

TITLE 22, DIVISION 6**CHAPTER 8.5 RESIDENTIAL CARE FACILITIES FOR THE CHRONICALLY ILL****Article 4. ADMINISTRATIVE ACTIONS****87840 DENIAL OF INITIAL LICENSE**

- (a) Except as specified in Section 87830, the Department shall deny an application for an initial license if the applicant is not in compliance with applicable laws and regulations.
- (1) The Department shall have the authority to deny an application for an initial license if the applicant has failed to pay any penalty assessments pursuant to Section 87854 and Section 87858 in accordance with a final judgment issued by a court of competent jurisdiction, unless payment arrangements acceptable to the Department have been made.
- (2) An application for licensure shall be denied as specified in Health and Safety Code Section 1568.042(b).

HANDBOOK BEGINS HERE

- (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) If the application for an initial licensee is denied, the Department shall mail the applicant a written Notification of Initial Application Denial --LIC 192 (10/89).
- (1) The notification shall inform the applicant of and set forth the reasons for the denial, and shall advise the applicant of the right to appeal.
- (c) An applicant shall have the right to appeal the denial of the application.
- (1) The applicant must make any request for a hearing by mailing or delivering a written request to the Department within 15 days after the Department mails the notice of denial.
- (2) The appeal hearing shall be conducted in accordance with Chapter 5 commencing with Section 11500 of Part 1 of Division 3 of Title 2 of the Government Code.
- (d) Notwithstanding any appeal action, the facility is unlicensed and shall not operate pending adoption by the director of a decision on the denial action.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.042(b), 1568.062, 1568.063, and 1568.072, Health and Safety Code.

87841 DENIAL OF A RENEWAL LICENSE

Repealed by Manual Letter No. CCL-96-17, effective 12/4/96.

87842 REVOCATION OR SUSPENSION OF LICENSE

- (a) The Department shall have the authority to suspend or revoke any license under any of the following conditions:
- (1) Violation by the licensee of any of the provisions of Health and Safety Code, Division 2, Chapter 3.01 (commencing with Section 1568.01) or applicable regulations.
 - (2) Aiding, abetting, or permitting the violation by the licensee of any provision of Health and Safety Code, Division 2, Chapter 3.01 (commencing with Section 1568.01) and applicable regulations promulgated under this chapter.
 - (3) Conduct which is inimical to the health, welfare, or safety of either an individual in or receiving services from the facility or the people of the State of California.
 - (4) The provision of services beyond the level the facility is authorized to provide, or accepting or retaining residents who require services of a higher level than the facility is authorized to provide.
 - (5) Engaging in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services.
 - (6) A corporate licensee having a member of the board of directors, an executive director, or an officer who is not eligible for licensure as specified in Health and Safety Code Section 1568.042(c).

HANDBOOK BEGINS HERE

- (A) Health and Safety Code Section 1568.042(c) reads:

“(c) The department may revoke the license of any corporate licensee 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

87842 REVOCATION OR SUSPENSION OF LICENSE (Continued)

- (b) The Department may temporarily suspend any license prior to any hearing, if the action is necessary to protect residents of the facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety.
- (1) The Department shall notify the licensee of the temporary suspension and the effective date of the temporary suspension and at the same time shall serve such licensee with an accusation.
 - (2) Upon receipt of a notice of defense to the accusation from the licensee, the Department shall, within 15 days, set the matter for hearing.
 - (3) The hearing shall be held as soon as possible but not later than 30 days after receipt of such notice.
 - (4) The temporary suspension shall remain in effect until the hearing is completed and the Department has made a final determination on the merits.

87842 REVOCATION OR SUSPENSION OF LICENSE (Continued)

- (A) The temporary suspension shall be deemed vacated if the Department fails to make a final determination on the merits within 30 days after the original hearing has been completed.
- (c) Proceedings to hear a revocation action or a revocation and temporary suspension action shall be conducted pursuant to the provisions of Government Code Section 11500 et seq.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.042(c), 1568.072, and 1568.082, Health and Safety Code.

87843 LICENSEE/APPLICANT COMPLAINTS

- (a) Each licensee/applicant shall have a right, without prejudice, to notify the Department of any alleged misapplication or capricious enforcement of regulations by any licensing representative, or of any differences in opinion between the licensee and any licensing representative concerning the proper application of these regulations.

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

87844 INSPECTION AUTHORITY OF THE DEPARTMENT

- (a) The Department shall have the authority to conduct an inspection of any licensed residential care facility or residential care facility which has applied to be licensed at any time.
- (1) The Department shall conduct an inspection of the licensed facility within 90 days after the date of issuance of a license.
- (2) Any duly authorized officer, employee, or agent of the Department may, upon presentation of proper identification, enter and inspect any place providing personal care, supervision and services at any time, with or without advance notice, to secure compliance with, or to prevent a violation of, any provision of this chapter.

87844 INSPECTION AUTHORITY OF THE DEPARTMENT (Continued)

- (b) An inspection of a Residential Care Facility for the Chronically Ill as a result of a request for inspection shall be governed by the following provisions:
- (1) Any person may request an inspection of the facility. The request may be made anonymously.
 - (2) The request for an inspection may be made to the Department either orally or in writing.
 - (3) The Department shall act upon a request for inspection as specified below if the request alleges a violation of applicable statute or regulation by the facility:
 - (A) If the complaint does not allege a denial of a statutory right of access to the facility the Department shall do the following:
 1. Make a preliminary review of the complaint to determine if it is willfully intended to harass the licensee or is without any reasonable basis.
 2. If the complaint is neither willfully intended to harass the licensee nor is without any reasonable basis, inspect the facility and investigate the complaint within 10 days after receiving the complaint. Notwithstanding the preceding sentence, the Department shall not be required to inspect the facility within 10 days after receiving the complaint if doing so would adversely affect the Department's investigation or the investigation of another agency.
 3. Promptly inform the complainant, if not anonymous, of the Department's proposed course of action in response to the complaint.
 - (B) If the complaint alleges denial of a statutory right of access to the facility the Department shall do the following:
 1. Review the complaint.
 2. Promptly inform the complainant, if not anonymous, of the Department's proposed course of action in response to the complaint.

87844 INSPECTION AUTHORITY OF THE DEPARTMENT (Continued)

- (4) The Department shall not be required to act upon a request for inspection if the request does not allege a violation of an applicable statute or regulation by the facility.
- (5) The Department shall not disclose the identity of the complainant or of any other person named in the complaint unless the complainant authorizes disclosure of those identities.
- (6) The Department shall provide the substance of the complaint to the licensee of the facility at a time no sooner than at the time of the inspection made in response to the complaint.
- (c) The Department shall have the authority to interview residents or staff members without prior consent.
 - (1) The licensee shall ensure that provisions are made for private interviews with any residents or staff members.
- (d) The Department shall have the authority to inspect, audit, and copy resident or facility records upon demand during normal business hours. Records may be removed if necessary for copying. Removal of records shall be subject to the requirements in Sections 87866(c) and 87870(d).
 - (1) The licensee shall make provisions for the examination of all records relating to the operation of the facility.
- (e) The Department shall have the authority to observe the physical condition of the resident, including conditions which could indicate abuse, neglect, or inappropriate placement, and to have a licensed medical professional physically examine the resident.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.07, 1568.071 and 1568.072, Health and Safety Code.

87845 EVALUATION VISITS

- (a) All facilities shall be evaluated periodically and inspected by the Department to determine compliance with applicable laws and regulations.
- (b) The Department shall have the authority to conduct evaluations and inspections at least once per year or more often if deemed necessary by the Director.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.07 and 1568.072, Health and Safety Code.

87846 EXCLUSIONS

- (a) The Department may prohibit an individual from serving as a member of the board of directors, executive director, or officer; being employed or allowing in a licensed facility as specified in Health and Safety Code Section 1568.092 and 1568.093.

HANDBOOK BEGINS HERE

- (1) Health and Safety Code Section 1568.092 reads:

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

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

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

"(3) Been denied an exemption to work or to be present in a facility, when that person has been convicted of a crime as defined in Section 1568.09.

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

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

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

HANDBOOK CONTINUES

87846 EXCLUSIONS (Continued)

HANDBOOK CONTINUES

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

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

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

"(A) Within 30 days of receipt of the appeal, serve an accusation upon the excluded person.

