
EVALUATOR MANUAL TRANSMITTAL SHEET

<p><u>Distribution:</u></p> <p>_____ All Child Care Evaluator Manual Holders</p> <p><input checked="" type="checkbox"/> All Residential Care Evaluator Manual Holders</p> <p>_____ All Evaluator Manual Holders</p>	<p><u>Transmittal No.</u> 06APX-20</p> <hr/> <p><u>Date Issued</u> December 2006</p>
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Subject:

2006 Chaptered Legislation

Appendix A

Residential Care Facilities for the Elderly

Reason For Change:

This transmits summaries of legislation chaptered in 2006 affecting Residential Care Facilities for the Elderly. The summaries are divided into two sections as follows:

1. Immediate Action Required – Interim instructions are provided.
2. 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, 2007.

Filing Instructions:

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

Approved:

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12/26/06

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SUMMARY AND IMPLEMENTATION PLANS 2006 CHAPTERED LEGISLATION

RESIDENTIAL CARE FACILITIES FOR THE ELDERLY

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Unless otherwise noted, all new legislation becomes effective on January 1, 2007. When conducting licensing visits, LPAs should, to the extent practical, make sure that providers are aware of any new requirements. However, regardless of whether this information is provided, it is the licensee's responsibility to be aware of any new requirements affecting their program.

ACTION REQUIRED

AB 2609 (Evans), CHAPTER 615, STATUTES OF 2006

Affects: Residential Care Facilities for the Elderly (RCFEs)

Subject: RCFEs: Medication Training for Direct Care Staff

Summary: This new law, which is effective January 1, 2008, adds Section 1569.69 to the Health and Safety Code. It requires direct care staff in RCFEs, excluding licensed medical professionals, to meet specified training requirements, including passing an examination, in order to be able to assist residents with the self-administration of medications. It does not authorize unlicensed personnel to directly administer medications.

This law requires 16 hours of initial training on specified topics relating to medications (including eight hours of hands-on shadowing and eight hours of other training or instruction) for staff who assist residents with the self-administration of medications in facilities licensed with a capacity of 16 or more residents, and six hours (including two hours of hands-on shadowing and four hours of other training or instruction) for staff in facilities with a licensed capacity of 15 or fewer residents. The training material and exam for all RCFEs must be developed by, or in consultation with, a licensed nurse, pharmacist or physician. Each employee who received the initial training and passed the required exam, and who continues to assist with the self-administration of medications, must also complete four hours of in-service training on medication-related issues in each succeeding 12-month period.

RCFEs licensed to provide care for 16 or more residents must maintain documentation that demonstrates that a consultant pharmacist or nurse has reviewed the facility's medication management program and procedures at least twice a year.

Licensees must encourage pharmacists and licensed medical professionals to use "plain English" (no abbreviations, symbols, or Latin medical terms in instructions) when preparing labels on medications supplied to residents.

Implementation: As of January 1, 2008, licensing staff will use the statutory provisions in Health and Safety Code Section 1569.69 as the authority for citing and implementing this law until regulations are adopted. If there are questions concerning statute, then decisions will be made on a case-by-case basis.

During the next regularly scheduled visit, or complaint visit, to an RCFE, Licensing Program Analysts (LPAs) must notify the administrator about the new requirements for medication training, documentation, and the medication management program review by a consultant pharmacist or nurse for facilities licensed for 16 or more residents.

Since LPAs cannot cite a facility until January 1, 2008, RCFE licensees will have additional time to find consultants and trainers, and to develop the training/exam component and submit it with their updated plans of operation to licensing for approval.

