

California

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Licensure Term	Residential Care Facilities for the Elderly
Opening Statement	<p>The Department of Social Services, Community Care Licensing Division (CCLD), licenses residential care facilities for the elderly (RCFEs). These facilities may also be known as assisted living facilities, retirement homes, and board and care homes.</p>
Legislative and Regulatory Update	<p>In 2018, the California legislature passed AB 3098, which took effect on January 1, 2019 (unless otherwise specified) requiring all RCFEs, including facilities with continuing care contracts, to include additional elements in their facility emergency plans. Prior to AB 3098, facilities with continuing care contracts were exempt from these emergency plan requirements. See Life Safety section below for emergency and disaster plan requirements.</p> <p>The Department updated regulations in 2018 for selected provisions: Residential Care Facilities for the Elderly (RCFE) Personal Rights and Miscellaneous: California Code of Regulations (CCR), Title 22 sections 87101, 87102, 87109, 87309, 87468, 87468.1, 87468.2, 87506, 87612, 87615, and 87631; and Financial Distress in the RCFE: CCR, Title 22 section 87211.</p>
Definition	<p>An RCFE is a housing arrangement chosen voluntarily by the resident, the resident's guardian, conservator or other responsible person; where 75 percent of the residents are sixty years of age or older and where varying levels of care and supervision are provided, as agreed to at time of admission or as determined necessary at subsequent times of reappraisal. Any younger residents must have needs compatible with other residents. See California Code of Regulations, Title 22 section 87101(r)(5).</p>
Disclosure Items	<p>Prior to accepting a resident, the licensee must complete an admission agreement with the resident and/or their representative. The admission agreement must include basic and available additional services, service rates, payment provisions, and refund</p>

conditions. Upon signing of the admission agreement, the licensee must advise and provide residents and their representatives a copy of the personal rights of residents specified in Sections 87468.1 and 87468.2 of Title 22 of the California Code of Regulations as applicable to the facility. In circumstances where a facility has no family council, written information shall be provided at the time of admission to the resident's family or resident representative of their right to form a family council.

For a rate or rate structure increase, the licensee is required to provide no less than 60 days' prior written notice to the resident or the resident's representative(s) setting forth the amount of the increase, reason for the increase, and a general description of the additional costs, except for an increase in the rate due to a change in the resident's level of care. For any rate increase due to a change in the resident's level of care, the licensee shall provide the resident and the resident's representative, if any, written notice of the rate increase within two business days after initially providing services at the new level of care. The notice shall include a detailed explanation of the additional services to be provided at the new level of care and an accompanying itemization of the charges.

Admission agreements also are required to include: a comprehensive description of any items and services provided under a single fee; a comprehensive description and the corresponding fee schedule of all basic services and other items and services not included in the single fee; a description of any preadmission fee (a licensee cannot require a preadmission fee from a recipient under the State Supplementary Program for the Aged, Blind and Disabled); an explanation of the use of third-party services; a comprehensive description of billing and payment procedures; conditions under which rates may be increased; policy concerning family visits and other communication with residents; refund conditions; and conditions under which the agreement may be terminated. The admission agreement shall include requirements pertaining to the involuntary transfer or eviction. An RCFE's eviction notice must contain language stating that the licensee must file an unlawful detainer action in superior court and receive a written judgment signed by a judge in order to evict a resident who remains in the facility after the effective date of a 60-day, 30-day or three-day eviction. The admission agreement must include information about the relocation assistance offered by the facility and the facility's closure plan in order to assist residents in the event of a facility closure. Additional disclosures are required if the facility advertises or promotes specialized care, such as care of

persons with dementia.

Facility Scope of Care

An RCFE provides care and supervision to its residents, including assistance with activities of daily living (ADLs), observation and reassessment, and, when appropriate, self-releasing postural supports. Residents with the following conditions or in need of the following incidental medical services may be admitted or retained as long as the applicable statutes and regulations are followed, and these procedures and services are provided by an appropriately skilled professional: administration of oxygen, catheter care, colostomy/ileostomy care, contractures, diabetes, enemas/suppositories, incontinence, injections, intermittent positive pressure breathing machines, stage 1 and 2 pressure injury, and wound care. Dementia care, hospice care, and care for residents who are bedridden may be provided if statutory and regulatory requirements are met.