"(B) Within 60 days of receipt of a notice of defense by the excluded person pursuant to Section 11506 of the Government Code, conduct a hearing on the accusation.

"(4) An order of immediate exclusion of the excluded person from the facility shall remain in effect until the hearing is completed and the director has made a final determination on the merits. However, the order of immediate exclusion shall be deemed vacated if the director fails to make a final determination on the merits within 60 days after the original hearing has been completed.

"(d) An excluded person who files a written appeal of the exclusion order with the department pursuant to this section shall, as part of the written request, provide his or her current mailing address. The excluded person shall subsequently notify the department in writing of any change in mailing address, until the hearing process has been completed or terminated.

HANDBOOK CONTINUES

87846 EXCLUSIONS (Continued)

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"(e) Hearings held pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code. The standard of proof shall be the preponderance of the evidence and the burden of proof shall be on the department.

"(f) The department may institute or continue a disciplinary proceeding against a member of the board of directors, an executive director, or an officer of a licensee or an employee, prospective employee, or person who is not a client upon any ground provided by this section, or enter an order prohibiting any person from being a member of the board of directors, an executive director, or an officer of a licensee or the excluded person's employment or presence in the facility or otherwise take disciplinary action against the excluded person, notwithstanding any resignation, withdrawal of employment application or change of duties by the excluded person, or any discharge, failure to hire or reassignment of the excluded person by the licensee or that the excluded person no longer has contact with clients at the facility.

"(g) A licensee's failure to comply with the department's exclusion order after being notified of the order shall be grounds for disciplining the licensee pursuant to Section 1568.082.

"(h)(1)(A) In cases where the excluded person appealed the exclusion order and there is a decision and order of the department upholding the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or from being a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

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

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

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

HANDBOOK CONTINUES

87846 EXCLUSIONS (Continued)

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(2) Health and Safety Code Section 1568.093 reads:

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

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

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

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

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

HANDBOOK CONTINUES

87846**EXCLUSIONS (Continued)**

HANDBOOK CONTINUES

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

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

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

"(d) Exclusion or removal of an individual pursuant to this section shall not be considered an order of exclusion for purposes of Section 1568.092 or any other law.

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

HANDBOOK ENDS HERE

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.092 and 1568.093, Health and Safety Code.

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Article 5. ENFORCEMENT PROVISIONS**87852 DEFICIENCIES IN COMPLIANCE**

- (a) When a licensing evaluation is conducted and the evaluator determines that a deficiency exists, the evaluator shall issue a notice of deficiency, unless the deficiency is not serious and is corrected during the visit.
- (b) Prior to completion of an evaluation or other licensing visit, the licensee, administrator, or other person in charge of the facility shall meet with the evaluator to discuss any deficiencies noted, to jointly develop a plan for correcting each deficiency, and to acknowledge receipt of the notice of deficiency.
- (c) The notice of deficiency shall be in writing and shall include the following:
 - (1) Citation of the law or regulation which has been violated.
 - (2) A description of the nature of the deficiency stating the manner in which the licensee failed to comply with a specified law or regulation, and the particular place or area of the facility in which it occurred.
 - (3) The plan developed, as specified in (b) above, for correcting each deficiency.
 - (4) A date by which each deficiency shall be corrected.
 - (A) In determining the date for correcting a deficiency, the evaluator shall consider the following factors:
 - 1. The potential hazard presented by the deficiency.
 - 2. The number of residents affected.
 - 3. The availability of equipment or personnel necessary to correct the deficiency.
 - 4. The estimated time necessary for delivery and for any installation of necessary equipment.

87852 DEFICIENCIES IN COMPLIANCE (Continued)

- (B) The time limit for correcting a deficiency shall not be more than 30 calendar days following the date the notice of deficiency was served.
 - (C) The Department shall have the authority to require the deficiency to be corrected before the 30 calendar day time limit for serious deficiencies.
 - (D) The Department shall have the authority to require the correction of serious deficiencies within 24 hours or less if they present an immediate threat to the health and safety of the residents.
- (5) The amount of the penalty being assessed and the date the penalty begins.
 - (6) The address and telephone number of the Department office responsible for reviewing notices of deficiencies for the area in which the facility is located.
- (d) The evaluator shall notify the licensee in writing of all deficiencies identified by one of the following means:
 - (1) Personal delivery to the licensee at the completion of the visit.
 - (2) If the licensee is not at the facility site, by leaving the notice with the person in charge of the facility at the completion of the visit.
 - (A) Under such circumstances, a copy of the notice shall also be mailed to the licensee.
 - (3) If the licensee or the person in charge of the facility refuses to accept the notice or the notice cannot be completed during the visit, mailing the notice to the licensee.
 - (e) Reports on the results of each inspection and evaluation or consultation shall be maintained by the Department and made available for public review.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.07 and .072, Health and Safety Code.

87853 FOLLOW-UP VISITS TO DETERMINE COMPLIANCE

- (a) A follow-up visit shall be conducted to determine compliance with the plan of correction specified in the notice of deficiency.
 - (1) The follow-up visit shall be conducted within ten working days following the dates of corrections specified in the notice of deficiency, unless the licensee has demonstrated that the deficiency was corrected as required.
 - (2) Except as specified in Section 87854, no penalty shall be assessed unless a follow-up visit is conducted.
- (b) If a follow-up visit indicates that a deficiency was not corrected on or before the date specified in the notice of deficiency, the evaluator shall issue a notice of penalty (Facility Civil Penalty Assessment - LIC 421 (10/89)).
- (c) A notice of penalty shall be in writing and shall include:
 - (1) The amount of penalty assessed, and the date the payment is due.
 - (2) The name and address of the agency responsible for collection of the penalty.
- (d) When an immediate penalty has been assessed and the correction is made while the evaluator is present, a follow-up visit is not required.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Section 1568.07 and .072, Health and Safety Code.

87854 PENALTIES

- (a) A penalty of \$50 per day, per cited violation, shall be assessed for serious deficiencies that are not corrected by the date specified in the notice of deficiency, up to a maximum of \$150 per day.
- (b) An immediate penalty of \$100 per cited violation per day for a maximum of five (5) days shall be assessed if any individual required to be fingerprinted under Health and Safety Code Section 1568.09(b) has not obtained a California clearance or a criminal record exemption, requested a transfer of a criminal record clearance or requested and be approved for a transfer of an exemption as specified in Section 87819(d) prior to working, residing or volunteering in the facility.
- (1) Subsequent violations within a twelve (12) month period will result in a civil penalty of one hundred dollars (\$100) per violation per day for a maximum of thirty (30) days.
- (2) The Department may assess civil penalties for continued violations as permitted by Health and Safety Code Section 1568.0822.
- (3) Progressive civil penalties specified in Sections 87854(c) and (d) below shall not apply.
- (c) When a facility is cited for a deficiency and violates the same regulation subsection within a 12-month period, the facility shall be cited and an immediate penalty of \$150 per cited violation shall be assessed for one day only. Thereafter a penalty of \$50 per day, per cited violation, shall be assessed until the deficiency is corrected.
- (d) When a facility, that was cited for a deficiency subject to the immediate penalty assessment specified in Section 87854(c) above, violates the same regulation subsection within a 12-month period of the last violation, the facility shall be cited and an immediate penalty of \$1,000 per cited violation shall be assessed for one day only. Thereafter a penalty of \$100 per day, per cited violation, shall be assessed until the deficiency is corrected.
- (1) For purposes of Sections 87854(c) and (d) above, a regulation subsection is the regulation denoted by a lower-case letter after the main regulation number.

HANDBOOK BEGINS HERE

An example of the same regulation subsection are Sections 87218(a)(2) and 87218(a)(5).
Sections 87218(a) and 87218(b) are not the same regulation subsection.

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87854 PENALTIES (Continued)

- (e) If any deficiency is not corrected by the date specified in the notice of deficiency, a penalty shall be assessed for each day following that date until compliance has been demonstrated.
 - (1) Immediate penalty assessments specified in Sections 87854(b), (c) and (d) above shall begin on the day the deficiency is cited.
 - (2) If an immediate penalty is assessed and the deficiency is corrected on the same day, the penalty shall still be assessed for that day.
- (f) If a licensee or his/her representative reports to the Department that a deficiency has been corrected, the penalty shall cease as of the day the Department receives notification that the correction was made.
 - (1) If necessary, a site visit shall be made immediately or within five working days to confirm that the deficiency has been corrected.
 - (2) If it is verified that the deficiency has not been corrected, penalties shall continue to accrue.
 - (3) If it is verified that the correction was made prior to the date of notification, the penalty shall cease as of that earlier date.
- (g) Unless otherwise ordered by the Department all penalties are due and payable upon receipt of notice for payment, and shall be paid only by check or money order made payable to the agency indicated in the notice.
- (h) The Department shall have the authority to file a claim in a court of competent jurisdiction or to take other appropriate action for failure to pay penalties as specified in (g) above.

