EVALUATOR MANUAL TRANSMITTAL SHEET

Distribution:	**Transmittal No.** 16RCFE-02
__X__ **Adult and Senior Care Program** _____ **Children's Residential Program** _____ **Child Care Program** _____ **All Programs**	**Date Issued** April 2016

Subject:

Regulation Interpretations and Procedures for Residential Care Facilities for the Elderly
Section 87458, Medical Assessments
Section 87506, Resident Records
Section 87465, Incidental Medical and Dental Care Services
Section 87618, Oxygen Administration – Gas and Liquid

Reason for Change:

Revised four (4) sections of the Regulation Interpretations and Procedures for Residential Care Facilities for the Elderly.

Filing Instructions:

REMOVE: page 93, 100, 109, 110, 120

INSERT: page 93, 93.1, 93.2, 100, 100.1, 109, 109.1, 110, 120, 120.1

Approved:

Original signed by Seton Bunker ***4/26/2016***

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87457 PRE-ADMISSION APPRAISAL 87457

(a) **POLICY**

The resident's ability to manage his or her own funds must be assessed by the licensee and included in the preadmission appraisal.

PROCEDURE

Verify that the preadmission appraisal identifies the resident as being either able or unable to manage his or her own funds. See Regulation Interpretations section 87463 regarding the reappraisal requirement.

(c)(4) **POLICY**

The Preplacement Appraisal Information form (LIC 603) is available for this purpose.

PROCEDURE

Review the Preplacement Appraisal Information (LIC 603), the Physician's Report (LIC 602 or 602A), and the Appraisal Needs and Services Plan (LIC 625) to ensure that all requirements have been met.

Also see Regulation and Regulation Interpretations Section 87455 for acceptance and retention limitations.

87458 MEDICAL ASSESSMENT 87458

Health and Safety Code Section 11362.5 permits the use of medical marijuana for medical purposes and provides the following:

- Medical use of marijuana must be "recommended by a physician who has determined that the person's health would benefit" from the use of marijuana in the treatment of a specified disease and illness "or any other illness for which marijuana provides relief."
- The person for whom marijuana has been recommended may designate a "primary caregiver" defined as the individual "who has consistently assumed responsibility for the housing, health, or safety" of that person.
- Both the patient and the patient's primary caregiver are allowed to possess or cultivate marijuana for the personal medical purposes of the patient.

Note: Licensees caring for clients who have a designated primary caregiver or who cultivate marijuana for medical purposes pursuant to the Medical Marijuana Program are not in violation of licensing laws unless the facts and circumstances create conditions that can be viewed as conduct inimical to the health, safety, or welfare of clients in care.

87458 MEDICAL ASSESSMENT (Continued) **87458**

Medical marijuana comes in various forms, including plant, tinctures and candies; it does not include Marinol, a prescription drug containing a synthetic form of tetrahydrocannabinol (THC).

Medical marijuana in smoking form remains subject to the smoking restrictions in other laws and regulations (Health and Safety Code, Section 11362.785(a) and 11362.79).

If a resident possesses marijuana which has been recommended by a licensed physician for medicinal use and the facility complies with applicable regulations regarding the storage, administration, and documentation of such medication, then there is no violation with regard to such possession, storage and use of marijuana by the patient-resident.

The determination of acceptance and retention of a resident is based on the licensee's ability to ensure the health and safety of the individual resident and the other residents in care. Licensees continue to have discretion in evaluating a resident's suitability for acceptance and retention and to stipulate conditions in the admission agreements.

(a) **POLICY**

The Physician's Report (LIC 602) is available for this purpose.

The licensing agency will require the licensee to obtain a current written medical assessment if necessary to verify the appropriateness of placement.

However, if a facility is conducted by and entirely for the adherents of any well-recognized church or religious denomination that relies solely on prayer or other spiritual means of healing, this requirement will be waived.

PROCEDURE

Review the resident's medical assessment to ensure that it has been properly signed and dated by a physician or a licensed medical professional working under the direct supervision of a physician (such as a nurse practitioner or physician's assistant).

For information regarding waivers of other regulations for religious facilities, see Regulation and Regulation Interpretations section 87411(f).

87458 MEDICAL ASSESSMENT (Continued) **87458**

(b)(1) and (c) **PROCEDURE**

The resident's medical marijuana should be received and documented in the same manner as all other medications. Prior to accepting a person as a resident, the licensee must obtain documentation of a medical assessment, signed by a physician, which must include a record of all medications. In addition, a resident's record in a facility must contain the report of the medical assessment, a record of current medications, and instructions, if any, regarding control and custody (storage) of medications (California Code of Regulations, Title 22, Section 80070(8), (10)).