Third Party Scope of Care

Outside agencies such as those providing home health or hospice services may provide licensed medical services within their scope of practice to residents at the facility. This is restricted to treatment of those conditions allowed in a licensed RCFE setting.

Private paid personal assistants (PPPAs) or caregivers may only provide services other than those the licensee is required to provide. The licensee must provide the basic services and assistance with ADLs, as specified in regulations. PPPAs, who must have a criminal background clearance, can provide services such as companionship or additional baths beyond what the licensee is required to provide. PPPAs may assist with the self-administration of medication, but only if the resident's physician documents that the resident can store and administer their own medications.

Admission and Retention Policy

The regulations specify circumstances under which people may be accepted and retained. Residents shall not be admitted or retained if they have active communicable tuberculosis; require 24-hour skilled nursing or intermediate care; or the primary need for care and supervision results from either ongoing behavior caused by a mental disorder that would upset the general resident group or dementia, unless other requirements are met. Additionally, persons who have any of the following health conditions may not be admitted: stage 3 or 4 pressure injury, gastrostomy tubes, nasogastric tubes, staphylococcus aureus ("staph") infection or other serious infection, residents who depend on others to perform all ADLs, or tracheostomies, unless the licensee has submitted a written exception request to care for a specified condition, and the Department has approved the request.

An RCFE may issue a 30-day notice to a resident for: nonpayment of the rate for basic services within 10 days of due date; failure to comply with state or local law; failure to comply with general facility policies; or a need not previously identified if it is determined after a reappraisal and the licensee and person who performs the reappraisal believe that the facility is not appropriate for the resident. A change in the use of the facility requires a 60-day notice to the resident. The licensee, upon obtaining prior written approval from the department, may issue a three-day eviction notice upon finding good cause that the resident is engaging in behavior which is a threat to the mental and/or physical health or safety of self or others.

Resident Assessment

Residents must be assessed prior to move in, including an evaluation of functional capacity, mental condition, and social factors. While no standardized form is required, an assessment form is available at <http://www.cdss.ca.gov/cdssweb/entres/forms/English/LIC9172.PDF>. The appraisal must be updated at least once a year or upon significant change in condition, whichever is first. A medical assessment, signed by a physician, must be conducted prior to acceptance in the RCFE and must be updated when required by the Department.

For residents with dementia, the medical assessment must be updated annually.

Medication Management

Trained facility staff, unless they are appropriately skilled medical professionals acting within the scope of their practice, may not administer medications to residents, but may assist residents with the self-administration of medications.

Square Feet Requirements

There is no minimum square feet requirement for rooms. Resident rooms must be furnished by the RCFE or resident and be of sufficient size to allow for mobility of the resident and equipment.

Residents Allowed Per Room

A maximum of two residents is allowed per resident bedroom.

Bathroom Requirements

Private and shared toilets, bathing, and lavatory facilities are allowed. There must be at least one toilet and wash basin for each six persons, and one bathtub or shower for each 10 persons, including residents, family, and facility-dwelling staff.

Life Safety

Prior to licensure, each licensee must secure and maintain an appropriate facility fire clearance approved by the fire authority having jurisdiction. To obtain a fire clearance, the licensee must

meet standards established by the State Fire Marshal and the local fire authority having jurisdiction for the protection of life and property against fire. For example, RCFEs licensed for seven or more residents must have sprinklers. In California, sprinkler systems should meet National Fire Protection Association standards. All RCFEs must have smoke and carbon monoxide detectors. In addition, each licensee must have a current, written emergency disaster plan that contains a plan for evacuation, addresses elements of sheltering in place, identifies temporary relocation sites, and details staff assignments in the event of a disaster or an emergency. The emergency disaster plan must be available to emergency responders. All facilities must have smoke and carbon monoxide detectors.

