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## EVALUATOR MANUAL TRANSMITTAL SHEET

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<p><b><u>Distribution:</u></b></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 style="text-align: center;"><b><u>Transmittal No.</u></b></p> <p style="text-align: center;">16APX-03</p> <hr/> <p style="text-align: center;"><b><u>Date Issued</u></b></p> <p style="text-align: center;">January 2016</p>
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**Subject:**

Appendix A - 2015 Chaptered Legislation  
 Community Care Licensing, Residential Care Facilities for the Elderly

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**Reason for Change:**

This document transmits the implementation plans for legislation chaptered in 2015 affecting Residential Care Facilities for the Elderly. Statutes referenced in this document are operative on January 1, 2016, unless otherwise stated.

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**Filing Instructions:**

REMOVE:    **15APX-15**  
                   2015 Chaptered Legislation for Residential Care Facilities for the Elderly.  
                   Do not remove similar documents from previous years.

INSERT:      **16APX-03**  
                   2015 Chaptered Legislation for Residential Care Facilities for the Elderly.

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**Approved:**

*Original signed by Lilit Tovmasian*

*01/06/2016*

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**LILIT TOVMASIAN, Chief**  
 Policy Development Bureau  
 Community Care Licensing Division

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 Date

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**2015 CHAPTERED LEGISLATION  
(AND 2014 LEGISLATION EFFECTIVE JANUARY 1, 2016)**  
Summaries and Implementation Plans

**RESIDENTIAL CARE FACILITIES FOR THE ELDERLY**

<b>“ACTION REQUIRED”</b>		
<b>BILL INFORMATION</b>	<b>SUBJECT</b>	<b>PAGE</b>
<p><a href="#">Assembly Bill 601</a> (Eggman) Chapter 628, Statutes of 2015 (Effective January 1, 2016)</p>	<p><b>Residential care facilities for the elderly: licensing and regulation.</b> Amended sections <a href="#">1569.2</a>, <a href="#">1569.15</a>, <a href="#">1569.16</a>, <a href="#">1569.50</a>, and <a href="#">1569.618</a> to the Health and Safety Code. Added section <a href="#">1569.356</a> to the Health and Safety Code.</p>	<a href="#">3</a>
<p><a href="#">Assembly Bill 1387</a> (Chu) Chapter 486, Statutes of 2015 (Effective January 1, 2016)</p>	<p><b>Care Facilities: Civil Penalties, Deficiencies and Appeal Procedures.</b> Amended sections <a href="#">1548</a>, <a href="#">1568.0822</a>, <a href="#">1569.35</a>, <a href="#">1569.49</a>, <a href="#">1596.842</a>, <a href="#">1596.99</a> and <a href="#">1597.58</a> of the Health and Safety Code to stipulate the procedures by which a departmental decision may be appealed by a licensee.</p>	<a href="#">11</a>
<p><a href="#">Assembly Bill 1570</a> (Chesbro) Chapter 698, Statutes of 2014 (Effective January 1, 2016)</p> <p><a href="#">Senate Bill 911</a> (Block) Chapter 705, Statutes of 2014 (Effective January 1, 2016)</p>	<p><b>Residential care facilities for the elderly.</b> Assembly Bill 1570 and Senate Bill 911 amended, repealed, and added various sections of the Health and Safety Code related to administrator certification and direct care staff training.</p> <p>Senate Bill 911 added sections of the Health and Safety Code related to prohibition on discrimination and retaliation for dialing or calling 9-1-1 and to restricted and prohibited health conditions and care.</p>	<a href="#">17</a>

**“INFORMATION ONLY – NO ACTION REQUIRED”**

<b>BILL INFORMATION</b>	<b>SUBJECT</b>	<b>PAGE</b>
<p data-bbox="188 386 496 489"><a href="#">Assembly Bill X2-15</a> (Eggman), Chapter 1, Statutes of 2015</p> <p data-bbox="188 533 529 747">(Effective the 91st day after adjournment of the second extraordinary session. The second extraordinary session is still ongoing.)</p>	<p data-bbox="571 386 1122 600"><b>State Department of Public Health: End of life.</b> Repeals <a href="#">Part 1.85</a> (commencing with section 442) and adds Part 1.85 (commencing with section 443) of Division 1 of the Health and Safety Code</p>	<p data-bbox="1305 386 1344 417" style="text-align: center;"><a href="#">55</a></p>

