatory residents.
- (b) A new application Form LIC 200 as required by Section 87818 shall be filed whenever an applicant fails to submit the information necessary to complete the application within the time limit required by Section 87827 (a) if the applicant chooses to continue the application process.

87834	SUBMISSION OF NEW APPLICATION (Continued)	87834
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- (c) The Department shall not require the completion of the entire application process when a licensee applies for a new license due to a change in the facility location as specified in Section 87818(f).

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.061 and 1568.072, Health and Safety Code.

87835	CONDITIONS FOR FORFEITURE OF A RESIDENTIAL CARE FACILITY FOR THE CHRONICALLY ILL LICENSE	87835
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- (a) The facility license shall be forfeited when the licensee:
 - (1) Sells or otherwise transfers the facility or facility property, except when change of ownership applies to transferring of stock when the facility is owned by a corporation, and when such transfer of stock does not constitute a majority change of ownership.
 - (2) Surrenders the license to the department.
 - (3) Moves a facility from one location to another.
 - (4) Is convicted of any crime specified in Sections 220, 243.4 or 264.1, or paragraph (1) of Section 273a, Section 273d, 288, or 289 of the Penal Code, or is convicted of another crime specified in subdivision (c) of Section 667.5 of the Penal Code.
 - (5) Dies.
- (b) If the facility licensee dies, an adult relative who has control of the property shall be permitted to operate a previously licensed facility under an Emergency Approval to Operate (LIC 9117 4/93) (EAO) providing the following conditions are met:
 - (1) The relative or an adult acting on the relative's behalf notifies the Department by telephone during the first working day after the licensee's death that the relative intends to operate the community care facility.

87835	CONDITIONS FOR FORFEITURE OF A RESIDENTIAL CARE FACILITY FOR THE CHRONICALLY ILL LICENSE (Continued)	87835
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- (2) The relative files with the Department within five calendar days of the licensee's death an Application for License (LIC 200 7/91) and evidence of the licensee's death as defined in Section 87801(e)(3).
 - (A) Notwithstanding the instructions on the Application for License (LIC 200 7/91), the Department shall permit the relative to submit only the information on the front side of that form.
- (3) The relative files with the California Department of Justice within five calendar days of the licensee's death his/her fingerprint cards.
- (c) If the adult relative complies with (b)(1) and (2) above, he/she shall not be considered to be operating an unlicensed facility pending the Department decision on whether to approve a provisional license.
- (d) The Department shall make a decision within 60 days after the application is submitted on whether to issue a provisional license pursuant to Section 87830.
 - (1) A provisional license shall be granted only if the Department is satisfied that the conditions specified in (b) above and Section 87830 have been met and that the health and safety of the residents of the facility will not be jeopardized.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.061, 1568.061(e), 1568.064, and 1568.072, Health and Safety Code.

87836	LICENSING FEES	87836
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- (a) The applicant or licensee shall pay fees charged by the Department as specified in Health and Safety code Section 1568.05.

HANDBOOK BEGINS HERE

Health and Safety Code Section 1568.05 provides:

- (a) An application fee adjusted by facility and capacity, shall be charged by the department for a license to operate a residential care facility for persons with chronic life-threatening illness. After initial licensure, a fee shall be charged by the department annually, on each anniversary of the effective date of the license. The fees are for the purpose of financing the activities specified in this chapter. Fees shall be assessed as follows:

HANDBOOK CONTINUES

HANDBOOK CONTINUES

Fee Schedule

Capacity	Initial Application	Annual
1-6	\$500	\$275 plus \$10 per bed
7-15	\$689	\$344 plus \$10 per bed
16-25	\$825	\$413 plus \$10 per bed
26+	\$964	\$482 plus \$10 per bed

(b) (1) In addition to fees set forth in subdivision (a), the department shall charge the following fees:

(A) A fee that represents 50 percent of an established application fee when an existing licensee moves the facility to a new physical address.

(B) A fee that represents 50 percent of the established application fee when a corporate licensee changes who has the authority to select a majority of the board of directors.

(C) A fee of twenty-five dollars (\$25) when an existing licensee seeks to either increase or decrease the licensed capacity of the facility.

(D) An orientation fee of fifty dollars (\$50) for attendance by any individual at a department-sponsored orientation session.

(E) A probation monitoring fee equal to the annual fee, in addition to the annual fee for that category and capacity for each year a license has been placed on probation as a result of a stipulation or decision and order pursuant to the administrative adjudication procedures of the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

(F) A late fee that represents an additional 50 percent of the established annual fee when any licensee fails to pay the annual licensing fee on or before the due date as indicated by postmark on the payment.

(G) A fee to cover any costs incurred by the department for processing payments including, but not limited to, bounced check charges, charges for credit and debit transactions, and postage due charges.

(H) A plan of correction fee of two hundred dollars (\$200) when any licensee does not implement a plan of correction on or prior to the date specified in the plan.

HANDBOOK CONTINUES

HANDBOOK CONTINUES

(2) No local governmental entity shall impose any business license, fee, or tax for the privilege of operating a facility licensed under this chapter which serves six or fewer persons.

(c) All fees collected pursuant to subdivisions (a) and (b) shall be deposited in the Technical Assistance Fund.

(d) The revenues collected from licensing fees pursuant to this section shall be utilized by the department for the purpose of ensuring the health and safety of all individuals provided care and supervision by licensees and to support activities of the licensing program, including, but not limited to, monitoring facilities for compliance with licensing laws and regulations pursuant to this chapter, and other administrative activities in support of the licensing program, when appropriated for these purposes. The revenues collected shall be used in addition to any other funds appropriated in the Budget Act in support of the licensing program.

(e) The department shall not utilize any portion of the revenues collected pursuant to this section sooner than 30 days after notification in writing of the purpose and use of this revenue, as approved by the Director of Finance, to the Chairperson of the Joint Legislative Budget Committee, and the chairpersons of the committee in each house that considers appropriations for each fiscal year. The department shall submit a budget change proposal to justify any positions or any other related support costs on an ongoing basis.

(f) Fees established pursuant to this section shall not be effective unless licensing fees are established for all adult residential facilities licensed by the department.

(g) A residential care facility may use a bona fide business check to pay the license fee required under this section.

(h) The failure of an applicant for licensure or a licensee to pay all applicable and accrued fees and civil penalties shall constitute grounds for denial or forfeiture of a license.”

HANDBOOK ENDS HERE

87836 LICENSING FEES (Continued)**87836**

- (b) A fee shall be charged at the time of application and annually thereafter according to capacity.
- (c) When a licensee moves a facility from one location to another, the relocation fee shall be as specified in Health and Safety Code Section 1568.05(b)(1)(A).
- (1) The relocation fee shall be charged under either of the following conditions:
- (A) The facility moves from one location to another and notifies the Department at least 30 calendar days before actual relocation.
- OR
- (B) The facility relocates due to an emergency.
- (2) The fee shall be based on requested capacity at the new location.
- (d) The fees shall be nonrefundable.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.05, 1568.061, and 1568.072, Health and Safety Code.