I. Plan of Operation Review Component:

Prior to January 1, 2008, LPAs must review updated plans of operation to ensure that they reflect changes to the medication training programs in RCFEs required by AB 2609. Every RCFE licensed after that date must also include that information. In the plan of operation, licensed RCFEs and newly licensed RCFEs must:

- Show that the training material and the accompanying examination have been developed by, or in consultation with, a licensed nurse, pharmacist, or physician.
- Ensure that the following medication topics are covered in the training:
 - 1) The role, responsibilities, and limitations of staff who assist residents with the self-administration of medication, including tasks limited to licensed medical professionals.
 - 2) An explanation of the terminology specific to medication assistance.
 - 3) An explanation of the different types of medication orders: prescription, over-the-counter, controlled, and other medications.
 - 4) An explanation of the basic rules and precautions of medication assistance.
 - 5) Information on medication forms and routes for medication taken by residents.
 - 6) A description of procedures for providing assistance with the self-administration of medications in and out of the facility, and information on the medication documentation system used in the facility.
 - 7) An explanation of guidelines for the proper storage, security, and documentation of centrally stored medications.
 - 8) A description of the processes used for medication ordering, refills and the receipt of medications from the pharmacy.
 - 9) An explanation of medication side effects, adverse reactions, and errors.
- Include an examination component with the training that tests the employee's comprehension of, and competency in, the subjects specified above.

II. Training Requirements/Examination Component:

Effective January 1, 2008, direct care staff in RCFEs, excluding licensed medical professionals, must complete and pass the training requirements/examination component of AB 2609, in order to be allowed to assist residents with the self-administration of medications. Direct care staff who are already assisting residents with the self-administration of medication must also comply with the requirements.

LPAs must review the following to ensure that the licensee is in compliance:

- Number of hours of medication training that direct care staff (who assist with the self-administration of medication) have taken, based on capacity of facility, and whether direct care staff must repeat this training;
- Examination component of the training;
- Acceptable means of training;
- Trainer experience/licensure and education requirements; and
- Documentation requirements for direct care staff, trainers, and consultants.

A. Training – for Direct Care Staff who will Assist with the Self-Administration of Medication

- In RCFEs licensed with a capacity of 16 or more persons, the direct care staff must complete 16 hours of initial training. This training must consist of eight hours of hands-on shadowing training, which must be completed prior to assisting with the self-administration of medications. Eight hours of training or instruction, described under the plan of operation (above), must be completed in its entirety within the first two weeks of employment.
- In RCFEs licensed with a capacity of 15 or fewer persons, direct care staff must complete six hours of initial training. This training must consist of two hours of hands-on shadowing training, which must be completed prior to assisting with the self-administration of medications. Four hours of training or instruction, described under the plan of operation (above), must be completed in its entirety within the first two weeks of employment.
- The training requirements are not intended to replace or supplant the two hours required in the policies and procedures regarding medications for all RCFE staff who assist residents with personal activities of daily living specified in RCFE Regulation Section 87565(c)(2)(D).
- Training must be repeated by direct care staff if either of the following occur:
 - 1) An employee returns to work for the same licensee after a break of service of more than 180 consecutive calendar days; or
 - 2) An employee goes to work for another licensee in a facility in which he or she assists residents with the self-administration of medication.
- Regardless of the licensed capacity of the RCFE, AB 2609 requires that each direct care staff who received training and passed the required exam, and who will continue to assist with the self-administration of medications, take an additional four hours of in-service training on medication-related issues in each succeeding 12-month period.

B. Examination (Part of Training Component)

As part of the training component, direct care staff who assist with the self-administration of medications must pass an examination that tests the employee's comprehension of, and competency in, the training topics (see topics under plan of operation above). The LPA must look in the personnel file for certification from the instructor that verifies that the employee has successfully completed the training and passed the exam. (See "D" below.)

C. Acceptable Means of Training

Each RCFE that provides employee training, as specified by this law, must use training material and an accompanying examination that are developed by, or in consultation with, a licensed nurse, pharmacist, or physician. Except for hands-on shadowing, the

required training may be provided offsite, and may use various methods of instruction, including, but not limited to, all of the following:

- Lectures by presenters who are knowledgeable about medication management;
- Video instruction tapes, interactive material, online training, and books; and/or
- Other written or visual materials approved by organizations or individuals with expertise in medication management.