RCFEs must have a current written emergency and disaster plan that includes specified items. Emergency and disaster plans are required to include elements including but not limited to: contact information list of specified parties including emergency personnel; at least two appropriate shelter locations that can house residents during an evacuation; establish a process for communicating with residents, families, and others; and inform residents and responsible parties of the communication process. Licensees must also provide training on the emergency and disaster plan to each staff member upon hire and annually thereafter; review of the emergency and disaster plan annually and update as necessary; conduct a drill for various emergency situations at least once quarterly for each shift as specified; specified information readily available to staff including contact information for the responsible party and physician for each resident; and by July 1, 2019, an evacuation chair must be in each stairwell. The emergency and disaster plans must be made available, upon request, to any resident, responsible party for a resident, local emergency responders and the local long-term care ombudsman. An applicant seeking licensure must submit the emergency and disaster plan with the initial license application.

**Unit and Staffing
Requirements for
Serving Persons
with Dementia**

RCFEs may admit residents who are diagnosed by a physician as having dementia if certain requirements are met, including an annual medical assessment, adequate supervision, enhanced physical plant safety requirements, and an appropriate activity program. Use of egress alert devices, delayed egress, and locked facility doors and perimeters are also allowed if specified additional requirements are met. Delayed egress and locked doors/perimeters require special fire clearances, and are only allowed with prior approval from CCLD. Egress alert devices worn by the resident may be used with the prior written approval of the resident or

conservator. Each non-conserved resident must sign a written statement upon admission that states the resident understands that the facility has exterior door locks or perimeter fence gate locks.

All staff must receive training in dementia care. There are additional training requirements for direct care staff who work in a facility where the licensee advertises, promotes, or otherwise holds him/herself out as providing special care, programming, and/or environments for residents with dementia or related disorders. The following are dementia care training requirements for direct care staff: 12 hours of dementia care training, six of which to be completed before working independently with residents and the remaining six hours within the first four weeks of employment; and at least eight hours of dementia care in-service training per year.

Staffing Requirements

All facilities shall have a qualified and currently certified administrator. An administrator, facility manager, or designated substitute who is at least 21 years of age and has adequate qualifications must be on the premise of the facility 24 hours per day. Direct care staff must be at least 18 years of age. There are no specified staffing ratios. Facility personnel must be sufficient at all times to provide the services necessary to meet resident needs. In RCFEs caring for 16 or more residents, there must be a specified number of awake night staff on duty, which is determined by the number residents being cared for at the facility. There must be at least one staff member on duty and on the premises at all times who has CPR training.

Administrator Education/Training

RCFE administrators must complete an 80 hour Initial Certification Training Program (60 hours of which must be attended in person), and pass a written test. Statute defines Core of Knowledge topics for administrator certification [Health and Safety Code sections 1569.616 and 1569.618; and California Code of Regulations, Title 22, Section 87405]. Administrators who possess a valid Nursing Home Administrator license are exempt from completing an approved Initial Certification Training Program and taking the related written test, but must complete 12 hours of training in the following Core of Knowledge topics: 1) laws, regulations, policies and procedural standards that impact the operations of RCFEs; 2) use and misuse of medication commonly used by the elderly in a residential setting; and 3) resident admission, retention, and assessment procedures. Administrators in facilities with a capacity of 16 or more residents must also have levels of college education and experience providing care to the elderly as specified in regulations.

Administrators must complete 40 hours of continuing education

units every two years in areas related to the Core of Knowledge. These 40 hours must include eight hours in Alzheimer's disease and dementia training. Licensed Nursing Home Administrators with a current license are only required to complete 20 of the 40 hours of continuing education. Up to one-half of the 40 hours of continuing education may be satisfied through interactive online training, as specified pursuant to California Code of Regulations, Title 22, Section 87407.

