

EVALUATOR MANUAL TRANSMITTAL SHEET

<p><u>Distribution:</u></p> <p><input type="checkbox"/> All Day Care Evaluator Manual Holders</p> <p><input checked="" type="checkbox"/> All Residential Care Evaluator Manual Holders</p> <p><input type="checkbox"/> All Evaluator Manual Holders</p>	<p><u>Transmittal No.</u> 99APX-12</p> <hr/> <p><u>Date issued.</u> December, 1999</p>
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Subject:

APX - ACCF: 1999 Chaptered Legislation and Implementation

(Appendix Tab A - Adult Community Care Facilities and Residential Care Facilities for the Chronically III.)

Reason For Change:

This transmits summaries of legislation chaptered in 1999 affecting Adult Community Care Facilities and Residential Care Facilities for the Chronically III. The summaries are divided into two sections as follows:

- I. Immediate Action Required - Interim instructions are provided.
- II. Information only - No action required by CCLD.

An index is attached to assist staff in locating specific bills. Statutes referenced in this document become operative on January 1, 2000, unless otherwise indicated.

Filing Instructions:

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

Approved:

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December 29, 1999
 Date

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ACTION REQUIRED

AB 1108 (ARONER), CHAPTER 410, STATUTES OF 1999

Affects: Adult Residential Facilities

Subject: Hospice Care

Summary: Amends Health and Safety Code Section 1507.3 and authorizes adult residential facilities to request a waiver from the Department to allow a client who has been diagnosed as terminally ill by his or her physician to remain in the facility when certain conditions are met.

Implementation:

Until regulations are developed, use the statutory provision in Health and Safety Code Section 1507.3 as the authority for implementation.

Licensing staff should inform applicants and licensees of this change in law.

Licensing staff should ensure that applicants or licensees who wish to allow the provision of hospice in their facility do the following:

1. Request a waiver from the licensing office to allow clients diagnosed as terminally ill to stay in the facility until their death or until their needs can no longer be met within the scope of the license.
2. Comply with Health and Safety Code Section 1507.3 (which states the requirements to obtain the waiver).
3. Licensing staff will not evaluate the medical services provided by the hospice agency. [Health and Safety Code Section 1507.3 (f)]

Licensees who do not comply with the requirements of Health and Safety Code Section 1507.3 should be cited.

Requirements of Health and Safety Code Section 1507.3:

1. The licensee remains in substantial compliance with the requirements of Health and Safety Code Section 1507.3, all other requirements of Title 22, Division 6, Chapters 1 and 6 governing Adult Residential Facilities, and with all terms and conditions of the waiver. [Health and Safety Code Section 1507.3 (a)(3)]

2. Each terminally ill client contracts for hospice agency services individually, or if the client is incapacitated, by the client's Health Care Surrogate Decision Maker, not by the licensee on behalf of a client. The hospice agency must be appropriately certified to meet federal requirements and be licensed. [Health and Safety Code Section 1507.3 (a)(2)]
3. A written hospice care plan is developed for each terminally ill client by that client's hospice agency and agreed to by the licensee prior to the initiation of hospice services in the facility for that client.
 - The hospice care plan shall designate the primary caregiver and all other caregivers.
 - The care plan shall describe the licensee's responsibilities for implementing the plan including, but not limited to, facility staff duties and the approximate frequency each care service shall be performed.
 - The plan shall neither require nor recommend that the licensee or any facility staff implement any health care procedure that may legally be provided only by a physician or appropriately skilled professional or provide care beyond that which is permitted in Health and Safety Code Section 1507.3 and the governing regulations. [Health and Safety Code Section 1507.3 (a)(4)(5) and (d)]
4. A statement signed by the client's roommate, if any, indicating his or her voluntary agreement to allow the hospice caregivers into the shared living space. [Health and Safety Code Section 1507.3 (a)(6)]
5. The licensee shall initiate transfer procedures when the hospice agency, the facility or the terminally ill client determines that the health and safety of the client or other clients is threatened. (Health and Safety Code Section 1507.3 (b))
6. The licensee shall notify the local fire authority within 48 hours of a bedridden client's acceptance or retention in the facility and the estimated length of time for the bedridden status. (Health and Safety Code Section 1507.3 (h)(1))

For purposes of defining bedridden, Section 1569.72(b) of the Health and Safety Code is to be used. Bedridden is defined as meaning either of the following:

"(1) A resident who requires assistance in turning and repositioning in bed and is unable to leave a building unassisted under emergency conditions.