D. Direct Care Staff Documentation

During compliance visits, LPAs must check personnel files of direct care staff who assist residents with the self-administration of medication for a document signed by the trainer verifying that the staff have completed the required training. Licensees must be cited if direct care staff have not had the required hands-on shadowing training prior to assisting residents with the self-administration of medication. Also, licensees must be cited if direct care staff have not completed the required training that is in addition to the hands-on shadowing, and/or have not passed the required exam, within the first two weeks of employment. The licensee shall maintain documentation pertaining to staff training in the personnel records as specified in Regulation Section 87566(c)(2), and meet the other regulatory requirements in Sections 87566(f), (g), and (h). For on-the-job training, documentation must consist of a statement or notation, made by the trainer, of the content covered in the training.

E. Trainer Documentation

As required by AB 2609, the LPA must ensure that the RCFE maintains the following documentation on each person who provides employee training:

- The person's name, address, and telephone number;
- Information on the topics or subject matter covered in the training; and
- The time, dates, and hours of training provided.

The LPA must review RCFE files to look for notations that indicate which criteria for practical experience or licensure requirements the trainer meets, as indicated below. In addition, the LPA must look for proof of completion of the educational requirements, which may include a copy of a transcript or official grade slip showing a passing mark or a certificate of completion from the source where the education was received.

- Experience/Licensure Requirements
 - 1) Two years of full-time experience, within the last four years, as a consultant with expertise in medication management in areas covered by the training required by this law; or
 - 2) Two years of full-time experience, or the equivalent, within the last four years, as an administrator for an RCFE, during which time the individual has acted in substantial compliance with applicable regulations; or
 - 3) Two years of full-time experience, or the equivalent, within the last four years, as a direct care provider assisting with the self-administration of medications for an RCFE, during which time the individual has acted in substantial compliance with applicable regulations; or

4) Possession of a license as a medical professional.

- Education

- 1) A minimum of five hours of initial, or certified continuing, education; or
- 2) Three semester units, or the equivalent, from an accredited educational institution on topics relevant to medication management.

F. Consultant Documentation

The LPA must review facility files to ensure that the licensee has maintained the following documentation for the consultant(s) (licensed nurse, pharmacist, or physician) who developed, or were consulted about, the medication training material and the accompanying examination.

- The name, address, and telephone number of the consultant;
- The date when consultation was provided;
- The consultant's organization affiliation, if any, and any educational and professional qualifications specific to medication management; and
- The training topics for which consultation was provided.

III. Medication Review Component for RCFEs Licensed for a Capacity of 16 or More Residents:

LPAs must review facility files to ensure that RCFEs licensed for a capacity of 16 or more residents have maintained documentation that demonstrates that a consultant pharmacist or nurse has reviewed the facility's medication management program and procedures at least twice a year. LPAs are required to verify that the review has taken place, but are not to make judgments regarding the content of the review.

ACTION REQUIRED

AB 2675 (Strickland), CHAPTER 421, STATUTES OF 2006

Affects: Group Homes (GHs), Adult Residential Facilities (ARFs), and Residential Care Facilities for the Elderly (RCFEs)

Subject: Community Care Facilities (and RCFEs): Continuing Education: Online Courses for Administrator Certification Training

Summary: AB 2675 amends Health and Safety Code Sections 1522.41 (pertaining to GHs), 1562.3 (pertaining to ARFs), and 1569.616 (pertaining to RCFEs) relating to continuing education for administrators.

For GHs and ARFs, AB 2675 adds the following provisions to statute, which mirror existing RCFE statutory provisions:

- Up to one-half of the required 40 hours of continuing education for administrators may now be satisfied through an online course(s). (Previously, all of the required 40 hours had to be classroom hours.)
- Licensing representatives may inspect certification training programs and continuing education courses, including online courses, *at no charge to the Department*. In other words, a vendor cannot charge a licensing representative(s) who attends a course(s) for the purpose of ensuring that the course(s) complies with regulations.
- A vendor of online programs for continuing education must ensure that each online course meets the following criteria:
 - Contains an interactive portion.
 - Requires the use of a personal identification number or personal identification information.
 - Has a final screen displaying a printable statement, to be signed by the participant, certifying that the participant completed the course. Vendors must keep a copy of the signed statement of completion for three years and make it available to the Department upon demand. Any person who certifies information that he/she knows to be false is guilty of a misdemeanor.