## ACTION REQUIRED

### **ASSEMBLY BILL 601 (Eggman), Chapter 628, Statutes of 2015**

**This law becomes effective January 1, 2016.**

**Affects:** Residential Care Facilities for the Elderly

**Subject:** Residential care facilities for the elderly: licensing and regulation

**Summary:** [Assembly Bill \(AB\) 601](#) amended sections [1569.2](#), [1569.15](#), [1569.16](#), [1569.50](#), and [1569.618](#), and added section [1569.356](#) to the Health and Safety Code.

This bill increases disclosure requirements for Residential Care Facilities for the Elderly (RCFE) applicants and licensees, as specified, and requires all RCFE applicants and licensees to maintain an email address of record with the California Department of Social Services (CDSS). This bill requires the CDSS to cross-check information, as specified in Health and Safety Code (HSC) section [1569.15\(b\)](#), and to post online additional RCFE profile information, to the extent computer systems can electronically accommodate this information.

This Implementation Plan describes only the changes to existing law as a result of the passage of AB 601, and is not a comprehensive description of all applicant disclosure requirements for RCFEs. Applicants and licensees must comply with both existing and new statutes and regulations governing RCFEs.

The Implementation Plan is divided into the following two sections:

- I. RCFE Applicant/Licensee Requirements as of January 1, 2016; and
- II. RCFE Application/Change in Information Submissions as of January 1, 2016.

### **I. RCFE APPLICANT/LICENSEE REQUIREMENTS AS OF JANUARY 1, 2016:**

#### **Applicants**

##### *Disclosure Requirements - Ownership History and Structure*

In addition to existing requirements, applicants' for RCFE licensure are required to provide the CDSS the following:

- Evidence of reputable and responsible character, as specified in HSC section [1569.15\(a\)\(2\)](#), for individuals or entities holding a beneficial ownership (as defined in HSC section [1569.2\(b\)](#)) of 10 percent or more, and the person who has operational control of the RCFE for which the application is being sought. *This requirement does not apply to investors in a publicly*

*traded company or investment fund, if those investors are silent and do not have influence or control, as specified.*

- Disclosure of whether the RCFE is a for-profit or not-for-profit provider.
- Name, address, license number, and licensing agency name of other health, residential, or community care facilities owned, managed, or operated by the same applicant or by any parent organization (as defined in HSC section [1569.2\(k\)](#)) of the applicant.
- Name and business address of any person or entity that controls (as defined in HSC section [1569.2\(e\)](#)) the applicant.
- If part of a chain (as defined in HSC section [1569.2\(d\)](#)), a diagram indicating the relationship between the applicant and the persons or entities that are part of the chain, including those that are controlled by the same parties, and in a separate list, the name, address and license number, if applicable, for each person or entity in the diagram.
- Name and address of any persons, organizations, or entities that own the real estate property on which the facility seeking licensure and other licensed health, residential, or community care facilities owned, managed, or operated by the same applicant or parent organization, is located.
- Name and address of any management company serving the facility and the same information required of applicants in HSC sections [1569.15\(a\)\(3\)\(C\)](#) and [\(a\)\(3\)\(D\)](#), specific to the management company.
- Name of the person with operational control of the applicant, such as the Chief Executive Officer (CEO), general partner, owner or like party, and to state that person's prior or present service as an administrator, CEO, general partner, director, or like role, or as a person who has held or holds a beneficial ownership interest of 10 percent or more in any RCFE, health clinic, health facility, community care facility, or similarly licensed facility, in California or any other state, within the past ten years.
- Evidence of right of possession of the facility prior to the time the license is granted, which may be satisfied by the submission of a copy of the entire lease agreement or deed.