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

87855 ADMINISTRATIVE REVIEW

- (a) A licensee or his/her representative shall have the right to request a review of a notice of deficiency and/or notice of penalty, within 10 working days of receipt of such notice(s).
 - (1) If the deficiency has not been corrected, penalties shall continue to accrue during the review process.
- (b) The review shall be conducted by a higher level staff person than the evaluator who issued the notice(s).

87855 ADMINISTRATIVE REVIEW (Continued)

- (c) If the reviewer determines that a notice of deficiency or notice of penalty was not issued or assessed in accordance with applicable statutes and regulations of the Department, or that other circumstances existed, he/she shall have the authority to amend or dismiss the notice.
- (d) The reviewer shall have the authority to extend the date specified for correction of a deficiency, if warranted by the facts or circumstances presented to support a request for extension.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.07 and .072, Health and Safety Code.

87855.1 DENIAL OR REVOCATION OF LICENSE FOR FAILURE TO PAY CIVIL PENALTIES

- (a) The licensee shall be responsible for paying civil penalties.
 - (1) Unless otherwise provided, the transfer, surrender, forfeiture or revocation of a license shall not affect the licensee's responsibility for paying any civil penalties accrued while the license was in effect.
- (b) The Department shall have the authority to deny or revoke any license for failure to pay civil penalty assessments.
 - (1) The Department shall have the authority to approve payment arrangements acceptable to the Department.
 - (2) The Department shall have the authority to approve the form of payment.
 - (3) The licensee's failure to pay civil penalty assessments pursuant to a payment plan approved by the Department may result in the denial or revocation of any license, and/or any other appropriate action.
- (c) Any denial or revocation of the license for failure to pay civil penalties may be appealed as provided by Health and Safety Code Section 1568.065.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.065, 1568.072, 1568.0822, and 1568.09, Health and Safety Code.

87858 UNLICENSED FACILITY PENALTIES

- (a) An immediate penalty of \$100 per resident per day shall be assessed for the operation of an unlicensed facility under the following condition:
 - (1) The operator has not submitted a completed application for licensure within 15 calendar days of issuance of the Notice of Operation in Violation of Law, (LIC 195 (9/87)) pursuant to Section 87806, and continues to operate.
 - (A) For purposes of this section, an application shall be deemed complete if it includes the information required in Section 87818.
 - (B) The completed application shall be deemed to be submitted when received by the Department.

- (b) A penalty of \$200 per resident per day shall be assessed for the continued operation of an unlicensed facility as follows:
 - (1) On the 16th calendar day after the operator has been issued the Notice of Operation in Violation of Law, and has not submitted a completed application as required.
 - (A) The penalty of \$200 per resident per day shall continue until the operator ceases operation, or submits a completed application pursuant to Section 87818.
 - (2) Unlicensed operation continues after denial of the initial application.
 - (A) Notwithstanding any appeal action, facility operation must cease within 10 calendar days of the mailing of the notice of denial or upon receipt of the denial notice by the operator, whichever occurs first.
 - (B) The penalty of \$200 per resident per day shall continue until the operator ceases operation.

- (c) If the operator of the unlicensed facility or his/her representative reports to the Department that unlicensed operation, as defined in Sections 87801 (u)(1) and 87806, has ceased, the penalty shall cease as of the day the Department receives the notification.
 - (1) A site visit shall be made immediately or within five working days to verify that the unlicensed facility operation has ceased.
 - (2) Notwithstanding (c) above, if the unlicensed facility operation has not ceased, penalties shall continue to accrue without interruption from the date of initial penalty assessment.

87858 UNLICENSED FACILITY PENALTIES (Continued)

- (d) All penalties shall be due and payable upon receipt of the Notice for Payment from the Department, and shall be paid by check or money order made payable to the agency indicated in the notice.
- (e) The Department shall have the authority to file a claim in a court of competent jurisdiction or to take other appropriate action for failure to pay penalties as specified in (d) above.
- (f) Payment of penalties or application for a license in response to a citation under this section does not permit the operation without a license of a Residential Care Facility for the Chronically Ill.

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

87859 UNLICENSED FACILITY ADMINISTRATIVE APPEAL

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

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

Article 6. CONTINUING REQUIREMENTS**87860 BASIC SERVICES TO BE PROVIDED BY THE FACILITY**

- (a) All licensees of Residential Care Facilities for the Chronically Ill shall ensure the provision of the basic services specified below:
- (1) Safe and healthful living accommodations and services.
 - (A) The resident shall have securable storage space for personal items.
 - (2) Three nutritious, well-balanced meals and snacks, made available daily, including modified diets prescribed by the physician.
 - (A) Kitchen space with adequate refrigerator space in the facility for residents who desire and are capable of preparing their own meals.
 - (B) The licensee shall ensure that nutrition consultation is made available to the resident for dietary needs.
 - (3) Registered nurse case management for health and social services.
 - (A) The registered nurse case manager may be an employee of the home health agency, the facility, or another organization with a contract with the facility.
 - (4) The development, implementation, monitoring and modification of the Individual Services Plan, as specified in Section 87896, which outlines the resident's needs.
 - (5) Personal assistance and care as needed by the resident and as indicated in Section 87895.
 - (6) Regular observation of the resident's physical and mental condition.
 - (7) Discharge assistance including, but not limited to, referral of residents to other available placements, if needed.
 - (8) Intermittent home health care services.
 - (9) Common areas including recreation areas.
 - (10) Arrangement to meet health needs as identified in the resident's Individual Services Plan as specified in Section 87896.
 - (A) Arrangements to meet the residents' health needs shall comply with the requirements specified in Sections 87890 and 87891.
 - (11) The arranging of transportation for medical, dental, therapeutic and counseling services.

87860 BASIC SERVICES TO BE PROVIDED BY THE FACILITY (Continued)

- (12) Social and emotional support services of the resident's own choice.
- (b) For SSI/SSP recipients who are residents, the basic services shall be provided and/or made available at the basic rate with no additional charge to the resident.
- (1) This shall not preclude the acceptance by the facility of voluntary contributions from relatives or others on behalf of an SSI/SSP recipient.

HANDBOOK BEGINS HERE

- (A) The Social Security Administration has interpreted Federal Regulations (20 CFR 416.1102, 416.1103, and 416.1145) to mean that any contribution given directly to the facility on behalf of an SSI/SSP recipient will not count as income (i.e., will not reduce the recipient's SSI/SSP check) if the payment is used for items other than food, clothing or shelter (e.g., care and supervision).

HANDBOOK ENDS HERE

- (2) An extra charge to the resident shall be allowed for a private room if a double room is made available but the resident prefers a private room, provided the arrangement is documented in the admission agreement and the charge is limited to 10% of the board and room portion of the SSI/SSP grant.
- (3) An extra charge to the resident shall be allowed for special food services or products beyond that specified in Subsection (a)(2) above when the resident wishes to purchase the services and agrees to the extra charge in the admissions agreement.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.02 and 1568.072, Health and Safety Code and Section 12350, Welfare and Institutions Code.

87861 REPORTING REQUIREMENTS

- (a) Each licensee or applicant shall furnish information to the Department as required by the Department in order to carry out its statutory and regulatory responsibilities, including, the information specified in this section.
- (b) Upon the occurrence, during the operation of the facility, of any of the events specified in (1) below, a report shall be made to the Department on the same day or within the Department's next working day during its normal business hours. In addition, a written report containing the information specified in (2) below shall be submitted to the Department within seven days following the occurrence of such event.