For GHs, ARFs and RCFEs, this legislation clarifies that *all other continuing education hours for administrators must be completed in a classroom setting*.

Implementation: These provisions have an effective date of January 1, 2007. These provisions are self-implementing; however, regulations may be developed.

ACTION REQUIRED

SB 1759 (Ashburn), CHAPTER 902, STATUTES OF 2006

Affects: Residential Care Facilities for the Elderly (RCFEs), Residential Care Facilities for the Chronically Ill (RCFCIs), Community Care Facilities (CCFs) except Foster Family Homes (FFHs)

Subject: Post-Licensing Visits

Summary: This bill amends Health and Safety (H&S) Code Sections 1526.5 (pertaining to CCFs), 1568.07 (pertaining to RCFCIs), and 1569.24 (pertaining to RCFEs) to require that post-licensing inspections of RCFEs, RCFCIs, and CCFs (except FFHs) be conducted within 90 days after a facility accepts its first client or resident. (Previously, post-licensing visits had to be conducted within 90 days after the date the license was issued.) This bill also requires the licensee to notify the Department, within five business days after a facility accepts its first client or resident that the facility is operating.

In addition, this bill makes significant changes to the background check processes of the departments of Health Services, Developmental Services, Mental Health, and the Emergency Medical Services Authority. This bill also amends Section 9719 of the Welfare and Institutions Code (pertaining to long term care facilities) to require CDSS to conduct criminal record clearances for ombudsmen, contingent upon budgetary allowance. These provisions do not affect facilities licensed by the Community Care Licensing Division.

Implementation:

Note: These statutory requirements are effective January 1, 2007. Regulations are not needed, but may be amended to reference these changes under Inspection Authority. If a facility is not in compliance with the provisions of this law, cite either H&S Code Section 1526.5, 1568.07, or 1569.24.

Process:

1. The need to inform new applicants:
 - During the Component III session of the new applicant orientation, the Department shall inform applicants of the following:

Beginning January 1, 2007, the Department shall conduct post-licensing visits within 90 days after a newly licensed facility accepts its first client or resident for placement.

Beginning January 1, 2007, a licensee of a newly licensed facility must notify the Department, within five business days after the facility accepts its first client or resident for placement, that the facility has started operating. Such notification should be made to the LPA either by

telephone, fax or email. The Department then prepares to conduct an unannounced post-licensing visit.

2. The need for procedural changes:

Currently, the automated system generates a monthly LIS 867 Visit-Due Report stating when a post-licensing visit is due. This visit can only be conducted after a newly licensed facility has accepted its first client or resident for placement. If, at the time the Visit-Due Report is generated, the Department has not been notified of the acceptance of any client or resident for placement, the following procedures should be implemented:

- The LPA should place a telephone call to the facility to determine whether any client or resident has been placed.
- If at any time after licensure the LPA has reason to believe that the facility has accepted a client or resident they should follow-up to verify the information.
- If the information from the telephone contact indicates that the facility has accepted a new client or resident, the LPA should document this information on the LIC 185 Contact Sheet. The LPA shall determine the date of placement of the new client/resident and shall conduct a post-licensing visit within 90 days of this date of placement.
- If the licensee sends an email, letter or fax to the LPA stating they have accepted their first client/resident, a copy shall be placed in the facility file. If the licensee contacts the LPA via telephone stating they have accepted their first client/resident, the contact should be documented on the LIC 185 Contact Sheet.
- If the facility has failed to comply with the five-day notification requirement, the LPA shall issue a Type A citation per H&S Code Sections 1526.5, 1568.07, or 1569.24 during the post-licensing visit.
- If the information from the telephone contact indicates that the facility has not accepted a new client or resident, the LPA should document this information using the LIC 185 Contact Sheet. The LPA should continue to contact the facility at 90-day intervals until notified of the date of the first client or resident placement. This is the date from which the LPA has 90 days to conduct the post-licensing visit.