#### *Disclosure Requirements – Disciplinary Actions and Bankruptcy*

Applicants for RCFE licensure and persons with operational control of the applicant, as specified, are required to provide the CDSS the following:

- Information related to any revocation, suspension, probation, exclusion order, or other similar administrative disciplinary action that was filed and sustained in California or any other state, or in the process of being adjudicated, against a facility associated with the licensee or person who has operational control of the licensee, within the past 10 years.
- Copies of final findings, orders, or both, issued by any health, residential, or community care licensing agency or any court relevant to disciplinary actions described above.
- Copies of any petition for bankruptcy relief filed within five years of the date of the application involving operation or closure of a health, residential, or

community care facility licensed in California or any other state, the court, date, and case number of the filing, and whether the discharge was granted. If the discharge was not granted, provide copies of any court findings supporting denial of discharge.

#### *Disclosure Requirements – Change in Information*

An applicant for RCFE licensure is required to provide all disclosures as specified in HSC section [1569.15 et seq.](#) during the application process, with any change in information required to be provided to the CDSS within 30 calendar days of that change, unless otherwise specified. A licensee of multiple facilities may provide a single notice of changes to the CDSS that clearly states it is on behalf of all licensed facilities within the chain.

Information pertaining to facilities operated in other states may be updated on an annual basis, except under the following circumstances:

- Information required pursuant to HSC section [1569.15\(a\)\(3\)\(B\)](#) – regarding other health, residential or community care facilities owned, managed, or operated by the applicant or parent organization of the applicant - is required to be updated within six months of that change.
- Information required pursuant to HSC section [1569.15\(a\)\(6\)](#) - regarding disciplinary actions and bankruptcies - is required to be updated within 30 calendar days of that change.

#### *Email Address*

An applicant for RCFE licensure is required to maintain an email address of record with the CDSS. The email address is required to be provided at the time of application and within 10 business days of any change.

### **Licensees**

#### *Disclosure Requirements*

An RCFE licensee is required to notify the CDSS, within 30 days unless otherwise specified, of any change of information required pursuant to HSC section [1569.15 et seq.](#)

#### *Email Address*

An RCFE licensee is required to maintain an email address of record with the CDSS. Any change of email address must be provided to the CDSS within 10 business days of that change.

## **California Department of Social Services**

### *Application Denial or Revocation*

The CDSS may deny an application for licensure if the applicant:

- Fails to cooperate with the licensing agency in the completion of the application. Failure to cooperate means that the information required by HSC section [1569.15 et seq.](#) and in applicable regulations, has not been provided, or has been not been provided in the form requested by the CDSS, or both.

The CDSS may deny an application for licensure, or subsequently revoke a license, if:

- The applicant knowingly withholds material information or makes a false statement of fact with regard to information that was required by the application for licensure.
- The applicant does not disclose administrative disciplinary actions on the application as required by HSC section [1569.15\(a\)\(6\)](#).
- Any employee, administrator, partner, officer, director, member, or manager of the applicant or licensee, any person who controls (as defined in HSC section [1569.2\(e\)](#)) the licensee, or any person who holds a beneficial ownership interest of 10 percent or more in the applicant or licensee has engaged in conduct described in HSC section [1569.50\(a\) et seq.](#) related to any RCFE, health clinic, health facility, or similarly licensed facility in California or any other state. The CDSS may also suspend a license for this violation.

The CDSS may also prohibit any person from being a licensee, owning a beneficial ownership interest of 10 percent or more in a licensed facility, or being an administrator, officer, director, member or manager of a licensee or entity controlling a licensee if they have done any of the activities described in HSC section [1569.58\(a\)\(1\)-\(5\)](#), including engaging in conduct that is inimical to the health, moral, welfare, or safety, as specified.

If there are co-applicants and the CDSS denies a license due to concerns pertaining solely to one of the co-applicants, any other co-applicant may withdraw their application, and with the CDSS' written consent pursuant to HSC section [1569.52](#), shall not be deemed to have had a license application denied.

### *Cross-Check Requirement*

The CDSS is required to cross-check all applicant information disclosed pursuant to HSC section [1569.15\(a\)\(5\)](#), if electronically available, with the California Department of Public Health, to determine if the applicant has a prior history of operating, holding a position in, or having ownership in, any entity specified in HSC section [1569.15\(a\)\(5\)](#).