87861 REPORTING REQUIREMENTS (Continued)

- (1) Events reported shall include the following:
 - (A) Death of any resident from any cause.
 - (B) Any injury to any resident which requires medical treatment.
 - (C) The use of an Automated External Defibrillator.
 - (D) Any unusual incident or resident abuse which threatens the physical or emotional health or safety of any resident.
 - (E) Any suspected physical or psychological abuse of any resident.
 - (F) Poisonings.
 - (G) Catastrophes.
 - (H) Communicable diseases, as specified in California Code of Regulations, Title 17, Section 2502.
 - (I) Fires or explosions which occur in or on the premises.
- (2) Information provided shall include the following:
 - (A) Resident's name, age, sex, and date of admission.
 - (B) Date and nature of event.
 - (C) Attending physician's name, findings, and treatment, if any.
 - (D) Disposition of the case.
- (c) The items below shall be reported to the Department within 10 working days following the occurrence.
 - (1) Organizational changes.
 - (2) Any change in the licensee's or applicant's mailing address.
 - (3) Any change of the chief executive officer of a corporation or association.
 - (A) Such notification shall include the new chief executive officer's name and address.

87861 REPORTING REQUIREMENTS (Continued)

- (B) Fingerprints shall be submitted as specified in Section 87819.
- (4) Any changes in the plan of operation which affect the services to residents.
- (d) The items specified in (b)(1)(A) through (I) above shall also be reported to the resident's authorized representative, if any.
- (e) The items specified in (b)(1)(E) through (G) above shall also be reported to the local health officer, when appropriate, pursuant to Title 17, California Code of Regulations, Sections 2500, 2502 and 2503, including:
 - (1) Report to the local health department any resident, licensee, administrator, employee or volunteer whose tuberculin skin test converts from negative to positive.
 - (2) Report to the local health department any current resident who is currently taking medications for tuberculosis.
 - (3) Report to the local health department any resident who is currently taking medication for tuberculosis and plans to relocate or has relocated.
- (f) Fires or explosions which occur in or on the premises shall be reported immediately to the local fire authority; in areas not having organized fire services, to the State Fire Marshal within 24 hours; and to the Department no later than the next working day.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.072 and 1797.196, Health and Safety Code.

87862 FINANCES

- (a) The licensee shall meet the following financial requirements:
- (1) Development and maintenance of a financial plan which ensures resources necessary to meet operating costs for care and supervision of residents.
 - (2) Maintenance of financial records.
 - (3) Submission of financial reports as required, upon the written request of the Department.
 - (A) Such request shall explain the necessity for disclosure.
 - (B) The Department shall have the authority to reject any financial report, and to request and examine additional information including interim financial statements. The reason(s) for rejection of the report shall be in writing.

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

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87863 ACCOUNTABILITY

- (a) The licensee, whether an individual or other entity, shall be accountable for the general supervision of the licensed facility, and for the establishment of policies concerning its operation.
- (1) If the licensee is a corporation or an association, the governing body shall be active and functioning in order to ensure such accountability.

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

87864 ADMINISTRATOR-QUALIFICATIONS AND DUTIES

- (a) All Residential Care Facilities for the Chronically Ill shall have an administrator who has the following educational background and work experience specified in either Subsection (1), (2), or (3) below:
- (1) A baccalaureate degree in psychology, social work or a related human services field, or be a registered nurse or medical doctor.
- (2) A baccalaureate degree in any field with a minimum of one year of experience in a supervisory or management position in human services.
- (3) A minimum of four years of experience in a supervisory or management position in human services.
- (b) The licensee, if an individual, may be the administrator if he/she has the qualifications specified in this section.
- (c) The administrator shall have the following qualifications:
- (1) The ability to read, write, speak and understand English.
- (2) Attainment of at least 18 years of age.
- (3) Knowledge of the requirements for providing the type of care and supervision needed by residents, including the ability to communicate with such residents.

87864 ADMINISTRATOR-QUALIFICATIONS AND DUTIES (Continued)

- (4) Knowledge of and ability to comply with applicable law and regulation.
 - (5) Ability to maintain or supervise the maintenance of financial and other records.
 - (6) Ability to direct the work of others, when applicable.
 - (7) Ability to establish the facility's policy, program and budget.
 - (8) Ability to recruit, employ, train, and evaluate qualified staff, and to terminate employment of staff, if applicable to the facility.
 - (9) Knowledge of basic food nutrition.
- (d) The administrator shall have a combination of 40 hours of documented training. The training shall be in areas selected from the following: resident-related health conditions, signs and symptoms of substance abuse, business administration, death and dying, self-help and coping when caring for the terminally ill, community resources, food purchasing, personnel supervision and relations, personality conflict and facility management.
- (1) The training must be given by a person who possesses the necessary credentials to substantiate that he/she is qualified to provide the training.
 - (2) The administrator shall have the documentation which outlines the date and the type of training completed.
 - (3) The licensee shall maintain a copy of the training documentation in the facility personnel file.
 - (4) A minimum of 20 hours of the training required by (d) above shall focus on HIV Disease/AIDS and early recognition and the prevention of tuberculosis.
- (e) The administrator shall:
- (1) Provide for supervision of all residents, as needed to meet the needs of individual residents.
 - (2) Administer the applicable policies of the facility.
 - (3) Comply with applicable laws and regulations.

87864 ADMINISTRATOR-QUALIFICATIONS AND DUTIES (Continued)

- (4) Communicate with the Department as required by applicable laws and regulations.
 - (5) Acknowledge the receipt of the Department's correspondence, notices, or field reports when the Department has requested a response.
 - (6) Assure the timely correction of all cited deficiencies.
 - (7) Adjust the program to accommodate the needs of all residents.
 - (8) Coordinate all activities and services.
 - (9) Recruit, hire, and supervise all staff.
 - (10) Provide initial orientation for all staff and ongoing educational and training programs for the direct care staff.
- (f) The licensee, if an individual, or any member of the governing board of the licensed corporation or association, shall be permitted to be the administrator provided that he/she meets the qualifications specified in this section.
- (g) Each licensee shall make provision for continuing operation and carrying out of the administrator's responsibilities during any absence of the administrator.
- (1) When the administrator is absent from the facility, there shall be coverage by a substitute designated by the licensee who meets the qualifications specified in Section 87864.1, who is on site, and who shall be capable of, and responsible and accountable for the management and administration of the facility in compliance with applicable laws and regulations.
 - (A) When the administrator is absent from the facility for more than 30 consecutive days, the licensee shall designate a substitute who meets the qualifications of an administrator as specified in Section 87864(c).

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

87864.1 FACILITY MANAGER

- (a) Each Residential Care Facility for the Chronically Ill shall have a Facility Manager.
 - (1) If the administrator is responsible for more than two facilities, the facility manager shall meet the requirements of this section and also of Sections 87864(c) and (d).
 - (2) An assistant Facility Manager shall be designated to act in the capacity of the facility manager during the hours when he/she is absent from the facility, including the evening and night hours.
- (b) Each Facility Manager shall be able to read, write, speak and understand English.
- (c) The Facility Manager shall have the following qualifications:
 - (1) One year of work experience in a residential care facility that served persons with chronic, life-threatening illnesses or equivalent experience as determined by the Director.
 - (2) A combination of 40 hours of documented training. The training shall be in areas selected from the following: resident-related health conditions, signs and symptoms of substance abuse, death and dying, coping when caring for the terminally ill, community resources, food purchasing, personnel supervision and relations, personality conflict and facility management courses.
 - (A) The training must be given by a person who possesses the necessary credentials to substantiate that he/she is qualified to provide the training.
 - (B) The facility manager shall have the documentation which outlines the date and type of training completed.
 - (C) The licensee shall maintain a copy of the training documentation in the facility personnel file.

87864.1 FACILITY MANAGER (Continued)

- (D) A minimum of 20 hours of the training required by (c)(2) above shall focus on HIV Disease/AIDS and early recognition and the prevention of tuberculosis.
- (3) Written documentation that he/she has completed either of the California Nursing Assistant or the Home Health Aides' program.
- (d) The facility manager shall be responsible for the following:
 - (1) Communication with the administrator concerning the operation of the facility.
 - (2) Assisting the administrator with the coordination of all activities and services.
 - (3) Supervising the maintenance and daily operation of the facility.
- (e) The licensee, if an individual, may be the facility manager if he/she has the qualifications specified in this section.

