

## EVALUATOR MANUAL TRANSMITTAL SHEET

<p><b><u>Distribution:</u></b></p> <p>___ All Child Care Evaluator Manual Holders</p> <p><u>X</u> All Residential Care Evaluator Manual Holders</p> <p>___ All Evaluator Manual Holders</p>	<p><b><u>Transmittal No.</u></b> 06APX-03</p> <hr/> <p><b><u>Date Issued</u></b> February 2006</p>
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**Subject:**

2005 Chaptered Legislation  
Appendix A – Residential Care Facilities for the Elderly

**Reason For Change:**

This transmits summaries of legislation chaptered in 2005 affecting Residential Care Facilities for the Elderly. The summaries are divided into two sections as follows:

1. Immediate Action Required – Interim instructions are provided.
2. Information Only – No action required by CCLD.

An index is attached to assist staff in locating specific bills. Statutes referenced in this document became operative on January 1, 2006.

**Filing Instructions:**

REMOVE –

INSERT – the attached pages into Appendix A. Do not remove similar documents from the previous years.

**Approved:**

  
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 Date

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**SUMMARY AND IMPLEMENTATION PLANS  
2005 CHAPTERED LEGISLATION**

**RESIDENTIAL CARE FACILITIES  
FOR THE ELDERLY**

**BILL NUMBER/AUTHOR                      SUBJECT    PAGE**

**ACTION REQUIRED**

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***INFORMATION ONLY – NO ACTION REQUIRED***

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**Unless otherwise noted, all new legislation becomes effective on January 1, 2006. When conducting licensing visits, LPAs should, to the extent practical, make sure that providers are aware of any new requirements. However, regardless of whether this information is provided, it is the licensee's responsibility to be aware of any new requirements affecting their program.**

## **ACTION REQUIRED**

### **AB 179 (Bermudez), CHAPTER 456, STATUTES OF 2005**

**Affects:** Residential Care Facilities for the Elderly (RCFEs)

**Subject:** Elder Abuse Information

**Summary:** Amends Health and Safety Code Section 1569.885 and adds Section 1569.889 to require the RCFE personal rights form to include a statement regarding procedures for reporting dependent adult and elder abuse. The bill requires that the form include the toll-free telephone number of the State Long-Term Care Ombudsman's CRISISline and provide a blank space for the telephone number of the nearest approved organization for long-term care ombudsperson activities. This form must be included as part of the admission agreement by existing statute.

**Implementation:**

These statutory requirements are effective January 1, 2006. Regulations will be amended to include these changes under the Personal Rights Section. If a facility is not in compliance with the provisions of this bill, cite H&S Code Sections 1569.885(e) and 1569.889 until regulations are adopted. The Personal Rights Form (LIC 613C, 7/05) has been updated to reflect these changes.

When conducting facility visits:

- Review the resident's files to ensure licensees are using a personal rights form that meets the requirements of the new statute beginning January 1, 2006.
- Personal rights forms for residents in placement prior to January 1, 2006, must be brought into compliance with the bill's provisions if and when their admission agreements are amended.

# ACTION REQUIRED

## AB 847 (Berg), CHAPTER 315, STATUTES OF 2005

**Affects:** Residential Care Facilities for the Elderly (RCFEs) and Adult Community Care Facilities (CCFs)

**Subject:** Programs for All-Inclusive Care for the Elderly (PACE)

**Summary:** This legislation adds Sections 1231.5, 1580.1, 1734.5, and 100315 to the Health and Safety (H&S) Code to permit the California Department of Health Services (DHS), the California Department of Social Services (CDSS) and the California Department of Aging (CDA) to grant exemptions from licensing requirements to PACE programs. (For facilities licensed by CDSS these "exemptions" would be waivers and exceptions.) The facilities commonly operated by PACE programs are adult day health care centers, primary care clinics, and home health agencies, all licensed by DHS. PACE programs do not currently operate any RCFEs or adult CCFs, but AB 847 would apply if a PACE program chose to operate a facility licensed by CDSS in the future. PACE programs must comply with multiple requirements from multiple sources: federal regulations; a contract with DHS; and multiple state licensing regulations. This law is intended to increase efficiency and prevent duplication by providing a vehicle to consolidate and streamline some of those requirements.

PACE programs provide a comprehensive array of medical and long-term care services that enable participants to remain in their own homes. (PACE participants may live in an RCFE or an adult residential facility, which would be considered their "home.") PACE participants must be at least 55 years old and eligible for placement in an intermediate care or skilled nursing facility. There are currently four PACE programs operating in California—On Lok Senior Health Services, San Francisco; Sutter Senior Care, Sacramento; Center for Elders' Independence, Oakland; and AltaMed Health Services, Los Angeles.

### **Implementation:**

AB 847 would apply to CDSS if a PACE program applied for a license to operate an RCFE or an adult CCF and then sought related waivers or exceptions. While any licensee may seek waivers or exceptions to licensing regulations, AB 847 permits PACE programs to seek them to statute as well.

A PACE program that wishes to obtain a waiver or exception to a licensing regulation or law must submit a written request and substantiating evidence supporting the request, to CDSS. The written request must include, but is not limited to, the following:

- (1) A description of how the applicable state requirement conflicts with or is inconsistent with state or federal requirements related to the PACE model.
- (2) An analysis demonstrating why the conflict or inconsistency cannot be resolved without a waiver or exception.

- (3) A description of how the PACE program plans to comply with the intent of the requirements described in (1) above.
- (4) A description of how the PACE program will monitor its compliance with the terms and conditions under which the waiver or exception is granted.