### *Assessment of Civil Penalty*

The CDSS may, subsequent to licensure, assess a civil penalty of one thousand dollars (\$1,000) for a material violation of HSC section [1569.15 et seq.](#)

### *Website*

The CDSS is required to post online, to the extent the CDSS' computer system can electronically accommodate additional RCFE information, RCFE information specified in HSC section [1569.356](#). Facility specific information may be found at <http://cclid.ca.gov/PG3581.htm>.

## **II. RCFE APPLICATION/CHANGE IN INFORMATION SUBMISSIONS AS OF JANUARY 1, 2016**

### **Applicants**

#### *Applicant Disclosures*

For RCFE applications received by the CDSS as of January 1, 2016 (pending the updating of application materials, including forms, to include disclosures required by this law) applicants should submit the required information through an addendum to their application packet. Information required is summarized under the subtitle "Applicant," to include "Disclosure Requirements - Ownership History and Structure" and "Disclosure Requirements – Disciplinary Actions and Bankruptcy."

If the applicant operates facilities out of state that require disclosure pursuant to this law, the applicant shall include information on the name of the applicable licensing agency.

#### *Change in Information – Disclosures*

Information required pursuant to HSC section [1569.15 et seq.](#) shall be provided at the time of application. If there is a change in information, the licensee shall provide this update as specified in HSC section [1569.15\(d\)\(1\)-\(2\)](#). The licensee shall provide required updates to their local regional office.

#### *Email address*

Applicants are required to maintain an email address of record with the CDSS. Pending the updating of application materials (including the LIC 200 – Application for a Community Care Facility or Residential Care Facility for the Elderly License) applicants should include their email address as requested in question 6 on the LIC 200. This form lists the field as optional, but it is now required for RCFE applicants.



## **Licensees**

### *Change in Information - Disclosures*

Licensees are required to abide by the new disclosure requirements as specified in HSC section [1569.15](#) on a flow basis, specific to any change that occurs on or after January 1, 2016. If a change occurs that requires disclosure per HSC section [1569.15 et seq.](#), the licensee must provide notification to the CDSS within 30 calendar days, unless a shorter timeframe is already required by the CDSS through statute or regulation. If there is a change related to information not previously reported to the CDSS, sufficient information should be provided by the licensee to allow CDSS to understand the context of the change.

If a new application is required pursuant to California Code of Regulations (CCR), Title 22, Division 6, Chapter 8, Section 87161- Resubmission of Application - the applicant must submit an application in full as described in HSC section [1569.15 et seq.](#) A new application is required (1) when there is a change in facility location; (2) any change in the licensee; (3) failure to complete a new application in the required time frame; (4) any increase in capacity, as specified; and, (5) a corporate organizational change, including, but not limited to, change in structure, sale or transfer of the majority of stock, separating from a parent company, or merger with another company (this change requires a notification to CDSS within forty-eight (48) hours).

Disclosures required pursuant to HSC section [1569.15\(d\)\(1\)-\(2\)](#) shall be provided by the licensee to their local regional office.

### *Email Address*

Licensees are required to maintain an email address of record with the CDSS. The CDSS will mail a request for email address to licensees beginning January 1, 2016, with direction on how to provide email address of record to the CDSS. Upon receipt, licensees will have 10 business days to respond to this request.

## **Licensing Program Analysts**

### *Disclosure - Updates*

Information required pursuant to HSC section [1569.15 et seq.](#) is required to be provided at the time of application, with any change in information required to be provided to the CDSS within 30 calendar days of that change, unless a shorter timeframe is already required by the Department through regulation or statute.

If it is determined that there is a change in the information and the licensee has not provided the CDSS the required information in the timeframe specified, the LPA shall cite:

- *Health and Safety Code section [1569.15\(d\)](#) and provide reference to applicable statute where disclosure was not provided.*
- *CCR, Title 22, Division 6, Chapter 8, and applicable regulation section (if regulation requires a shorter timeframe than statute.)*

The following scenarios based on the new law and existing regulations are provided as examples to assist Licensing Program Analysts to identify noncompliance occurring on or after January 1, 2016.

