

DAY CARE EVALUATOR MANUAL

RESIDENTIAL CARE EVALUATOR MANUAL

TRANSMITTAL SHEET

Number  
94APX-02

Distribution All Day Care Evaluator Manual Holders  
All Residential Care Evaluator Manual Holders

Date Issued  
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Subject

APX RCPE: 1993 Chaptered Legislation and Implementation  
(Appendix Residential Care Facilities for the Elderly)

Approved

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WILLIAM C. JORDAN, Chief

Type of Change

Temporary  Permanent

REASON FOR CHANGE

This transmits summaries of legislation chaptered in 1993 affecting Residential Care Facilities for the Elderly. The summaries are divided into three sections:

- I. Immediate Action Required - Interim instructions are provided and will be incorporated into the appropriate Evaluator Manual section as soon as possible.
- II. No Action Pending Regulations or further instructions.
- III. Information Only - No Action Required.

Additionally, and Index is attached to assist staff in locating specific bills. Statutes referenced in this document become operative on January 1, 1994 unless otherwise indicated.

File this sheet and attachments in your Evaluator Manual in the front under "Temporary Changes" and annotate the following sections of regulations in the Evaluator Manual to reference back to this notice, or, file only this sheet under "Temporary Changes" and insert each attachment next to the corresponding EM page. (Do not remove existing EM pages.)

Remove

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

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SUMMARY OF 1993 CHAPTERED LEGISLATION  
RESIDENTIAL CARE FACILITIES FOR THE ELDERLY

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I. **LAWS THAT WILL BE IMPLEMENTED IMMEDIATELY**

**AB 21 (Umberg), Chapter 293**

Affects Facility Category: RCFE,  
Also: CCF, RCF-CI

Subject: Limitations Relating to Donative Transfers

Probate Code Sections 21350 and 21351 - AB 21 added these two sections to the Probate Code to limit circumstances under which any person or his or her cohabitant or relative, as defined, can create or cause to be created an instrument for a donative transfer (e.g., a will) when that person would benefit by the transfer. The restriction does not apply if the person and the transferrer cohabit or are related, if the instrument is approved by a court of jurisdiction, or if an impartial attorney certifies that the transferrer has been counseled about the intended transfer.

The limitations imposed by AB 21 apply to licensees who are representative payees. For example, a licensee who is a client's/resident's representative payee would be prohibited from drafting, or causing to be drafted, that client's/resident's will if the licensee were named as a beneficiary of the will.

**Implementation:**

If CCLD staff have sufficient reason to believe that a licensee who is a representative payee has violated the restrictions specified in the law, forward an audit request with available documentation to the Audit Section at COB. An instruction to that effect will be included in the EM.

**AB 878 (Collins) Chapter 526**

Affects facility category: RCFE

Subject: Sale of Facility

Health and Safety Code Section 1569.191(a) reduces the minimum notice period from 60 days to 30 days for licensees to provide advance, written notification to CCLD and each resident, or the resident's responsible person, regarding a pending sale of the facility.

**Implementation:**

Continue to require that licensees provide notice to residents/responsible persons and CCLD prior to the planned facility sale, but require that such notice be made at least 30 days before the sale instead of 60 days. COB will amend CCR Sections 87113 and 87114 as appropriate to reflect the change in the law.

SB 420 (Mello) Chapter 702

Affects facility category: RCFE

Subject: Extension of the Locked Perimeters Pilot Project

Health and Safety Code Section of 1569.691(b) extends until January 1, 1996 the SB 481 (1989) Locked Perimeters Pilot Project to allow the six existing pilot facilities to continue to provide services to residents suffering from Alzheimer's disease or related dementias. This pilot project would have expired on January 1, 1994 if not for the passage of SB 420.

Implementation:

All pilot project licensees are being notified by letter about the extension of the pilot project, and that licensees will be expected to comply with the requirements of both the RCFE regulations and the Pilot Project Standards of Compliance. Until further notice, district office staff should continue to use the project Standards, as amended on June 22, 1991, in conjunction with the RCFE regulations when making quarterly facility compliance visits and in evaluating the pilot facilities.

SB 446 (Mello) Chapter 247

Affects facility category: RCFE

Subject: Extension of the Allowance for Transfer-Dependent RCFE Residents

SB 446 extended the allowance of transfer-dependent residents in RCFEs from January 1, 1994 until January 1, 1995. This continuation of the moratorium on the prohibition against transfer-dependent RCFE residents is designed to allow further public policy discussions on the issue of bedridden persons in RCFEs, including those who are transfer dependent.

Implementation:

The admission and retention of RCFE residents who are transfer-dependent is currently permissible and will remain so until January 1, 1995. Accordingly, CCR Section 87852(d) (2) was rescinded in 1992 to allow transfer-dependent residents in RCFEs, and EM Transmittals #92RCFE-06 and #92RCFE-06E amended the regulation interpretations and procedures to reflect this change. However, the placement or retention of nonambulatory residents who require assistance in turning and repositioning in bed continues to be prohibited when the bedridden condition is not temporary as defined in CCR Sections 87582(e) and 87582(f).

A memorandum to all regional and district managers, dated November 10, 1993, clarified CCLD's position relating to the retention of terminally ill RCFE residents who are receiving hospice care in the facility. In part, this memorandum stated that such residents who are also nonambulatory and unable to turn or reposition in bed shall not be considered to be temporarily bedridden, and shall not be allowed to be retained in an RCFE--until the Department adopts hospice care regulations to implement Assembly Bill 2664, Chapter 943, Statutes of 1992.

### III. INFORMATION ONLY

#### AB 878 (Collins) Chapter 526

Affects Facility Category: RCFE

Subject: Criminal Record Clearances

Health and Safety Code Section 1569.17(c) requires that CCLD's notice to a licensee must be in writing and must be provided within 15 calendar days after information is received from the Department of Justice indicating that a person required to be fingerprinted has been convicted of a felony, a second offense against a minor, or a violation of Penal Code Sections 243.4, 273a, 273d, or subdivision (a) or (b) of Section 368. There is no change to the existing requirements that the licensee then take action to terminate the person's employment or otherwise remove the person from the facility.

Health and Safety Code Section 1569.17(e) requires that the licensee or license applicant be informed in writing of the decision to grant or deny an exemption within 60 days after CCLD determines that all necessary case information has been received.

#### Implementation:

COB already notifies licensees, by telephone and in writing, immediately after receiving a conviction report from DOJ pertaining to any of the crimes specified in this section. No change in COB procedures is necessary to meet the new statutory requirements that the notice be in writing and provided within 15 days. Existing exemption tracking systems will be used by COB to ensure that the 60 day decision requirement is met.

SB 420 (Mello) Chapter 702

Affects Facility Category: RCFE

Subject: Advisory Group Regarding Use of Locked Perimeters

Health and Safety Code Section 1569.694(b) requires that, by January 1, 1995, the Health and Welfare Agency convene an advisory group regarding the use of locked perimeters in facilities with residents who suffer from Alzheimer's disease or related dementias. The advisory group will, as appropriate, develop recommended standards for the use of locked perimeters in facilities using information from the SB 481 report to the legislature and other information.

Implementation:

The department currently participates in Agency level meetings and other discussions on this topic, and will most probably participate in the SB 420 advisory group.