Note:

1. The Department may exercise discretion as to how often to continue the contacts to the facility at subsequent 90-day intervals.
2. The Department has the authority to conduct case management visits at any time.

3. **For the licensee who completed the Component III session of the orientation prior to January 1, 2007**, the LPA shall notify the licensee at the time the Visit-Due Report is generated and advise him/her of the five-day notification requirement. The LPA should document this information using the LIC 185 Contact Sheet. If the licensee has accepted residents/clients prior to the LPA notification, no citation shall be issued.
4. All information related to LPA and Licensee contacts should be documented on an LIC 185 Contact Sheet with paper copies placed in the facility file.

INFORMATION ONLY - NO ACTION REQUIRED

AB 2968 (Leno), CHAPTER 830, STATUTES OF 2006

Affects: Residential Care Facilities for the Elderly (RCFEs), Adult Residential Facilities (ARFs)

Subject: Medi-Cal: Community-Living Support Benefit

Summary: This new law requires the California Department of Health Services to develop and implement a program to provide a community-living support benefit to eligible Medi-Cal beneficiaries in San Francisco who would otherwise be homeless, living in a shelter, or institutionalized. The benefit would provide reimbursement for an array of health-related and psychosocial services, including assisted-living services (for example, assistance with dressing, eating, bathing, grooming, mobility, and related tasks). Beneficiaries would be able to remain in the most homelike environment possible, such as RCFEs, potentially ARFs, and publicly funded senior or disabled housing. AB 2968 will only be implemented if the City and County of San Francisco make county funds available to match federal funds.

AB 2977 (Mullin), CHAPTER 478, STATUTES OF 2006

Affects: Single Family Homes; Residential Care Facilities for the Elderly, Residential Care Facilities for the Chronically Ill, Community Care Facilities, and Child Care Facilities

Subject: Swimming Pool and Spa Safety

Summary: AB 2977 states that, effective January 1, 2007, one of seven drowning prevention measures must be followed before a building permit may be issued for a new pool or spa.

These are:

- Pool enclosure
- Safety pool cover
- Exit alarms on doors providing direct access to the pool or spa
- Self-closing, self-latching doors with direct access to the pool or spa
- Other means equal or better than the previous items.
- Removable mesh fencing meeting ASTM standards- (new for 2007)
- Pool alarms meeting ASTM standards- (new for 2007)

Also, any modification to an existing pool or spa must include an upgrade to anti-entrapment suction outlet standards as set for the ASTM.

State Department of Health Services is to have this information on its web site by January 1, 2007.

Local building officials shall inspect drowning safety prevention devices on pools and spas and give final approval when standards are met.

Implementation of AB 2977:

No Action Necessary. This bill does not change the requirements currently established in regulations.

AB 2990 (Levine), CHAPTER 620, STATUTES OF 2006

Affects: Residential Care Facilities for the Elderly (as information)

Subject: Multipurpose Senior Centers and Senior Centers:
Emergency Operations Plans

Summary: Following 9/11 and Katrina, this new law will help ensure that vulnerable populations in California, including the frail elderly, are protected during disasters and emergencies. It requires multipurpose senior centers, administered through the California Department of Aging (CDA), and senior centers, funded in part through the Senior Center Bond Act Fund administered through CDA, to have a written emergency operations plan. Multipurpose senior centers are community facilities with regular operating hours and staff that serve the frail elderly; senior centers offer community services and activities in such areas as education, creative arts and recreation. The plans must include procedures to accommodate seniors, people with disabilities, and other community members in need of shelter at the center should other community facilities be inoperable in a disaster or an emergency.

