

SUMMARY OF 1991 CHAPTERED LEGISLATION

RESIDENTIAL CARE FACILITIES FOR THE ELDERLY

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I. IMMEDIATE ACTION REQUIRED

SB 994 (Mello), Chapter 888, Statutes of 1991

Affects: RCFEs

Section 1569.145 (f)(1) and (h) - exempts from licensure those arrangements where care and supervision are provided by a "family member" to elderly relative(s). The definition of family member includes all persons previously identified as "relatives" in RCFE regulations Section 87101(r)(1), and additionally includes an unmarried spouse, adopted children, and stepchildren.

Section 1569.145 (f)(2) - exempts from licensure those arrangements where care and supervision are provided to one or more elders of the same family by a "close friend." The close friendship must have preexisted the care arrangement. Also, the caregiving arrangement must not be of a business nature and must occur in a residence chosen by the care recipient.

Section 1569.145 (i) - requires a conservator providing care and supervision to an elderly conservatee to be licensed, unless the conservator is otherwise exempt by law from licensure requirements. For example, a valid exemption from licensure requirements would be that the conservator is a "family member" or "close friend," as specified.

### Implementation

#### Section 1569.145(f)(1) and (h)

Until regulation Section 87101(r)(1) (Definitions) and Section 87107(a)(7) (Exemption from Licensure) are amended, use the new statutory definition of "family member" when reviewing cases where an individual providing care and supervision to one or more elders claims to be a relative of the elder(s) receiving care. Until new regulations are adopted, and unless there is a question regarding the competency of the person in care, accept an allegation of a spousal relationship between the caregiver and the person in care.

#### Section 1569.145(f)(2)

Until regulation Section 87107(a)(8) (Exemption from Licensure) is amended, use the new statutory provisions pertaining to "close friend" where an individual providing care and supervision to one or more elders from the same family claims to be a friend of the elder(s) receiving care. Until new regulations are adopted, and unless there is a question regarding the elder's competency, accept the elder's allegation: 1) that the relationship is a pre-existing close friendship, 2) that the relationship is not of a business nature, and 3) that the care is being provided in the residence of the care recipient's choice.

#### Section 1569.145(i)

Until regulation Section 87107(a)(7) is amended, cite Health and Safety Code Section 1569.145 (i) where a conservator is providing unlicensed care and supervision and is not exempt under other provisions of Health and Safety Code Section 1569.145. COB will inform counties via an All County Letter.

II. NO ACTION PENDING REGULATIONS OR FURTHER INSTRUCTIONS

AB 1615 (Hannigan), Chapter 848, Statutes of 1991

**Affects: RCFEs**

Section 1569.23 - requires applicants for licensure to complete a 40-hour approved certification program, including a specified uniform core of knowledge.

Section 1569.171 - requires that the department secure a criminal record clearance prior to issuing an administrator certification.

Establishes a \$100.00 fee for the issuance of an initial or renewal certificate of completion of the certification program.

Section 1569.235 - reinstates the mandate for a Department orientation session which was previously omitted in error.

Section 1569.613 - establishes in statute that an administrator must be 21 years of age, have a high school diploma or GED, obtain a criminal record clearance, and provide documentation of successful completion of a certification program.

Section 1569.615 - requires that Licensed Nursing Home Administrators take 12 hours of classroom instruction, instead of the 40 hours required of other administrators, which pertain to law/regulations, medications and resident admission/retention that impact an RCFE.

Section 1569.616 - allows that current licensee/administrators take the 40 hour certification course without testing.

Establishes criteria for the issuance of a certificate.

Establishes a misdemeanor for false representation as a certified administrator.

Creates a renewal of the certificate every two years upon completion of continuing education. These certificates expire on the holder's birthday.

Establishes a delinquency fee of three times the renewal fee for reinstatement of a delinquent renewal.

Establishes criteria and procedures related to revocation or suspension of the certificate.

Requires the department to prepare and maintain a list of approved vendors.

Allows the department to inspect training programs and continuing education courses for content.

Requires the department to establish procedures and timeframes for vendor training program approval.

Establishes a fee not to exceed \$150.00 for certification program vendors and a fee not to exceed \$100.00 for the review and approval of continuing education courses.

#### Implementation

A special instructional letter will be prepared for Licensees/Administrators of RCFEs. COB will train regional and district staff on the Certification Program and their role in the process.

#### AB 1797 (Friedman), Chapter 937, Statutes of 1991

Affects: RCFEs  
Also: CCFs, DCCs, FDCHs, and RCF-CIs

Sections 1522, 1568.09, 1569.17 and 1596.871 - requires that licensees submit fingerprints directly to the Department of Justice (DOJ) and that DOJ notify licensees and simultaneously the licensing agency of criminal record clearances. This is to be done within 15 days of receipt of the fingerprints. DOJ is to notify only the licensing agency of criminal records within 30 calendar days of receipt of the fingerprints.

#### Implementation

No action until notified. A special all licensee letter will be prepared. Meetings are being held with DOJ in order to prepare for a smooth implementation which is targeted for January 1, 1992.

Senate Bill 994, Chapter 888, Statutes of 1991

Section 1569.314 - continues to prohibit facilities from requiring residents to purchase medications, or rent or purchase medical supplies or equipment, from a particular pharmacy or other source. However, this section now allows facilities to require residents who need assistance with purchasing, storing, or taking of medications to comply with facility policies and procedures regarding the storage of medications and methods of assisting residents in the administration of medications. The facility's policies and procedures must meet the intent of regulations and must be reasonably necessary.

Implementation

Section 1569.314

The new provisions which allow facilities to require residents to comply with certain facility policies and procedures regarding medications will not be implemented until clarifying regulations are adopted.

III. INFORMATION ONLY - NO ACTION REQUIRED

SB 994 (Mello), Chapter 888, Statutes of 1991

Affects: RCFEs  
Also: CCFs, DCCs, RCF-CIs

Section 1569.47 - prohibits placement agencies and their employees from placing elderly persons in RCFEs when a health condition exists requiring skilled nursing care or any health related care exceeding license limitations. Creates a misdemeanor sanction for violation of this prohibition.

Section 1569.406 - clarifies that the prohibition against informing a licensee or facility of a planned facility visit by the Department applies to all unannounced visits. Affects all facility categories.

Section 1569.70 - reinstates language permitting the 3 Levels of Care for RCFEs, subject to future funding and specific statutory authorization. No implementation will occur at this time.

Implementation

Information only, no action required. COB will inform counties of the new placement prohibitions and the prohibitions regarding unannounced visits via an All County Letter.

IV. NEW PROVISIONS CANCELLED BY OTHER BILLS

(These parts of 1991 laws have been cancelled by newer laws)

AB 1130 (Wright), Chapter 589, Statutes of 1991

Affects: CCFs

Although this law changes Health and Safety Code Section 1569.47, which governs RCFEs, those changes were made obsolete when that same H&S Code Section was amended by a later law. That later law is Ch. 888, Stats. 1991 (SB 994, Mello).

The AB 1130 amendments would have required conservators of adults under the Probate Code and conservators of elderly persons under the Welfare and Institutions Code to: 1) place appropriate conservatees who require out-of-home nonmedical residential care into licensed RCFEs or facilities exempt from licensure, and 2) report unlicensed and unsafe RCFEs.

Implementation

None. This language will not appear in the Health and Safety Code.