

California

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Licensure Term Residential Care Facilities for the Elderly

Opening Statement 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.

Legislative and Regulatory Update CCLD continues to review and revise regulations to make current and to reflect new requirements in statute.

In recent years, the California legislature enacted many statutes that affect RCFEs including in 2017, when the state legislature passed laws requiring an RCFE to abide by the provisions of the LGBT Long-Term Care Facility Residents' Bill of Rights and requiring the Department of Social Services to review a disputed transfer decision in Continuing Care Retirement Communities (which include RCFEs) to determine if the transfer was appropriate and necessary. Previously enacted statutes cover a variety of topics, such as licensure disclosure to the state, increased civil penalties, training, and resident rights. The statutes generally go into effect January 1 of the year following enactment, unless otherwise indicated. RCFEs must comply with applicable statutes, as well as regulations governing RCFEs.

Regulations were updated in 2017 for selected provisions: Admission Agreements in Residential Care Facilities for the Elderly: California Code of Regulations (CCR), Title 22 sections 87101, 87464, 87507, and 87706; and Reinstatement of Licensure After Facility Abandonment: CCR, Title 22 sections 87163, 87217, and 87775.

Definition 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).

Disclosure Items

Prior to accepting a resident, the licensee or designated representative must complete an admission agreement with the resident and his/her representative. The admission agreement must include available basic and additional services, service rates, payment provisions, and refund conditions. Written notice must be given to the resident 60 days prior to any basic rate change. RCFEs must provide residents with a copy of the residents' bill of rights, which consists of 29 rights pursuant to Health and Safety Code section 1569.269 and the personal rights in Section 87468 of Title 22 of the California Code of Regulations.

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 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 those procedures and services requiring a nurse or physical therapist 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 I and II dermal ulcers, and wound care. Dementia and hospice care 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. They may assist with the self-administration of medication, but only if the resident's physician documents that the resident can store and administer his/her own medications.

Admission and Retention Policy

The regulations specify circumstances under which people may be accepted and retained. Residents may 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 dermal ulcers, gastrostomy care, naso-gastric tubes, 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.

A facility 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; 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; or if there is a change in the use of the facility. 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 himself 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. A comprehensive physician report is also considered part of the resident assessment tool and must be updated upon significant change in a resident's condition.

Medication Management

Trained facility staff, unless he/she is an appropriately skilled medical professional acting within his/her scope of practice, may not administer medications to residents, but may assist residents with the self-administration of medications.

Square Feet Requirements

The regulations allow for private or semi-private resident rooms. Resident rooms must be furnished by the licensee or resident and be of sufficient size to allow for mobility of the resident and equipment. The state does not have minimum square feet requirements for rooms.

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.

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 notification to CCLD. Resident and/or responsible person consent is also required prior for use of delayed egress devices or locked facility doors.

See "Staffing Requirements" and "Staff Education/Training" for additional requirements that apply to all RCFEs, including those serving persons with Alzheimer's or dementia.

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. 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 care 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

Administrators, or facility managers and designated substitutes who may act on behalf of the administrator, must be at least 21 years of age. Administrators certified prior to December 31, 2015 had to complete a 40-hour Initial Certification Training Program from one of the department's approved training vendors and pass a written test. 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 residential care facilities for the elderly; 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. Effective January 1, 2016, prospective certified 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 new and/or revised 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 must complete 40 hours of continuing education units every two years in areas related to the uniform Core 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. Per statute and with prior course approval, 20 of the 40 hours of continuing education may be completed through on-line training. [Health and Safety Code section 1569.616]

Staff Education/Training

Direct care staff must be at least 18 years of age. 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.

Entity Approving CE Program

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

Medicaid Policy and Reimbursement

California's Assisted Living Waiver (ALW) was renewed for five years effective March 1, 2014 by the Centers for Medicare & Medicaid Services. The program is operating within RCFEs in the following counties: Alameda, Contra Costa, Fresno, Kern, Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Joaquin, San Mateo, Santa Clara, and Sonoma counties. The ALW enrolls eligible beneficiaries residing in skilled nursing facilities or the community and places them in RCFEs.

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)

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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