SB 144 (Runner), CHAPTER 23, STATUTES OF 2006

Affects: The following are exempt until appropriations are made available to develop new food service regulations: Residential Care Facilities for the Elderly, Residential Care Facilities for the Chronically Ill, Community Care Facilities, and Child Care Facilities

Subject: Safety of Food in Retail Food Facilities

Summary: This new law repeals the California Uniform Retail Food Facilities Law (CURFFL) in the Health and Safety Code (Part 7, beginning with Section 113700 of Division 104) and, in the place of CURFFL, creates the California Retail Food Code (CRFC) to improve the safety of food in retail food facilities. This law exempts facilities (from the CRFC) that are licensed by the California Department of Social Services (CDSS), including residential care facilities for the elderly, residential care facilities for the chronically ill, community care facilities, and child care facilities. However, it requires the CDSS to develop new food service regulations that would carry out the intent of the CRFC, if and when a specific appropriation is made available for that purpose.

SB 1128 (Alquist), CHAPTER 337, STATUTES OF 2006

Affects: Residential Care Facilities for the Elderly, Residential Care Facilities for the Chronically Ill, Adult Residential Facilities, Social Rehabilitation Facilities, Adult Residential Facilities for Persons with Special Health Care Needs, Adult Day Programs

Subject: Sex Offender Punishment, Control, and Containment Act of 2006

Summary: SB 1128 adds Section 653c to the Penal Code. This section adds to the list of offenses posted on the Megan's Law website (<http://meganslaw.ca.gov/>) for a sex offender who is required to register for an offense committed against an elder or dependent adult, the crime of loitering or trespassing on an elder or dependent care facility. This type of sex offender is not allowed to enter or remain on the grounds of a "day care or residential facility" where elders or dependent adults¹ are regularly present or living, unless he/she first registers with the facility administrator. The penalty for failing to register is a fine, imprisonment, or both.

This type of registered sex offender must advise the administrator that he/she is a registered sex offender. The offender must provide the administrator with his/her name, address, and proof of identity. The offender must explain his/her purpose for entering the facility or grounds.

The administrator may refuse to register, or may impose restrictions on or revoke the registration of, the offender if the administrator has a reasonable basis for concluding that the sex offender's presence would:

- Disrupt the facility, any resident, employee, or visitor; or
- Interfere with the orderly and peaceful activities of the facility; or
- Otherwise place at risk the facility, or any employee, volunteer or visitor.

The provisions of this bill do not apply to a current resident or client who is a registered sex offender.

SB 1451 (Kehoe), Chapter 600, Statutes of 2007

Affects: This bill relates to vulnerable populations in the following licensing categories: Residential Care Facilities for the Elderly, Residential Care Facilities for the Chronically Ill, Adult Residential Facilities, Adult Day Programs, and Social Rehabilitation Facilities

Subject: Emergency Preparedness: People with Disabilities

¹ Section 368 of the Penal Code states, in part, that "'elder' means any person who is 65 years of age or older;" and that a "'Dependent Adult' means any person who is between the ages of 18 and 64, who has physical or mental limitations which restrict his or her ability to carry out normal activities or to protect his or her rights, including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age...[and]includes any person between the ages of 18 and 64 who is admitted as an inpatient to a 24-hour health facility..."

Summary: Following 9/11 and Katrina, this new law was enacted to ensure that the special needs of people with disabilities and the frail elderly are included in California's plans for responding to disasters and emergencies. To accomplish this goal, SB 1451 requires the Governor's Office of Emergency Services (OES) to appoint representatives of people with disabilities to relevant OES committees. OES must submit a related report to the Legislature on or before January 1, 2009.

SCR 86 (Alquist) (Filed with Secretary of State August 31, 2006)

Affects: Residential Care Facilities for the Elderly

Subject: Assisted Living Week

Summary: Senate Concurrent Resolution (SCR) No. 86 proclaimed the week of September 10 to September 16, 2006, to be Assisted Living Week. This measure was sponsored by the California Assisted Living Association. It encouraged Californians to learn more about assisted living services, and to visit friends and loved ones who reside in assisted living communities.