Scenario	Cite
There is a change within the RCFE of the chief corporate officer and the licensee does not provide the required disclosure to the CDSS within 15 working days.	CCR, Title 22, Division 6, Chapter 8, Section 87211(c).
The person with operational control of the licensee changes and the licensee does not provide the required disclosure to the CDSS within 30 calendar days.	Health and Safety Code section <a href="#">1569.15(d)</a> and include reference to specific subdivision not updated.
Licensee separates from their parent company and does not provide the required disclosure to the CDSS within 48 hours.	CCR, Title 22, Division 6, Chapter 8, Section 87161 (a)(5).

Note: A licensee of multiple facilities may provide a single notice of changes to the CDSS on behalf of all licensed facilities in that chain. Information pertaining to facilities operated in other states may be updated on an annual basis, except for the following information:

- Information required pursuant to HSC section [1569.15\(a\)\(6\)](#) - regarding disciplinary actions and bankruptcies - is required to be updated within 30 calendar days of that change.
- Information required pursuant to HSC section [1569.15\(a\)\(3\)\(B\)](#) – regarding other health, residential or community care facilities owned, managed, or operated by the applicant or parent organization of the applicant - is required to be updated within six months of that change.

#### *Email Address*

Licensees are required to maintain an email address of record with the CDSS. The licensee is required to provide written notice of their email address to the CDSS and provide written notice of any change in their email address to the CDSS within ten business days. If a licensee has not met this requirement, the LPA shall cite:

- *Health and Safety Code section [1569.15 \(e\)](#)*

### *Civil Penalty Assessment*

The Licensing Program Analyst should cite violation(s) according to established procedures, and if necessary, should work with the licensee to develop a plan of correction. Pursuant to HSC section [1569.15\(f\)\(3\)](#), a material violation of HSC section [1569.15 et seq.](#) may be subject to a civil penalty of \$1,000. If it is determined that a licensee knowingly made a material violation of section [1569.15 et seq.](#), the LPA should work with their enforcement attorney to assess the \$1,000 fine, as specified.

The LIC 421 series notifying licensees of the assessment of civil penalties will be updated to accommodate penalties created by this law.

Regulations will be revised for Section 87155 (Application for License) and 87163 (Denial of License Application), in Title 22 of the CCR. Revisions will also be made in the RCFE Evaluator Manual, including reference material Section 3-0025 (Guide to Processing Applications), and other applicable reference material sections specific to RCFEs. Application (including the LIC 200) and civil penalty forms will be updated to reflect changes made through the passage of this bill.

For legislative information related to this new law see:

[Bill Text – AB 601 Residential care facilities for the elderly: licensing and regulation](#)

## ACTION REQUIRED

### **Assembly Bill 1387 (Chu), Chapter 486, Statutes of 2015**

**Affects:** Community Care Facilities (CCFs)  
Children's Residential Facilities and Certified Family Homes  
Residential Care Facilities for the Elderly (RCFEs)  
Residential Care Facilities for the Chronically Ill (RCF-CIs)  
Child Care Centers (CCCs) and Family Child Care Homes (FCCHs)

**Subject:** Care Facilities: Civil Penalties, Deficiencies and Appeal Procedures

**Summary:** [Assembly Bill \(AB\) 1387](#) amends sections [1548](#), [1568.0822](#), [1569.35](#), [1569.49](#), [1596.842](#), [1596.99](#) and [1597.58](#) of the Health and Safety Code to stipulate the procedures by which a departmental decision may be appealed by a licensee.