(2) A resident who is unable to independently transfer to and from bed, except in facilities with appropriate and sufficient care staff, mechanical devices if necessary, and safety precautions, as determined by the director in regulations."

7. Nothing in this section is intended to expand the scope of care and supervision for a residential facility that provides care to adults nor shall a facility be required to alter or extend its license in order to retain a terminally ill client. [Health and Safety Code Section 1507.3 (c)]

AB 1499 (LOWENTHAL), CHAPTER 414, STATUTES OF 1999

Affects: Adult Community Care Facilities (Excludes RCF-CI)

Subject: Dependent Abuse Reporting; Training

Summary: Section 15655 is added to the Welfare and Institutions Code (W&I), relating to human services. This section requires licensees of Adult Community Care Facilities to provide minimal core training in recognizing and reporting dependent adult abuse. The Department of Justice is responsible for the development and distribution of training materials which will include a video, workbook, and brochures. As part of the training, licensees must provide to all staff being trained, a written copy of the reporting requirements and notification of the staff's confidentiality rights as specified in W&I Code Section 15633.

Compliance with the training and notice of confidentiality must be completed by January 1, 2001. If a facility opens after July 31, 2000, licensees shall comply within six months. Employees hired after June 1, 2001 must be trained within 60 days of employment. Compliance with this code section is subject to CDSS review.

Implementation:

1. Licensees of existing facilities must comply with this law by January 1, 2001. There is no implementation issue for the 2000 year.
2. In January of 2001, Licensing Program Analysts should audit personnel files for this training and an acknowledgement of employees' responsibilities and rights relative to abuse reporting. Currently, there is no form for Adult Community Care Facilities to acknowledge this requirement. The Policy and Development Bureau will create a form for use by licensees within six months.
3. The Department of Justice will distribute training materials when available. Facilities that have not received training materials by July 2000 should contact the Crime Prevention Unit within the Department of Justice at (916) 324-7863.

AB 1659 (Committee on Health and Safety), CHAPTER 881, STATUTES OF 1999

Affects: Adult Residential Facilities, Social Rehabilitation Facilities, Adult Day Care Facilities, Adult Day Support Facilities

Subject: Fingerprint Background Checks

Summary: This is a Department sponsored bill which reinstates background check requirements for Community Care Facilities that were chaptered out of last years Senate Bill 933. It amends Health and Safety Code Section 1522. AB 1659 is an emergency bill, however, different provisions of the bill become effective on different dates.

Implementation:

The following changes became effective December 9, 1999.

1. Background checks are now required for any staff person, **volunteer**, or employee **who has any client contact**.
2. A volunteer in an Adult Residential Facility or Social Rehabilitation Facility is exempt from the background check requirement only if:
 - the volunteer is a relative, significant other, or close friend of a client receiving care in the facility and
 - he/she is not used to replace or supplant staff in providing direct care and supervision.
3. Fingerprints must be submitted to the California Department of Justice (DOJ) **before** a person's employment, residence, or initial presence in the facility.
4. The licensee is now required to maintain documentation of all individual clearances or exemptions, as part of the individual's personnel file, and make them available for inspection by the Department.
5. Licensees are subject to an **immediate \$100.00 Civil Penalty** for each person whose fingerprints were not submitted on time.
6. Criminal convictions from another state or federal court will be considered as if the criminal offense was committed in California.
7. A request to transfer an individual's criminal record clearance from one state licensed facility to another must be submitted in writing to the appropriate licensing district office.

- The licensee or administrator who is seeking to transfer a person's clearance must confirm the person's identity and include a copy of the person's California driver's license or a valid photo identification issued by another state or the United States government if the person is not a California resident.
 - Additionally, the licensee or administrator must submit the transfer request **before** the individual has client contact or the licensee will be in violation of the law and subject to the \$100 civil penalty.
 - If the licensee or administrator encloses a stamped self-addressed envelope for this purpose, the Department shall verify whether the individual has a clearance that can be transferred.
8. When the Livescan electronic finger-imaging system becomes "operational", all applicants will be required to obtain a background check clearance or exemption before having any client contact. **The Department will provide a 30-day advance notice before this provision of the law is implemented.** We anticipate it will be several months before Livescan is fully operational based on the definition of the new law.