The requirements for accepting individuals who use medical marijuana are the same as with other medications. The individual who has a recommendation for medical marijuana would need:

A physician's written recommendation that includes the following:

- The resident's name
- The physician's name
- The drug name

Optional information that may also be provided:

- The recommended dosage
- The recommended hours between doses and the recommended maximum 24-hour dose
- The form in which the medical marijuana will be used
- A statement about the person's ability/inability to self-administer medical marijuana

State law does not require specific dosage information for medical marijuana; therefore, it is treated like a PRN medication. However, if specific instructions are provided by the recommending physician they shall be followed.

Because of existing medical and legal issues relating to medical marijuana dosages, assistance with the self-administration of medical marijuana may be provided only to residents who are able to determine and communicate their own personal needs for the medication. An exception may be considered if specific dosage and usage instructions are provided by the recommending physician.

87465 INCIDENTAL MEDICAL AND DENTAL CARE SERVICES 87465
(Continued)

(a)(5) **PROCEDURE** (Continued)

Since California law requires a physician's recommendation that the person's health would benefit from the use of marijuana in the treatment of a specified condition, or any other illness for which it provides relief, medical marijuana is treated as a medication. Assistance in self-administration of medical marijuana must be given per physician's directions and in accordance with applicable regulations.

See Regulation Interpretations and Procedures for Residential Care Facilities for the Elderly, Section 87458 for more information on medical marijuana

(h)(1) – (C)(6) **PROCEDURE**

Licensed Residential Care Facilities for the Elderly shall ensure that no dangers or safety hazards are present related to any medical marijuana maintained or stored at the facility. If centrally stored, medical marijuana shall be stored with the same requirements as other medications. Information specified in the resident's records relating to the storage of medical marijuana shall contain as much information as is provided by the recommending physician.

See Regulation Interpretations and Procedures for Residential Care Facilities for the Elderly, Section 87458 for more information on medical marijuana.

(a)(6)(C) **POLICY**

No exemption is necessary to provide assistance in administering eye, ear and nose drops to residents under the following conditions:

1. The resident is not able to self-administer his/her own eye, ear or nose drops due to tremors, failing eyesight and other similar conditions; the care is routine (standard mechanically performed); and the resident's condition is chronic and resistant to sudden change (stable), or temporary in nature and expected to return to a condition normal for the resident.

2. The resident's physician must provide documentation stating: 1) that the resident cannot self-administer drops; 2) whether the resident's medical condition(s) is stable; and 3) that the resident's care is routine, so that facility staff may be trained to assist with administering drops in accordance with the treating physician's instructions.

87465 INCIDENTAL MEDICAL AND DENTAL CARE SERVICES 87465
(Continued)

(a)(6)(C) **POLICY** (Continued)

3. The following procedures and training are necessary in order for facility staff to assist in administering drops:

- The licensee must obtain documentation from the resident's physician outlining the procedures for care to be performed by a licensed professional and/or facility staff, including recognizing objective symptoms and how to respond to them. This documentation must be kept in the resident's file.

- The licensee must document the names of facility staff trained in the procedures. This documentation must be kept in the individual employee's file.

- All staff must complete the required training on resident-specific procedures and universal precautions (provided by a local health facility, county health department or other local training resource) prior to providing the service.

- The licensee must contact the resident's physician once a year so that he/she can (1) update staff on any new training that may be necessary to meet the resident's needs and (2) review staff performance if necessary.

PROCEDURE

If a licensee/caregiver is assisting a resident with administering eye, ear or nose drops, ensure that the conditions in Regulation and Regulation Interpretations section 87465(a)(6)(C) are followed.

ARTICLE 9. RESIDENT RECORDS

87506 RESIDENT RECORDS 87506

(b) **PROCEDURE**

The resident's medical marijuana should be received and documented in the same manner as all other medications. A resident's record in a facility must contain the report of the medical assessment, and a record of any current centrally stored medications (California Code of Regulations, Title 22, Section 87506 (b)(8), (b)(12).)

See Regulation Interpretations and Procedures for Residential Care Facilities for the Elderly, Section 87458 for more information on medical marijuana.

(b)(5) **PROCEDURE**

For information relative to waivers of other regulations for religious facilities, see Regulation and Regulation Interpretations for Residential Care Facilities for the Elderly, Section 87411(f).

(c) **POLICY**

During the process of selling or transferring property the licensee may be asked to or may have provided information about the residents cared for at the facility to persons interested in taking control of the facility. A resident's confidentiality must be respected even during the sale and transfer of property. For example, the range of care needs of the residents in general can be provided however identifying information about the individual resident would be violating the confidentiality of the resident. The party interested in buying or taking possession of the property would have a right to the confidential information if the party became the licensee or is associated with the facility as an employee. Any violation by sharing confidential information during the process of selling or transferring property must be cited by the licensing program analyst.