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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87865 PERSONNEL REQUIREMENTS

- (a) There shall be at least one staff person at the facility at all times who is able to read, write, speak and understand English.
- (b) Facility personnel shall be competent to provide the services necessary to meet individual resident needs and shall, at all times, be employed in numbers necessary to meet such needs.
- (c) The Department shall have the authority to require any licensee to provide additional staff whenever the Department determines that additional staff are required for the provision of services necessary to meet resident needs. The following factors shall be taken into consideration in determining the need for additional staff.
 - (1) Needs of the particular residents.
 - (2) Extent of the services provided by the facility.
 - (3) Physical arrangements of the particular facility.
 - (4) Existence of a state of emergency or disaster.
- (d) The licensee shall be permitted to utilize volunteers provided that such volunteers are supervised, and are not included in the facility staff plan.
- (e) The following facility staff shall be at least 18 years of age:
 - (1) Persons who supervise employees and/or volunteers.
 - (2) Persons, including volunteers, who provide any element of care and supervision to residents.
- (f) The licensee shall provide for direct supervision of residents during participation in or presence at potentially dangerous activities or areas on the facility premises.
 - (1) Adults who supervise while residents are using a pool or other body of water shall have a valid water safety certificate.

87865 PERSONNEL REQUIREMENTS (Continued)

- (g) All direct care facility staff shall be given on-the-job training or shall have related experience which provides knowledge of and skill in the following areas, as appropriate to the resident population served and, to the job assigned:
- (1) Principles of nutrition, food preparation and storage and menu planning.
 - (2) Housekeeping and sanitation principles.
 - (3) Provision of resident care and supervision, including communication.
 - (4) Assistance with prescribed medications which are self-administered.
 - (5) Recognition of early signs of illness and the need for professional assistance.
 - (6) Availability of community services and resources.
 - (7) All direct care staff shall have 20 hours of on-the-job training on AIDS-related conditions and the early recognition and prevention of tuberculosis, within three months after employment.
 - (8) Written documentation that he/she has completed the Certified Nursing Assistant or Home Health Aides' program or has equivalent experience or training including, but not limited to, the following areas:
 - (A) Basic information on blood borne infections.
 - (B) Early recognition and universal precautions for preventing the contacting and spreading of infections and tuberculosis.
 - (C) Personal protective equipment and their use for avoiding the contacting and spreading of infections.
 - (D) Practices used in the work place for avoiding the contracting and spreading of infections including but not limited to:

87865 PERSONNEL REQUIREMENTS (Continued)

1. Handwashing.
 2. Handling syringes and needles.
 3. Handling body fluids and waste.
 4. Disposal of hazardous waste.
- (9) The training specified in (g) above must be given by the appropriately skilled professional.
- (A) The direct care facility staff shall have documentation signed by the appropriately skilled professional which outlines the date completed and the type of training completed.
 - (B) The licensee shall maintain a copy of the training documentation in the facility personnel file.
- (h) All personnel, including the licensee, administrator, and facility managers shall be in good health, and shall be physically, mentally, and occupationally capable of performing assigned tasks.
- (1) Except for volunteers, good physical health shall be verified by a health screening performed by or under the supervision of a physician not more than one year prior to or seven days after employment or licensure.
 - (2) A health screening report signed by the person performing such screening shall be made on each person specified in (h) above, and shall indicate the following:
 - (A) The person's physical qualifications to perform the duties to be assigned.
 - (B) The presence of any health condition that would create a hazard to the person, residents or other staff members.
 - (C) For each volunteer, his/her good physical health shall be documented by his/her written statement affirming that he/she is in good health.

87865 PERSONNEL REQUIREMENTS (Continued)

- (3) All persons specified in (h) above and volunteers shall comply with the following tuberculosis testing requirements:
 - (A) Obtain a Mantoux tuberculin skin test recorded in millimeters and dated no more than three months prior to licensure or his/her employment or presence into the facility.
 - (1) If the Mantoux tuberculin skin test is positive, he/she shall obtain a chest x-ray and be examined by a physician and obtain the physician's written statement verifying that he/she does not have communicable tuberculosis.
 - (2) A person who has had a previously positive reaction shall not be required to obtain a Mantoux tuberculin skin test but shall only be required to obtain the chest x-ray results and a physician's statement that he/she does not have communicable tuberculosis.
 - (B) The Mantoux tuberculin skin test shall be updated at least once per year, except for persons who have had a previous positive reaction.
 - (1) A person who has had a previously positive reaction shall not be required to obtain a Mantoux tuberculin skin test but shall only be required to obtain the chest x-ray results and a physician's statement that he/she does not have communicable tuberculosis.
- (4) The licensee shall ensure that a current log is maintained for all persons specified in (h) above and volunteers which includes the dates and results of Mantoux tuberculin skin tests recorded in millimeters and chest x-rays and the physician's statement verifying that the person does not have communicable tuberculosis.
- (5) Each direct care staff shall be informed that if he/she has HIV Disease, he/she is at an increased risk of developing tuberculosis.
- (i) Personnel with evidence of physical illness that poses a threat to the health and safety of residents shall be relieved of their duties.

87865 PERSONNEL REQUIREMENTS (Continued)

- (j) Prior to employment or initial presence in the facility, all employees and volunteers subject to a criminal record review shall:
 - (1) Obtain a California clearance or a criminal record exemption as required by law or Department regulations 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.
- (k) Residents shall not be used as substitutes for required staff but shall be permitted, as a voluntary part of their program of activities, to participate in household duties and other tasks suited to the resident's needs and abilities.
 - (1) Such duties and tasks shall be specified in the resident's needs and services plan.
- (l) When regular staff members are absent, there shall be coverage by personnel capable of performing assigned tasks as evidenced by on-the-job performance.

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87865 PERSONNEL REQUIREMENTS (Continued)

- (m) Personnel shall provide for the care and safety of persons without physical or verbal abuse, exploitation or prejudice.
- (n) All personnel shall be instructed to report observations or evidence of violations of any of the personal rights specified in Section 87872.
- (o) Support staff shall be employed as necessary to perform the following duties:
 - (1) Office work.
 - (2) Cooking.
 - (3) House Cleaning.
 - (4) Laundering.
 - (5) Maintenance of buildings, equipment and grounds.

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

87865.1 STAFFING RATIOS FOR DAY AND NIGHT CARE AND SUPERVISION

- (a) There shall be a minimum of one direct care staff person on duty whenever residents are present.
- (b) For daytime hours, the minimum staffing ratio shall be one direct care staff person up, awake, and on duty for every ten residents on the premises.
- (c) For evening and night hours, the minimum staffing ratio shall be one direct care staff person up, awake, and on duty for every fifteen residents on the premises.
 - (1) For evening and night hours, at least one direct care staff person shall be on call within 30 minutes of the facility in case of an emergency.
- (d) For residents who are unable to assist in the performance of activities of daily living and for residents whose death is imminent as specified in the resident's Individual Services Plan or as observed by the Department, the minimum staffing ratio shall be one direct care staff person to every three residents.
- (e) The staffing ratios specified in this section shall exclude the support staff as specified in Section 87865(o) but may include the following:
 - (1) The administrator if he/she meets the qualifications specified in Sections 87864 and 87865.
 - (2) The facility manager if he/she meets the qualifications specified in Sections 87864.1 and 87865.

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

87866 PERSONNEL RECORDS

- (a) The licensee shall ensure that personnel records are maintained on the licensee, administrator and each employee. Each personnel record shall contain the following information:
- (1) Employee's full name.
 - (2) Driver's license number if the employee is to transport residents.
 - (3) Date of employment.
 - (4) A statement signed by the employee that he/she is at least 18 years of age.
 - (5) Home address and phone number.
 - (6) Documentation of educational background, continuing education hours, training and/or experience, as specified in Section 87865.
 - (7) Past work experience, including types of employment and former employers.

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- (A) Section 1568.09(c)(4) of the Health and Safety Code provides in part:

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

- (B) Section 1568.09(b)(2) of the Health and Safety Code provides:

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

HANDBOOK ENDS HERE

- (8) Duties of the employee.
- (9) Termination date, if no longer employed by the facility.
- (10) Documentation of first aid training.
- (11) Criminal record statement signed by the employee, as required by Section 87819.
- (12) Documentation of either a criminal record clearance or a criminal record exemption as required by Section 87819(d).