The following changes become effective January 8, 2000.

1. Beginning January 8, 2000, in addition to the California criminal record check, a Federal Bureau of Investigation (FBI) criminal record check will also be required for all new facility applicants, facility employees, and volunteers. **This is not a retroactive requirement.** The FBI check, which is also processed through DOJ, is required of anyone who must have a criminal background check.
2. The issuance of a new license will not be delayed if:
 - All other licensing requirements have been met and the FBI clearance is the only missing item, and
 - Each individual has submitted a signed statement to the Department, as part of the application, that he/she has never been convicted of a crime in the United States, other than a minor traffic violation.
 - If the Department subsequently determines that a person has a criminal record, the Department may then revoke or suspend the license or prohibit an individual's employment or presence in the facility.
3. Subsequent to licensure, persons who are required to submit fingerprints prior to their employment, residence, or initial presence in the facility must also submit a second set of fingerprints for the purposes of searching FBI records.
 - A licensee who fails to submit the required two sets of fingerprints to DOJ prior to the person's employment, residence or initial presence in the facility shall be

cited and assessed an immediate civil penalty of \$100 for each person whose prints were not submitted on time.

The Department will begin enforcing the first of these changes on December 9, 1999, and the FBI requirement on January 8, 2000. The licensing regulations are currently being revised to reflect this new law change. In the meantime, use the statutory provisions contained in the Health and Safety Code Section 1522 as the citing authority.

INFORMATION ONLY – NO ACTION REQUIRED

AB 526 (ZETTEL), CHAPTER 383, STATUTES OF 1999

Affects: All Adult Community Care Facilities and Residential Care Facilities for the Elderly

Subject: Hearsay Exceptions; Elder and Dependent Adults

Summary: Adds Section 1380 to the Evidence Code relating to criminal proceedings and admissibility of hearsay evidence. Existing law generally excludes statements made by other than a witness while testifying at a hearing. The exceptions created by this law include statements made by specified elder and dependent adults who are victims of abuse.

AB 739, (PESCETTI), CHAPTER 236, STATUTES OF 1999

Affects: All Adult Community Care Facilities and Residential Care Facilities for the Elderly

Subject: Mandatory Reporting; Limits on Exemption From Reporting

Summary: Amends Section 15630 of the Welfare and Institutions Code to exempt specified mandated reporters from reporting abuse under specified circumstances.

A mandated reported (MR) who is a physician and surgeon, a registered nurse, or a psychotherapist, as defined in Section 1010 of the Evidence Code is not required to report incidents of abuse if all of the following are true:

- The MR is an individual defined in Section 1010 of the Evidence Code.
- The MR is told by the client that the client has been the victim of abuse.
- The MR is not aware of any independent evidence that corroborates the statement.
- The client has been diagnosed with a mental illness or dementia, or is the subject of a court-ordered conservatorship because of a mental illness or dementia.
- The MR reasonably believes the abuse did not occur.

SB 870 (VASCONCELLOS), CHAPTER 947, STATUTES OF 1999

Affects: Residential Care Facilities for Persons with Chronic Life-Threatening Illness (RCF-CIs), Residential Care Facilities for the Elderly (RCFEs), Social Rehabilitation Facilities, and Adult Residential Facilities

Subject: Long-Term Care Insurance

Summary: Amends the Insurance Code provisions that pertain to the requirements and conditions governing individual or group long-term care insurance. The statute discusses policy benefits, eligibility requirements, and marketing regulations. It also acknowledges current trends toward accessing care in residential care facilities, rather than a nursing facility.

The statute defines "residential care facility" as a facility licensed as an RCFE or a residential care facility as defined in the Health and Safety Code. According to this definition, the statute would affect the facilities shown above. However, the law describes eligible providers as facilities that are licensed and are engaged primarily in providing ongoing care and related services sufficient to support needs resulting from impairment in activities of daily living or impairment in cognitive ability and which also provide care and services on a 24-hour basis. The long-term care insurance policy may provide coverage for insured individuals clinically diagnosed as having Alzheimer's Disease, organic disorders, or related degenerative and dementing illnesses.