

EVALUATOR MANUAL TRANSMITTAL SHEET

<u>Distribution:</u> <input type="checkbox"/> All Day Care Evaluator Manual Holders <input checked="" type="checkbox"/> All Residential Care Evaluator Manual Holders <input type="checkbox"/> All Evaluator Manual Holders	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;"><u>Transmittal No.</u></td> </tr> <tr> <td style="padding: 2px;">98APX-01</td> </tr> <tr> <td style="padding: 2px;"><u>Date issued.</u></td> </tr> <tr> <td style="padding: 2px;">January, 1998</td> </tr> </table>	<u>Transmittal No.</u>	98APX-01	<u>Date issued.</u>	January, 1998
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Subject:

APX - CCF: 1997 Chaptered Legislation and Implementation

(Appendix tab A - Residential Care Facilities for the Elderly)

Reason For Change:

This transmits summaries of legislation chaptered in 1997 affecting Residential Care Facilities for the Elderly. The summaries are divided into three sections as follows:

- 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, an index is attached to assist staff in locating specific bills. Statutes referenced in this document become operative on January 1, 1998, unless other wise indicated.

Filing Instructions: REMOVE

INSERT - the attached pages into Appendix A. Do not remove similar document from previous years.

Approved:

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1/21/98
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RESIDENTIAL CARE FACILITIES FOR THE ELDERLY
SUMMARY OF 1997 CHAPTERED LEGISLATION

SECTION I

Immediate Action Required

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SECTION II

Regulations or Additional Instructions to be Developed

None This Legislative Cycle

SECTION III

Information Only

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RESIDENTIAL CARE FACILITIES FOR THE ELDERLY
SUMMARY OF 1997 CHAPTERED LEGISLATION

SECTION I
IMMEDIATE ACTION REQUIRED

Assembly Bill (AB) 747 (Alby) Chapter 617, Statutes of 1997

Affects: Foster Family Homes (FFH), Community Care Facilities, Residential Care Facilities for the Elderly (RCFE), Residential Care Facilities for the Chronically Ill (RCF-CI).

Subject: Facility Exclusions and License Ineligibility

Summary: This statute provides that anyone whose license has been revoked or who has been excluded from a community care facility is ineligible for licensure as follows:

• **Certified Foster Family Homes:**

- a. **Revocation.** Health and Safety Code Section 1506(e)(1) and (2) are added to require that *Foster Family Agencies* cannot certify, nor is an *individual* eligible for, a foster home certificate if *within the last two years* the Department revoked: (1) a CCLD license, or (2) a Foster Family Agency certificate pursuant to Health & Safety Code section 1534(b).
- b. **Reinstatement.** Health and Safety Code Section 1506(e)(3) requires that an individual is not eligible for a certificate if they are excluded from a licensed facility after January 1, 1998, *unless* the Department has reinstated the person.
- c. **Denials.** Health and Safety Code Sections 1506(f) and (g) state an individual is ineligible to be a certified foster parent for one year after the effective date of the administrative decision or the date of the denial letter if the person did not appeal, and if:
 - (i) The Department has denied them licensure; or,
 - (ii) The Department told the Foster Family Agency to deny the person's certificate of approval.

- **Community Care Facilities:**

Health and Safety Code Sections 1520.3, 1568.065(f), 1569.16 and 1569.59 are amended to require that a person is not eligible for licensure if the Department ordered the revocation or denial of the certified foster home. For revocations, the time period is two years, and for denials, one year. A person is not eligible for licensure if they were excluded from a community care facility after January 1, 1998, unless the Department reinstates them.

- **Exclusion Actions**

Health and Safety Code Sections 1558, 1568.092 and 1569.58 are amended to require that if a person is excluded from one kind of community care facility, then they are deemed excluded from all kinds of community care facilities.

- a. If a person does not contest the exclusion, or loses an administrative hearing, the law excludes that person from all community care facilities for the remainder of the person's life.
- b. *However*, the person may petition the Department for reinstatement after waiting one year subsequent to the exclusion order becoming final; and,
- c. The law mandates that the Department provide the excluded person a copy of Government Code section 11522, which governs reinstatement, in the exclusion letter. It states:

"A person whose license has been revoked or suspended may petition the agency for reinstatement or reduction of penalty after a period of not less than one year has elapsed from the effective date of the decision or from the date of the denial of a similar petition. The agency shall give notice to the Attorney General of the filing of the petition and the Attorney General and the petitioner shall be afforded an opportunity to present either oral or written argument before the agency itself. The agency itself shall decide the petition, and the decision shall include the reasons therefor, and any terms and conditions that the agency reasonably deems appropriate to impose as a condition of reinstatement. This section shall not apply if the statutes dealing with the particular agency contain different provisions for reinstatement or reduction of penalty."