(c)(1) **PROCEDURE**

Upon request, licensing agencies will give the Office of the State Long-Term Care Ombudsman and its representatives, including volunteers, access to any licensing records that are necessary to assist the Office in carrying out its responsibilities. This includes confidential records EXCEPT:

1. Bureau of Criminal Identification Division reports.

2. Information subject to attorney-client privilege.

3. Complainants' names and identifying information.

4. Information that is part of an investigation still in progress.

87506 RESIDENT RECORDS (Continued) **87506**

(c)(1) **PROCEDURE** (Continued)

In addition, licensees of facilities and their representatives must release residents' records for examination or copying to the Office of the State Long-Term Care Ombudsman and its representatives, including volunteers, under the following conditions pursuant to the Older Americans Act of 1965, Section 712(b):

- the representative has the permission of the resident or the legal representative of the resident; OR
- the resident is unable to consent to the review and has no legal representative; OR

(c)(1) **PROCEDURE** (continued)

- access to the records as is necessary to investigate a complaint if:
  - a legal guardian of the resident refuses to give the permission;
  - a representative of the Office has reasonable cause to believe that the guardian is not acting in the best interests of the resident; and
  - the representative obtains the approval of the Ombudsman.

87507 ADMISSION AGREEMENTS 87507

(a) **POLICY**

The Admission Agreement Guide (LIC 604A) is a sample of an appropriate agreement and is available to licensees.

PROCEDURE

Review the signed admission agreement for compliance with these requirements.

(c) **POLICY**

Admission agreements must clearly indicate the amount of money that the resident will be paying.

[**NOTE:** For information on transportation costs and admission agreements, see Regulation Interpretations section 87465(a)(2), Incidental Medical and Dental Care Services.]

Supplementary Security Income/State Supplementary Payment Recipients:

Residents who are Supplementary Security Income/State Supplementary Payment recipients must be provided with all basic services for the established Supplementary Security Income/State Supplementary Payment rate. They cannot be assessed additional charges for basic services except for a private room when a double room is made available and for special food services or products. These additional charges, if desired by the resident, must be documented in the admission agreement.

Private Pay:

Licensees can charge private pay residents for basic and optional services in one of three ways:

1. A fixed amount for all services to be provided. The resident is informed on the admission agreement of all the services to be provided and the monthly fee for the services. The resident pays the fixed monthly fee regardless of whether or not each and every service is used.

87615 PROHIBITED HEALTH CONDITIONS (Continued) **87615**

(a)(4) **POLICY** (Continued)

In addition, the following factors should also be considered:

- Does the facility have a private bedroom and bathroom for the resident? (While unlikely, if two residents are infected with the same bacterium, they can share a bedroom and bathroom.)
- Does the facility have sufficient staff to render the proper care for a resident with such an infection?
- Does the infected resident have good hygiene practices that would reduce the opportunities for transmission of the bacteria?
- Does the facility have residents who are at high risk if the infection should be transmitted to them, e.g., residents who have recently had surgery, or have a catheter, surgical drain or open wound, or whose immune systems are compromised in any other way?

87617 DEPARTMENTAL REVIEW OF HEALTH CONDITIONS 87617

(a) **POLICY**

Bedridden status outside of hospice [as defined in Regulation Section 87455(d)(1)] that exceeds 14 days is among the health-related conditions that require review by licensing staff to determine if the resident will be allowed to remain in the facility. See Regulation Interpretation Section 87455 for detailed information.

PROCEDURE

See Regulation Interpretation section 87455 for detailed instructions.

87618 OXYGEN ADMINISTRATION – GAS AND LIQUID 87618

(b)(3)(C) **POLICY**

The regulatory prohibition against smoking where oxygen is in use covers all smoking, including, but not limited to, the smoking of tobacco, herbs, and medical marijuana (Health and Safety Code Section 11362.785(a) and 11362.79).

87618 OXYGEN ADMINISTRATION – GAS AND LIQUID (Continued) **87618**

(b)(3)(F) **POLICY**

The following are general conditions that must be considered when oxygen tubing exceeds 7 feet in length:

1. The plastic tubing from the nasal cannula (mask) to the oxygen source must be long enough to allow the resident movement within his/her room but cannot constitute a hazard to the resident or others. Things that may impact resident's safety include:

   - Whether the resident is in a private or shared bedroom

   - Whether the physical layout of the facility is appropriate for longer tubing so that no one in the facility will trip or accidentally disconnect the tubing