87866 PERSONNEL RECORDS (Continued)

- (13) A health screening as specified in Section 87865(h).
- (14) Tuberculosis test documents as specified in Section 87865(h).
- (b) Personnel records shall be maintained for all volunteers and shall contain the following:
 - (1) A health statement as specified in Section 87865(h)(2)(C).
 - (2) Tuberculosis test documents as specified in Section 87865(h).
 - (3) For volunteers that are required to be fingerprinted pursuant to Section 87819:
 - (A) A signed statement regarding their criminal record history as required by Section 87819(a)(3).
 - (B) Documentation of either a criminal record clearance or a criminal record exemption as required by Section 87819(d).
- (c) All personnel records shall be available to the Department to inspect, audit, and copy upon demand during normal business hours. Records may be removed if necessary for copying. Removal of records shall be subject to the following requirements:
 - (1) Licensing representatives shall not remove any current emergency or health-related information for current personnel unless the same information is otherwise readily available in another document or format.
 - (2) Prior to removing any records, a licensing representative shall prepare a list of the records to be removed, sign and date the list upon removal of the records, and leave a copy of the list with the administrator or designee.
 - (3) Licensing representatives shall return the records undamaged and in good order within three business days following the date the records were removed.
- (d) All personnel records shall be retained for at least three years following termination of employment.
- (e) All personnel records shall be maintained at the facility site.
 - (1) The licensee shall be permitted to retain such records in a central administrative location provided that they are readily available to the Department at the facility site as specified in Section 87866(c).
- (f) In all cases, personnel records shall document the hours actually worked.

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

87868 ADMISSION AGREEMENTS

- (a) The licensee shall complete an individual written admission agreement with each resident and the resident's authorized representative, if any.
- (b) The licensee shall complete and maintain in the resident's file a Telecommunications Device Notification form (LIC 9158, 5/97) for each resident whose pre-admission appraisal or medical assessment indicates he/she is deaf, hearing-impaired, or otherwise disabled.
- (c) Admission agreements shall specify the following:
 - (1) Basic services.
 - (2) Available optional services.
 - (3) Payment provisions, including the following:
 - (A) Basic rate.
 - (B) Optional services rates.
 - (C) Payor.
 - (D) Due date.
 - (E) Frequency of payment.

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87868 ADMISSION AGREEMENTS (Continued)

- (4) Modification conditions, including requirement for provision of at least 30 calendar days prior written notice to the resident or his/her authorized representative of any basic rate change.
 - (A) It shall be acceptable for agreements involving residents whose care is funded at government-prescribed rates to specify that the effective date of a government rate change shall be considered the effective date for basic service rate change and that no prior notice is necessary.
 - (5) Refund conditions.
 - (6) Right of the Department to perform the duties authorized in Section 87844.
 - (7) Conditions under which the agreement may be terminated.
 - (8) The facility's policy concerning family visits and other communication with residents.
 - (9) That the resident is required to designate a person to have Durable Power of Attorney for health care for the resident.
- (d) Admission agreements shall be dated and signed, acknowledging the contents of the document, by the resident and the resident's authorized representative and the licensee or the licensee's designated representative no later than seven calendar days following admission.
- (e) Modifications to the original agreement shall be made whenever circumstances covered in the agreement change, and shall be dated and signed by the persons specified in (c) above.
- (f) The licensee shall retain in the resident's file the original of the initial admission agreement and all subsequent modifications.
- (1) The licensee shall provide a copy of the current admission agreement to the resident and the resident's authorized representative, if any.
- (g) The licensee shall comply with all terms and conditions set forth in the admission agreement.
- (h) The admission agreement shall be automatically terminated by the death of the resident. No liability or debt shall accrue after the date of death.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1524.7 and 1568.072, Health and Safety Code.

87868.1 RESIDENT EVICTION PROCEDURES

- (a) The licensee shall be permitted to evict a resident with 30 days written notice for any of the following reasons:
- (1) Nonpayment of the basic rate for the provision of basic services within ten days of the due date.
 - (2) Failure of the resident to comply with the provisions of the Admission Agreement.
- (b) The licensee shall evict the resident if he/she refuses to relocate within thirty (30) days of a written notice under the following circumstances:
- (1) Modifications to the resident's Individual Services Plan specified in Section 87896 indicate that the resident's needs can no longer be met by the facility.
 - (A) Under these circumstances, the resident shall be given an opportunity to voluntarily relocate.
 - (B) The facility shall assist the resident to relocate, if needed.
 - (2) The resident's needs can no longer be met in the facility and his/her continued placement is inappropriate due to a change in the facility license or facility program.
- (c) The licensee shall be permitted to evict a resident with three days prior written notice if the resident has engaged in behavior which poses a threat to himself/herself, other residents, and/or the facility personnel.
- (1) Prior to an eviction, the following requirements shall be met:
 - (A) The Individual Services Team has submitted written approval to the licensee which concurs with the decision to evict the resident.
 - (B) The licensee has received prior written and/or documented telephone approval for the notice of eviction from the Department.
 - (C) The Department shall approve or deny the request within two working days of receipt.

87868.1 RESIDENT EVICTION PROCEDURES (Continued)

- (D) The licensee shall maintain a copy of the documentation in the resident file.
 - (E) The licensee shall assist the resident to relocate, if needed.
 - (F) The licensee shall document the action taken to assist the resident to relocate and where the resident was relocated.
- (d) The licensee shall set forth in the notice the reasons for the eviction, with specific facts including the date, place, witnesses, and circumstances.
 - (e) The licensee shall, upon providing the resident with notification of eviction as specified in (a) or (b) above, mail a copy of the eviction notice to the resident's authorized representative, if any.
 - (f) The licensee shall send to the Department a copy of the 30-day written notice in accordance with (a) above within five days of giving the notice to the resident.
 - (g) Alternatives to the eviction procedures specified in this section include voluntary relocation, hospitalization, arrest, and other actions not prohibited by applicable laws and regulations.

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

87868.2 RESIDENT RELOCATION PLAN

- (a) In any instance where the Department does not suspend the facility license and the Department requires that a resident be relocated because the resident has a health condition(s) which cannot be cared for within the limits of the license of the facility or which requires inpatient care in a licensed health facility, the licensee shall prepare a written relocation plan. The plan shall contain all necessary steps to be taken to reduce stress to the resident which may result in transfer trauma.
 - (1) The written relocation plan shall include, but not be limited to, the following:
 - (A) A specific date for beginning and a specific date for completion of the process of safely relocating the resident. The time frame for relocation may provide for immediate relocation but shall not exceed 30 days.

87868.2 RESIDENT RELOCATION PLAN (Continued)

- (B) A specific date when the resident and the resident's authorized representative, if any, shall be notified of the need for relocation.
 - (C) A specific date when consultation with the resident's physician shall occur to obtain a current medical assessment of the resident's health needs, to determine the appropriate facility type for relocation and to ensure that the resident's health care needs continue to be met at all times during the relocation process.
 - (D) The method by which the licensee will participate in the identification of an acceptable relocation site with the resident and the authorized representative, if any. The licensee shall advise the resident and/or the authorized representative that if the resident is to be moved to another Residential Care Facility for the Chronically Ill, a determination must be made that the resident's needs can be legally met in the new facility before the move is made. If the resident's needs cannot be met in the new facility, the resident must be moved to a facility licensed to provide the necessary care.
 - (E) A list of contacts made or to be made by the licensee with community resources, including but not limited to, social workers, family members, clergy, to ensure that services are provided to the resident before, during and after the move. The need for the move shall be discussed with the resident to assure the resident that support systems will remain in place.
 - (F) Measures to be taken until relocation to protect the resident and/or meet the resident's health and safety needs.
 - (G) An agreement to notify the Department when the relocation has occurred, including the resident's new address, if known.
- (2) The relocation plan shall be submitted in writing to the Department within the time set forth in the written notice by the Department that the resident requires health services that the facility cannot legally provide.

87868.2 RESIDENT RELOCATION PLAN (Continued)

- (3) Any changes in the relocation plan shall be submitted in writing to the Department. The Department shall have the authority to approve, disapprove or modify the plan.
 - (4) If relocation of more than one (1) resident is required, a separate plan shall be prepared and submitted in writing for each resident.
 - (5) The licensee shall comply with all terms and conditions of the approved plan. No written or oral contract with any other person shall release the licensee from the responsibility specified in (a) and (b) of this section for relocating a resident who has a health condition(s) which cannot be cared for in the facility and/or which requires inpatient care in a licensed health facility, nor from taking all necessary actions to reduce the likelihood of transfer trauma to the resident.
 - (6) In cases where the Department determines that the resident is in imminent danger because of a health condition(s) which cannot be cared for in the facility or which requires inpatient care in a licensed health facility, the Department shall require the licensee to immediately relocate the resident.
 - (A) No written relocation plan is necessary in cases of immediate relocation.
- (b) In all cases when a resident must be relocated, the licensee shall not obstruct the relocation process and shall cooperate with the Department in the relocation process. Such cooperation shall include, but not be limited to, the following activities:
- (1) Identifying and preparing for removal of the medications, Medi-Cal or Medicare or other medical insurance documents, clothing, safeguarded cash resources, valuables and other belongings of the resident.
 - (2) Contacting the resident's authorized representative to assist in transporting him/her, if necessary.
 - (3) Contacting other suitable facilities for placement, if necessary.
 - (4) Providing access to resident's files, when required by the Department.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Section 1568.07, .072 and .073, Health and Safety Code.