Staff Education/Training

All staff must have on-the-job training or related experience in the job assigned to them. Direct care staff who assist residents with ADLs must complete 40 hours of initial training, with 20 hours completed before working independently with residents and the remaining 20 hours completed within the first 4 weeks of employment. This training includes 12 hours of training on dementia care and 4 hours of training on postural supports, restricted health conditions, and hospice care and 16 hours of hands-on training within 4 weeks of employment. Direct care staff must complete 20 hours of annual training that includes 8 hours of training on dementia care and four on postural supports, restricted health conditions, and hospice care. Staff providing direct care to residents shall receive appropriate training in first aid from persons qualified by such agencies as the American Red Cross. All trainings must be documented and retained in facility personnel files/records. Food service and activity directors in facilities with a capacity of 16 or more must have experience and education or training as specified in regulations. Each RCFE licensee shall provide training in recognizing and reporting elder and dependent adult abuse, as prescribed by the California Department of Justice. Direct care staff who are licensed or certified medical professionals are also required to receive training. [Health and Safety Code sections 1569.625, 1569.626 and 1569.696; and California Code of Regulations, Title 22, Section 87411]

Prior to the admission of a resident with a restricted health condition, the licensee shall ensure that facility staff who will participate in meeting the resident's specialized care needs complete training provided by a licensed professional to meet those needs. Training shall include hands-on instruction in both general procedures and resident-specific procedures. Staff shall have knowledge and the ability to recognize and respond to problems and shall contact the physician, appropriately skilled professional, and/or vendor as necessary. [California Code of Regulations, Title 22, Sections , 87611, 87613, 87633, and 87705]

Direct care staff who assist residents with the self-administration of medication in RCFEs, excluding licensed health care professionals, must meet specified medication training requirements. In facilities licensed to provide care for 15 or fewer persons, direct care staff shall complete 10 hours of initial training, which includes 6 hours of hands-on training, within two weeks of employment. In facilities licensed to provide care for 16 or more persons, the employee shall complete 24 hours of initial training, which includes 16 hours of hands-on training, within 4 weeks of employment. All direct care staff, who assist residents with the self-administration of medication in RCFEs must complete 8 hours of annual training.

Effective January 1, 2019, RCFEs are required to provide training on the facility's emergency and disaster plan to each staff member upon hire and annually thereafter.

**Entity Approving
CE Program**

The CCLD's Administrator Certification Section. See:
http://www.cdss.ca.gov/inforesources/CCLD_ACS.

**Medicaid Policy and
Reimbursement**

Medicaid does not typically cover RCFEs, however, RCFEs may apply to be providers of Assisted Living Waiver (ALW) services to eligible beneficiaries. Eligible beneficiaries residing in skilled nursing facilities or the community may enroll in ALW and be placed in approved RCFEs. The ALW program is currently implemented in the following counties: Alameda, Contra Costa, Fresno, Kern, Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Francisco, San Joaquin, San Mateo, Santa Clara, and Sonoma counties. California's ALW was renewed for five years effective March 1, 2019 by the Centers for Medicare & Medicaid Services and is overseen by the California Department of Health Care Services.

Citations

California Code of Regulations, Title 22, Division 6, Chapter 8: Manual of Policies and Procedures, Community Care Licensing Division, Residential Care Facilities for the Elderly.
[https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I7D565C20D4BE11DE8879F88E8B0DAAAE&originationContext=documenttoc&transitionType=Default&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I7D565C20D4BE11DE8879F88E8B0DAAAE&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default))

Health and Safety Code, Division 2, Chapter 3.2, Residential Care Facilities for the Elderly
http://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=2.&title=&part=&chapter=3.2.&article=&goUp=Y

Department of Social Services, Community Care Licensing Division. Legislation and Regulations, Residential Care Facilities for the Elderly.

<http://www.cdss.ca.gov/inforesources/Letters-Regulations/Legislation-and-Regulations/Community-Care-Licensing-Regulations/Residential>

California Legislative Information, Residential Care Facilities for the Elderly Act.

http://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=2.&title=&part=&chapter=3.2.&article=

California Department of Health Care Services. Assisted Living Waiver.

<http://www.dhcs.ca.gov/services/ltc/Pages/AssistedLivingWaiver.aspx>

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