- **Revocation Actions**

Health and Safety Code Sections 1558.1, 1568.093, and 1569.59 are amended to require that if the Department revokes a person's license or foster family home certificate after January 1, 1998, that person cannot be present in a community care facility for two years after the effective date of the revocation order, or for one year after the effective date of the denial order.

Implementation: Effective January 1, 1998, a person who has had a Department ordered certified foster home revocation will not be issued a license by CCLD for a period of two years.

Effective January 1, 1998, the new waiting periods will be imposed:

- (1) **Revocation and Denials.** If a person has had a *Department-ordered* revocation or denial of a certificate to be a certified foster home; or, a CCLD license revocation or denial, then that person can not be present in any facility licensed by CCLD. The period of ineligibility is two years for revocation, and one year for denial of the certificate of approval.
- (2) **Exclusions.** A person who has a *Department-ordered* exclusion from any facility licensed by community care licensing will not be granted a license to operate any licensed facility, nor can that person be present in any licensed facility until reinstated by the Department. The person must wait at least one year from the effective date of the exclusion order before they can petition the Department for reinstatement.

General Notification Processes: *Department-ordered* revocations and denials of foster care certifications and of community care licenses, or a *Department-ordered* exclusion will all be reflected as a flag on the criminal record if the Department filed a Statement of Issues or Accusation and prevailed. These flags will be identified by the Criminal Record Clearance Bureau and the affected District Office will then be notified that the individual is ineligible for licensure.

In instances where the person did not appeal the Department's order and no legal pleadings filed, the District Office shall note the Department ordered denial or revocation of the certificate of approval on the LIS Supplemental History screen.

Additional Exclusion-Action Notification Processes. When an individual is excluded, they have certain rights to apply for reinstatement. Mandated language explaining these rights will be included in the exclusion letter.

[SAMPLE CITATION LANGUAGE: H&S Code Sections 1558.1, 1568.093, and 1569.59]

- *Licensee has failed to exclude _____ (name) from their facility. _____(name) had their license revoked or denied, and who does not currently qualify for an exclusion to be present or reside in any CDSS-licensed facility.*

[SAMPLE CITATION LANGUAGE: H&S Code Sections 1558, 1568.092, 1569.58 and 1596.8897]

- *Licensee has failed to exclude from their facility _____(name) who was an employee that had their criminal record exemption denied, and who does not currently qualify for an exclusion to be present or reside in any CDSS-licensed facility.*

Senate Bill (SB) 1231 (Watson), Chapter 494, Statutes of 1997

Affects: Residential Care Facilities For The Elderly

Subject: Clients 60 years of age and over

Summary: An RCFE may provide incidental medical care to its residents through a home health agency (HHA) when the licensee meets specified conditions.

This statute adds Section 1569.725 to the Health and Safety Code. Section 1569.725(a) specifies that RCFE licensees may provide incidental medical care through a licensed HHA provided the facility has the ability to provide the needed supporting care and supervision; the licensee advises the HHA of the RCFE regulations; the RCFE and HHA complete a protocol regarding the responsibility of each party as well as the need for communication and sharing of resident information; the HHA provides ongoing communication about the frequency and duration of the services it provides.

This statute is not intended to expand the scope of care and supervision that can be provided by an RCFE.

Section 1569.725(c) specifies that no care or supervision is to be provided by the RCFE beyond what is permitted by the RCFE regulations.

Implementation: Community Care Licensing will develop regulations implementing this statute. In the meantime, in order to provide appropriate and safe care for clients, the following policies and procedures, developed in coordination with the California Department of Health Services, should be followed. Licensees may share this material with Home Health Agencies providing services to RCFE residents.

1) HHA Responsibilities

HHA staff persons are responsible for reviewing the RCFE regulations prior to providing care.

The HHA staff person in charge of the resident's care will:

- Upon receipt of the referral contact the licensee to schedule an initial visit.
- Complete a patient assessment and develop a written plan of care. The plan will document treatment and/or therapy; facility staff training, when necessary; identify any special dietary needs; and explain medical equipment instructions, etc.
- Meet with the resident, their representative (conservator or responsible person) when applicable, and the licensee to discuss the plan of care and determine what impact, if any, the plan will have on the resident, facility staff, and/or other facility residents.
- Schedule and conduct training for facility staff, when training is needed, including the operation and maintenance of medical equipment.
- Have the plan of care signed by the resident, their representative, the licensee and the HHA staff person. Each party should receive a copy of the signed document
- Prior to the final treatment or therapy visit, contact the resident, their representative, and the licensee to schedule an exit interview.
- Keep the resident, their representative and the licensee apprised of any continuing treatment requirements, precautions, dietary restrictions, etc. that the resident should follow or that the facility staff should be aware of. These instructions should be in writing, a signed copy should be given to each party.