87868.3 DEPARTMENT RELOCATION DETERMINATION

- (a) The Department shall require the relocation of a resident to the inpatient care unit of a licensed health facility if it is determined that the resident, due to his/her physical and/or mental health condition, requires a higher level of care than the facility can legally provide.
- (1) The Department shall obtain an assessment of the resident's physical and/or mental health condition from the appropriately skilled professional.
- (A) The assessment shall include input from the resident, his/her authorized representative, his/her physician and/or surgeon, and the Registered Nurse Case Manager.
- (B) The assessment shall specify the type of illness or health condition which the resident is experiencing, whether the illness or health condition is episodic or continuous, and whether the resident's need for a higher level of care is temporary or permanent.
- (b) The Department shall give notice to the resident and/or his/her authorized representative to relocate if the assessment supports the Department's determination that the resident requires inpatient care in a health facility.
- (1) The Department shall send copies of the Written Notice to Relocate to the licensee, resident's physician and surgeon and the Registered Nurse Case Manager.
- (2) The Written Notice to Relocate shall specify a deadline date for the licensee to submit the plan for relocation and carry out the relocation procedures specified in Section 87868.2.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Section 1568.07, .072, and .073, Health and Safety Code.

87868.4 RESIDENT REQUESTS FOR REVIEW OF RELOCATION DECISIONS

- (a) A resident and/or his/her authorized representative may request a review and determination of the Department's Written Notice to Relocate specified in Section 87868.3 (b).
- (1) The resident's right to a review of the Written Notice to Relocate by the Department shall not:
 - (A) Nullify a determination by the Department that the resident's health and safety are in immediate danger and immediate relocation is required.
 - (B) Apply to the eviction procedures outlined in Section 87868.1.
 - (C) Authorize a right to a fair hearing or any other review process not specified in this chapter.
 - (2) The resident and/or his/her authorized representative shall file the request for review with the licensee within three working days after his/her receipt of the Department's Written Notice to Relocate.
 - (3) The licensee shall forward the request to the Department within two (2) working days of receipt of the resident's request for review.
 - (4) The Department shall not refuse to consider the request if the licensee fails or refuses to submit the request as specified in Subsection (a)(3) above.
- (b) The Department shall have 30 days from the date that the resident was initially informed by the Department to relocate in which to complete the review and make a determination on the request.
- (1) The Department shall notify the resident and/or his/her authorized representative of that determination.
 - (2) If the determination is made that the resident must relocate, the Department shall send a revised Written Notice to Relocate to the resident and/or his/her authorized representative.

**87868.4 RESIDENT REQUESTS FOR REVIEW OF RELOCATION DECISIONS
(Continued)**

- (A) The Department shall send copies of the Written Notice to Relocate to the licensee, resident's physician and surgeon and the Registered Nurse Case Manager.
- (B) The Written Notice to Relocate shall include a plan for transfer which specifies the date for completion of the relocation.
- (C) The Written Notice to Relocate shall specify that the licensee shall follow procedures to minimize transfer trauma for the resident during the relocation, as specified in Section 87868.2.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.072 and .073, Health and Safety Code.

87870 RESIDENT RECORDS

- (a) The licensee shall ensure that a separate, complete, and current record is maintained in the facility for each resident.
- (b) Each record shall contain information including, but not limited to, the following:
 - (1) Name of resident.
 - (2) Birthdate.
 - (3) Sex.
 - (4) Date of admission.
 - (5) Names, addresses, and telephone numbers of the authorized representative.
 - (6) A signed copy of the admission agreement specified in Section 87868.
 - (7) Name, address and telephone number of physician, surgeon and dentist, and other medical and mental health providers, if any.
 - (8) Medical assessment, including ambulatory status.
 - (9) Copy of tests for tuberculosis:
 - (A) Results of a Mantoux tuberculin skin test recorded in millimeters and dated no more than three months prior to the resident's placement into the facility, excluding residents who have had a previously positive reaction.

87870 RESIDENT RECORDS (Continued)

- (1) For a resident who has had a previously positive reaction, there shall be written documentation to verify that he/she tested positive for tuberculosis.
 - (B) Results of chest x-ray dated no more than three months prior to the resident's placement into the facility.
 - (C) If the chest x-ray is abnormal or the Mantoux tuberculin skin test is positive, a copy of the physician's statement verifying that the resident does not have communicable tuberculosis.
 - (D) Copy of the test results updated once per year, if applicable, as specified in Section 87894(d).
- (10) Record of any illness or injury requiring treatment by a physician or dentist and for which the facility provided assistance to the resident in meeting his/her necessary medical and dental needs.
 - (11) Record of current medications, including the name of the prescribing physician, and instructions, if any, regarding control and custody of medications.
 - (12) Date of termination of services.
 - (13) An accounting of the resident's cash resources, personal property, and valuables entrusted to the licensee.
 - (14) The name, address, and telephone number of any person or agency responsible for the care of a resident, including, but not limited to, persons who have been granted durable power of attorney for the resident or conservators for the resident and/or his/her estate as specified in Section 87868(b)(9).
 - (15) Weekly weight record.
 - (16) Copy of the "DO NOT Resuscitate Order", provided the resident has agreed to and signed the order.
 - (17) Copy of the Durable Power of Attorney for Health Care document signed by the resident.
 - (18) Information regarding the resident's individual services plan/team as specified in Section 87896.
 - (19) Copy of the current log as specified in Section 87894(f).

87870 RESIDENT RECORDS (Continued)

- (c) All information and records obtained from or regarding the resident shall be confidential.
- (1) The licensee shall be responsible for safeguarding the confidentiality of resident records.
 - (2) Except as specified in (d) below, or as otherwise authorized by law, the licensee and all employees shall not reveal or make available confidential information.
- (d) All resident records shall be available to the Department to inspect, audit, and copy upon demand during normal business hours. Records may be removed if necessary for copying. Removal of records shall be subject to the following requirements:
- (1) Licensing representatives shall not remove the following current records for current residents unless the same information is otherwise readily available in another document or format:
 - (A) Name, address, and telephone number of the resident's authorized representatives(s), if any, as specified in Section 87870(b)(5) and defined in Section 87801(a).
 - (B) Name, address, and telephone number of the resident's physician, surgeon and dentist, and other medical and mental health providers, if any, as specified in Section 87870(b)(7).
 - (C) Medical assessment, including ambulatory status, as specified in Section 87870(b)(8).
 - (D) Results of tuberculosis skin tests, including a current log of the results of tuberculosis skin tests, as specified in Sections 87870(b)(9) and (b)(19).
 - (E) Record of any current illness or injury requiring treatment by a physician or dentist for which the facility provided assistance as specified in Section 87870(b)(10).
 - (F) Record of current medications as specified in Section 87870(b)(11).
 - (G) Name, address, and telephone number of any person or agency responsible for the care of a resident as specified in Section 87870(b)(14).
 - (H) Weekly weight record as specified in Section 87870(b)(15).
 - (I) Copy of signed "DO NOT Resuscitate Order" as specified in Section 87870(b)(16) and defined in Section 87801(d).
 - (J) Copy of signed Durable Power of Attorney for Health Care as specified in Section 87870(b)(17) and defined in Section 87801(d).
 - (K) Information regarding the resident's individual services plan/team as specified in Section 87870(b)(18) and defined in Section 87801(i).

87870 RESIDENT RECORDS (Continued)

- (L) Any other records containing current emergency or health-related information for current residents.
- (2) Prior to removing any records, a licensing representative shall prepare a list of the records to be removed, sign and date the list upon removal of the records, and leave a copy of the list with the administrator or designee.
- (3) Licensing representatives shall return the records undamaged and in good order within three business days following the date the records were removed.
- (e) A resident's records shall be open to inspection by the resident's authorized representative, if any.
- (f) The information specified in (b) above shall be updated as necessary to ensure the accuracy of the resident's record.
- (g) Original resident records or photographic reproductions shall be retained for at least three years following termination of service to the resident.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.072, and 1568.08, Health and Safety Code.