A local licensing office that receives a waiver or exception request from a PACE program should forward the request to the Statewide Senior or Adult Care Program Office within 5 days. The Statewide Program Office will coordinate with the Senior or Adult Care Policy Unit in processing the request. The Senior Care Policy Unit will provide consultation to the Statewide Program Office, and coordinate with the DHS Licensing and Certification Policy Unit and other entities as appropriate.

CDSS must approve or deny waiver or exception requests from a PACE program within 60 days of submission. Under AB 847, CDSS must consult with DHS and CDA in determining whether to grant such waivers and exceptions, but no request pertaining to a facility that CDSS licenses can be granted without CDSS's approval. A waiver or exception granted under this bill may be suspended or revoked if CDSS determines that a PACE program is not abiding by the terms and conditions of the waiver or exception. If Licensing staff determine that a PACE program is not following the conditions of a waiver or exception, the matter should be referred to the Program office for review.

# ACTION REQUIRED

## SB 141(Soto), CHAPTER 250, STATUTES OF 2005

**Affects:** Residential Care Facilities for the Elderly (RCFEs)

**Subject:** Preadmission Fee Refunds

**Summary:** Amends Health and Safety Code (H&S) Section 1569.651 to require RCFE licensees to state in their admission agreements that preadmission fees, if charged, will be refunded under the following circumstances:

- Should the resident decide not to enter the facility before the licensee completes a preadmission appraisal, or if the licensee fails to provide full written disclosure of the preadmission fee charges and refund conditions, then the prospective resident (or his or her representative) is entitled to a 100% refund of the preadmission fee.
- If the prospective resident does not enter the facility after a preadmission appraisal is conducted, or if the resident leaves the facility for any reason during the first month of residency, the resident is entitled to a minimum refund of 80% of the preadmission fee in excess of \$500.
- If the resident leaves the facility for any reason during the second month of residency, the resident is entitled to a minimum refund of 60% of the preadmission fee in excess of \$500.
- If the resident leaves the facility for any reason during the third month of residency, the resident is entitled to a minimum refund of 40% of the preadmission fee in excess of \$500.

This legislation does not change the current prohibition against charging preadmission fees to recipients under the State Supplementary Program for the Aged, Blind and Disabled Program.

### **Implementation:**

These statutory requirements are effective January 1, 2006. Regulations will be amended to include these changes under the Admission Agreements Section.

- When conducting licensing visits or investigating complaints related to admission agreements, licensing staff will need to review preadmission fees paid on or after January 1, 2006, to ensure compliance with the provisions of this bill. If an admission agreement is not in compliance with the provisions of this bill, cite H&S Code Sections 1569.651(b)(g) and (h) until regulations have been adopted.
- When substantiating a complaint related to the failure to refund preadmission fees to residents or prospective residents who paid the fee on or after January 1, 2006, cite H&S Code Section 1569.651(g) and (h).

## **ACTION REQUIRED**

### **SB 244 (Romero), CHAPTERED 454, STATUTES OF 2005**

**Affects:** Continuing Care Retirement Communities (CCRCs)

**Subject:** Resident Rights

**Summary:** Amends Health and Safety Code Sections 1771.7 and 1788

H&SC section 1771.7 provides additional rights to residents and requires providers to post those rights in a prominent place in the continuing care retirement community (CCRC). It will require providers to respond within 20 working days to a written request or concern of the resident association. It will also allow for the imposition of a \$150 civil penalty for violations under this section.

H&SC section 1788 requires continuing care contracts to specify providers' transfer processes and provide a statement of the providers' billing practices. It also affords residents the right to request the Department to review those processes if the transfer is disputed.

#### **Implementation:**

These statutory requirements are effective January 1, 2006. Providers have been notified of the new provisions and need for contract revisions and addenda for existing residents. Most providers have already submitted their revised contracts/addenda for review and approval. Providers that have not submitted their revised contracts cannot enter into new contracts until they are in compliance with the new statute.

Any complaint received from a continuing care resident regarding transfer to a higher level of care should be referred to the Continuing Care Contracts Branch.

## INFORMATION ONLY - NO ACTION REQUIRED

### AB 300 (Walters), CHAPTER 423, STATUTES OF 2005

**Affects:** Vendors approved by the California Department of Social Services (CDSS) who exclusively provide either initial or continuing, ongoing education courses for certification of administrators of Group Homes, Adult Residential Facilities or Residential Care Facilities for the Elderly.

**Subject:** Oversight of Vendors for Administrator Certification

**Summary:** These statutory changes specify that vendors approved by CDSS, Community Care Licensing Division (CCLD) to provide training courses exclusively for the initial and continuing education certification of administrators of Group Homes, Adult Residential Facilities or Residential Care Facilities for the Elderly are only subject to oversight by CDSS and no other governmental agency.

Prior to these changes, the Department of Consumer Affairs, Bureau of Private Postsecondary and Vocational Education (BPPVE) had statutory authority over vendors who provided initial certification courses. With the implementation of these statutory changes, vendors no longer have to meet the requirements of the BPPVE. Any questions about oversight of administrator certification vendors should be referred to the Administrator Certification Section at (916) 324-3755.

### SB 1018 (Simitian), CHAPTER 140, STATUTES OF 2005

**Affects:** Residential Care Facilities for the Elderly, Residential Care Facilities for the Chronically-III, Adult Residential Facilities, Adult Day Programs, and Social Rehabilitation Facilities

**Subject:** Elder and Dependent Adult Abuse

**Summary:** This bill establishes the Financial Elder Abuse Reporting Act of 2005 which extends mandated reporting requirements for financial abuse of an elder or dependent adult to all officers and employees of certain financial institutions. This bill delays implementation for one year, until January, 2007, and sunsets after six years.