**Effective January 1, 2016, amendments to statute include:**

**For violations that result in death, serious injury (for child care facilities), or serious bodily injury (for all other facilities), or that constitute physical abuse:**

- Health and Safety Code sections [1548\(f\)](#), [1568.0822\(f\)](#), [1569.49\(f\)](#), [1596.99\(f\)](#), [1597.58\(f\)](#) are amended to require that any civil penalty for a violation resulting in death or serious bodily injury/serious injury, or that constitutes physical abuse of a client, must first be approved by the Program Administrator before being assessed. (Prior to [AB 1387](#) these assessments required approval by the Director of the Community Care Licensing Division.)
- Health and Safety Code sections [1548\(j\)](#), [1568.0822\(j\)](#), [1569.49\(j\)](#), [1596.99\(k\)](#), [1597.58\(k\)](#) amend the appeal process for civil penalties assessed for death, serious bodily injury/serious injury or physical abuse. Any appeal of penalties for these types of violations will now go to the Deputy Director. (Prior to [AB 1387](#) appeals first went to the Regional Manager and then the Program Administrator). A timeline for this appeal process is now stipulated in statute.
- Subsequent to the Deputy Director's decision, the law allows the licensee to further appeal the penalty to an Administrative Law Judge, following procedures set out in the Government Code.

**For All Other Civil Penalties or Deficiencies:**

- Health and Safety Code sections [1548\(k\)](#), [1568.0822\(k\)](#), [1569.49\(k\)](#), [1596.99\(l\)](#), and [1597.58\(l\)](#) are amended to require that the appeal of any other civil penalty or deficiency will now go to the Regional Manager. (Prior to [AB 1387](#) appeals first went

to the Licensing Program Manager). A timeline for this appeal process is now stipulated in statute.

- Subsequent to the Regional Manager's decision, the law allows the licensee to further appeal the penalty or deficiency to the Program Administrator. A timeline for this appeal process is also stipulated in statute. The Program Administrator's decision concludes the licensee's administrative appeal rights.

#### **All Other Amendments:**

- Health and Safety Code sections [1548\(i\)](#), [1568.0822\(i\)](#), [1569.49\(i\)](#), [1596.99\(j\)](#), [1597.58\(j\)](#) are amended to codify current regulations regarding the practice for writing notifications of deficiencies.
- Health and Safety Code sections [1548\(o\)](#), [1568.0822\(n\)](#), [1569.49\(n\)](#), [1596.99\(n\)](#), and [1597.58\(n\)](#) are added to allow the Department to implement and administer the changes made by this legislation through all-county letters or similar written instructions until regulations are adopted.

#### **Child Care Only Amendments:**

- Health and Safety Code section [1596.842](#) is amended to reference the appeal process in sections [1596.99](#) and [1597.58](#) of the Health and Safety Code to conform to the statutory appeal process.
- Health and Safety Code sections [1596.99\(i\)](#) and [1597.58\(i\)](#) are amended to remove the requirement that money deposited into the Child Health and Safety Fund be used to provide placement assistance to families with children who attend a family day care home or day care center whose license is revoked or temporarily suspended.

#### **RCFE Only Amendments:**

- Health and Safety Code section [1569.35\(c\)\(2\)](#) is amended to add that the Department will give priority, whenever possible, to complaints filed by local long-term care ombudsman or the State Long-Term Care Ombudsman and notify the Office of the State Long-Term Care Ombudsman that an investigation has been initiated.
- Health and Safety Code section [1569.35\(c\)\(3\)](#) adds the requirement asserting that the Department shall make a good faith effort to contact and interview the complainant prior to conducting an onsite investigation and inform them of the Department's proposed course of action.
- Health and Safety Code section [1569.35\(d\)](#) is added to mandate the Department to notify the complainant, in writing, of its decision within 10 business days of completing the investigation.

## **IMPLEMENTATION:**

This bill becomes effective January 1, 2016.

There are two appeal processes mentioned in the bill: one for penalties assessed for a violation determined to have resulted in death or serious bodily injury/serious injury, or that constitutes physical abuse; and another appeal process for all other penalties and deficiencies. This law restructured both appeal processes by reducing the number of levels of appeal of each type and providing a timeline for each appeal. In addition, it requires that any civil penalty assessed for a violation that results in death or serious bodily injury, or that constitutes physical abuse of a client, first be approved by the Program Administrator. This bill did not address the unlicensed appeal process, which remains unchanged.