87872 PERSONAL RIGHTS

- (a) Each resident shall have personal rights which include, but are not limited to, the following:
 - (1) To be accorded dignity in his/her personal relationships with staff and other persons.
 - (2) To be accorded safe, healthful and comfortable accommodations, furnishings, and equipment to meet his/her needs.
 - (3) To be free from corporal or unusual punishment, infliction of pain, humiliation, intimidation, ridicule, coercion, threat, mental abuse, or other actions of a punitive nature, including but not limited to interference with daily living functions, including eating, sleeping, or toileting; or withholding of shelter, clothing, medication or aids to physical functioning.

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87872 PERSONAL RIGHTS (Continued)

- (4) To be informed, and to have his/her authorized representative, if any, informed by the licensee of the provisions of law regarding complaints including, but not limited to, the address and telephone number of the complaint receiving unit of the Department, and of information regarding confidentiality.
- (5) To be free to attend religious services or activities of his/her choice and to have visits from the spiritual advisor of his/her choice.
 - (A) Attendance at religious services, in or outside the facility, shall be on a completely voluntary basis.
- (6) To leave or depart the facility at any time.
 - (A) The licensee shall not be prohibited by this provision from setting curfews or other house rules for the protection of residents.
- (7) Not to be locked in any room, building, or facility premises by day or night.
 - (A) The licensee shall not be prohibited by this provision from locking exterior doors and windows or from establishing house rules for the protection of residents provided the residents are able to exit the facility.
 - (B) The licensee shall be permitted to utilize means other than those specified in (A) above for securing exterior doors and windows only with the prior approval of the Department.
- (8) Not to be placed in any restraining device.
- (9) To receive or reject medical care, or health-related services.
- (10) To be informed of the facility's policy concerning family visits and other communication with residents.
- (11) To have access to telephones in order to make and receive confidential calls, provided that such calls do not infringe upon the rights of other residents and do not restrict availability of the telephone during emergencies.
 - (A) The licensee shall be permitted to require reimbursement from the resident or his/her authorized representative for long distance calls.

87872 PERSONAL RIGHTS (Continued)

- (B) The licensee shall be permitted to prohibit the making of long distance calls upon documentation that requested reimbursement for previous call(s) has not been received.
- (12) To mail and receive unopened correspondence in a prompt manner.
- (13) To receive assistance in exercising the right to vote.
- (14) To move from the facility.
- (b) At admission a resident and the resident's authorized representative, shall be personally advised of and given a list of the rights specified in Sections 87872(a)(1) through (14).
- (c) The information specified in (b) above including the visiting policy as stated in the admissions agreement shall be prominently posted in areas accessible to residents, their relatives and visitors. The posted information shall also include:
- (1) Procedures for filing confidential complaints.
- (2) A copy of the personal rights or, in lieu of a posted copy, instructions on how to obtain additional copies of these rights.
- (d) The licensee shall ensure that each resident is accorded the personal rights as specified in this section.

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

87873 TELEPHONES

- (a) All facilities shall have telephone service on the premises.
- (1) There shall be a telephone available for use by residents which may be a pay telephone.

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

87874 TRANSPORTATION

- (a) Only drivers licensed for the type of vehicle operated shall be permitted to transport residents.
- (b) The manufacturer's rated seating capacity of the vehicles shall not be exceeded.
- (c) Motor vehicles used to transport residents shall be maintained in a safe operating condition.

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

87876 FOOD SERVICE

- (a) In all residential care facilities the following shall apply:
 - (1) All food shall be nutritious, protected from contamination and of the quality and in the quantity necessary to meet the needs of the residents. Each meal shall include, at a minimum, the amount of food components as specified by Title 7, Code Federal Regulations, Part 226.20, Requirements for Meals, for the age group served. All food shall be selected, stored, prepared and served in a safe and healthful manner.
 - (2) Where all food is provided by the facility, arrangements shall be made so that each resident has available at least three meals per day.
 - (A) Not more than 15 hours shall elapse between the third meal of one day and the first meal of the following day.
 - (3) Where meal service within a facility is elective, arrangements shall be made to ensure availability of a daily food intake meeting the requirement of (a) (1) above for all residents who, in their admission agreement, elect meal service.
 - (4) Between meal nourishment or snacks shall be available for all residents unless limited by dietary restrictions prescribed by a physician.

87876 FOOD SERVICE (Continued)

- (5) Menus shall be in writing and shall be posted at least one week in advance and copies of the menus as served shall be dated and kept on file for at least 30 days. Menus shall be made available for review by the residents or their authorized representatives and the Department upon request.
- (6) Modified diets prescribed by a resident's physician as a medical necessity shall be provided.
 - (A) The licensee shall obtain and follow instructions from the physician or dietitian on the preparation of the modified diet.
- (7) Commercial foods shall be approved by appropriate federal, state and local authorities. All foods shall be selected, transported, stored, prepared and served so as to be free from contamination and spoilage and shall be fit for human consumption. Food in damaged containers shall not be accepted, used or retained.
- (8) Where indicated, food shall be cut, chopped or ground to meet individual needs.
- (9) Powdered milk shall not be used as a beverage but shall be allowed in cooking and baking. Raw milk, as defined in Division 15 of the California Food and Agricultural Code shall not be used. Milk shall be pasteurized.
- (10) Except upon written approval by the Department, meat, poultry and meat food products shall be inspected by state or federal authorities. Written evidence of such inspection shall be available for all products not obtained from commercial markets.
- (11) All home canned foods shall be processed in accordance with standards of the University of California Agricultural Extension Service. Home canned foods from outside sources shall not be used.
- (12) If food is prepared off the facility premises, the following shall apply:
 - (A) The preparation source shall meet all applicable requirements for commercial food services.

87876 FOOD SERVICE (Continued)

- (B) The facility shall have the equipment and staff necessary to receive and serve the food and for cleanup.
- (C) The facility shall maintain the equipment necessary for in-house preparation, or have an alternate source for food preparation, and service of food in emergencies.
- (13) All persons engaged in food preparation and service shall observe personal hygiene and food services sanitation practices which protect the food from contamination.
- (14) All foods or beverages capable of supporting rapid and progressive growth of microorganisms which can cause food infections or food intoxications shall be stored in covered containers at 45 degrees F (7.2 degrees C) or less.
- (15) Pesticides and other similar toxic substances shall not be stored in food storerooms, kitchen areas, food preparation areas, or areas where kitchen equipment or utensils are stored.
- (16) Soaps, detergents, cleaning compounds or similar substances shall be stored in areas separate from food supplies.
- (17) All kitchen, food preparation, and storage areas shall be kept clean, free of litter and rubbish, and measures shall be taken to keep all such areas free of rodents, and other vermin.
- (18) All food shall be protected against contamination. Contaminated food shall be discarded immediately.
- (19) All equipment, fixed or mobile, dishes, and utensils shall be kept clean and maintained in safe condition.
- (20) Each facility shall use a dishwasher to clean and sanitize all dishes and utensils used for eating and drinking and in the preparation of food and drink.
 - (A) Dishwashing machines shall reach a temperature of 165 degrees F (74 degrees C) during the washing and/or drying cycle to ensure that dishes and utensils are cleaned and sanitized.

87876 FOOD SERVICE (Continued)

- (B) Bleach shall be added to rinse cycle to sanitize the dishes and utensils when the dishwashing machine temperature does not reach 165 degrees F (74 degrees C).
- (21) Equipment necessary for the storage, preparation and service of food shall be provided, and shall be well-maintained.
- (22) Tableware and tables, dishes, and utensils shall be provided in the quantity necessary to serve the residents.
- (23) Adaptive devices shall be provided for self-help in eating as needed by residents.
- (b) The Department shall have the authority to require the facility to retain memos and receipts for a period of 60 days for food obtained and used for resident's consumption.

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

87877 PERSONAL SERVICES (RESERVED)

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

87878 RESPONSIBILITY FOR PROVIDING CARE AND SUPERVISION

- (a) The licensee shall provide care and supervision as necessary to meet the resident's needs.

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

87879 ACTIVITIES (RESERVED)

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

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