2) Facility Staff Responsibilities:

- The facility administrator should ensure that the HHA has a copy of the RCFE regulations.
- The facility administrator should ensure that any Home Health Aids who will be providing services have been fingerprint cleared,
- The facility administrator must participate in the resident's initial meeting with the HHA staff person.
- At that meeting the HHA will appraise the facility of the treatment duration, and any modifications that will be required in the resident's care plan, dietary needs, transportation needs, medical equipment needs, personal care needs, etc.
- If the administrator agrees to retain the resident and that the resident's needs can be met by the facility, the licensee must comply with all tasks agreed upon in the plan of care.

- Maintain a copy of the care plan and all instructions and amendments in the resident's facility file.
 - The licensee will contact the HHA staff person with questions or concerns about the treatment being delivered; observed changes in the resident's condition; or problems with medical equipment, etc.
 - Any questions or concerns about the quality of treatment provided by a HHA staff person should be directed to the local district office of the Department of Health Services Licensing and Certification Program.
- 3) Mutual RCFE/HHA Responsibilities:
- At any time that the licensee or the HHA staff person or the resident or the resident's representative when applicable, or the resident's physician determines that changes in the resident's condition require health related services that cannot be provided in the facility; or the resident's care is having a negative impact on the care of other residents in the facility, relocation of the resident to a more appropriate placement must be made.
 - The HHA staff person and the facility administrator must maintain active communications. The HHA must keep the administrator informed of any changes in the plan of care, in writing; or any complications that have occurred; or issues that must be resolved.
 - The HHA staff will not perform any personal care activity that the facility is required by regulation to perform, unless the resident's medical condition requires specially trained professionals to perform the task.
 - The HHA staff will be advised to report any concerns they may have about the resident's care within the facility to the local CCLD District Office.

Licensees can not be cited for not following these procedures. However, if resident care is inadequate as a result, the licensee should be cited for violation of existing regulations. In addition, if, in the Department's judgement, the licensee is not capable of providing the needed supporting care and supervision to a resident who is receiving care from a HHA, the facility can be prohibited from permitting HHA care in the facility. The licensee's lack of capacity should be documented through a history of violations or current violations of regulations that result in potential threats to client safety. If a client receiving HHA care is found to be receiving inadequate care that is evidence that the facility lacks capacity for providing the needed care.

If a facility that already has clients receiving HHA care is found to be incapable of providing the needed supporting care and supervision, those clients receiving the HHA care should be issued a Health Condition Relocation Order using existing regulations and procedures.

1997 CHAPTERED LEGISLATION AND IMPLEMENTATION

SECTION III INFORMATION ONLY

Assembly Bill (AB) 1215, (Mazzoni, Chapter 269)

Affects: Residential Care Facilities for the Elderly (RCFE), Community Care Facilities (CCF), and Residential Care Facilities for the Chronically Ill (RCF-CI)

Subject: Long-Term Care Program Report to the Legislature.

Summary: The statute requires the Health and Welfare Agency (HWA), in coordination with the California Department of Aging, the State Departments of Health Services, Social Services, Mental Health and Developmental Services, to prepare a report on long-term care programs for adults administered by State Departments. In preparing the report, the HWA must seek input and comment from long-term care consumers and representatives who participate in long-term care programs. The report must include an inventory of all existing long-term care programs, options for integrating key programs administered by different state departments, and a potential timetable for implementing administrative change options. The HWA is required to submit the report to the Legislature on or before January 1, 1999.

Senate Concurrent Resolution No. 27 (Kopp) Chapter 96, Statutes of 1997

Affects: Community Care Facilities, Foster Family Homes, Residential Care Facilities for the Elderly and Residential Care Facilities for the Chronically Ill.

Subject: Long-Term Care Program Report to the Governor and Legislature.

Summary: This resolution creates the Care Facilities Task Force, consisting of 16 representatives from local government and social service groups, to analyze issues related to long term care facilities. The task force will analyze issues related to the integration of residential care facilities; examine State licensing responsibilities, including the adequacy of resources to effectively execute its enforcement duties; examine the responsibilities of local governments in the oversight of residential care facilities; and make recommendations regarding State regulation of residential care facilities.

The resolution requires the Legislative Analyst to organize the task force. The task force must submit a report with recommendations to the Governor and the Legislature on or before January 31, 1998. The task force began meeting in October 1997.