For violations that result in death or serious bodily injury/serious injury, or that constitute physical abuse:

- 1<sup>st</sup> Level: Deputy Director, Community Care Licensing Division
- 2<sup>nd</sup> Level: Administrative Law Judge

For All Other Civil Penalties or Deficiencies:

- 1<sup>st</sup> Level: Regional Manager
- 2<sup>nd</sup> Level: Program Administrator

### **For appeals reviewed by the Deputy Director, Regional Manager or Program Administrator, the procedure is as follows:**

- A licensee may file an appeal, in writing, within 15 business days from the date of receiving the penalty assessment. All available supporting documentation must be submitted with the request for review.
- Within 30 business days of the request for review, the licensee may submit any additional supporting documentation that was unavailable at the time of the initial request.
- If the Department requires additional information from the licensee in order to make its determination, that information shall be requested within 30 business days of receiving the initial request. The licensee shall provide this additional information within 30 business days of receiving the request.
- Upon review of the appeal and additional information, the Department may amend any portion of the action taken, or may dismiss the violation entirely. The licensee shall be notified in writing of the Department's decision within 60 business days of the date when all necessary information has been provided to the Department by the licensee.

- Upon exhausting this review, the licensee may further appeal the decision to the next level of review, as outlined above. For appeals of any other civil penalty or deficiency besides death, serious bodily injury or physical abuse, the Program Administrator’s decision is considered final, and concludes the licensee’s administrative appeal rights.

Interim Procedure for the Civil Penalty Review Form

LIC 178 Penalty Review:

1. Open the Print Only Forms database and the applicable civil penalty form.
2. Complete the selected LIC form as required.
3. Print two copies for signature by the Reviewer.
4. Provide one copy to Licensee and add the other copy to facility file at Regional Office.

**For appeals reviewed by an Administrative Law Judge:**

Appeals will be conducted in accordance with Chapter 5 (commencing with Section [11500](#)) of Part 1 of Division 3 of Title 2 of the Government Code.

**Interim Civil Penalty Assessment Procedure:**

The following LIC forms will be temporarily disabled from being connected to a specific facility file in FAS effective January 1, 2016:

- LIC 421 CIVIL PENALTY ASSESSMENT
- LIC 421B CIVIL PENALTY ASSESSMENT – IMMEDIATE
- LIC 421C CIVIL PENALTY ASSESSMENT – IMMEDIATE \$150
- LIC 9058 APPLICANT/LICENSEE RIGHTS

These LIC forms will be temporarily unavailable in the FAS drop-down menu for “Additional Forms”.

While FAS is being programmed to incorporate the new and amended forms, all of the civil penalty forms will be available only in the FAS “CCLD Print Only Forms” menu. In contrast to the forms available in the “Additional Forms” drop-down menu, the forms below cannot be electronically attached to a facility report.

Amended Civil Penalty Forms

- [LIC 421 CIVIL PENALTY ASSESSMENT](#); appeals process revised
- [LIC 421B CIVIL PENALTY ASSESSMENT – BACKGROUND CHECK / CHILD CARE](#); title changed and appeals process revised
- [LIC 421C CIVIL PENALTY ASSESSMENT – IMMEDIATE \\$150](#); appeals process revised. In addition, facility-specific civil penalty information for sickness, injury, and death have been amended

- [LIC 9058 APPLICANT/LICENSEE RIGHTS](#); appeals process revised

Note: The [LIC 421A CIVIL PENALTY ASSESSMENT \(Unlicensed Facility\)](#) has not been revised, as the statutory amendments do not impact this form.

### New Civil Penalty Forms

- [LIC 421D CIVIL PENALTY ASSESSMENT – DEATH](#); this form specifies the new civil penalty amount for a violation which resulted in the death of a resident/client for each facility type
- [LIC 421E CIVIL PENALTY ASSESSMENT – SERIOUS BODILY INJURY/PHYSICAL ABUSE](#); this form specifies the new civil penalty amount for a violation that constitutes physical abuse or resulted in serious bodily injury/serious injury

### Interim instructions for amended civil penalty “Print Only Forms” in FAS

The FAS Print Only LIC forms are fillable PDF forms. Starting January 1, 2016, the LPA shall follow the steps below in using these forms:

1. On the LIC [809](#) or LIC [9099](#), indicate the civil penalty being assessed, including the authority for the citation (regulation or statute) and amount assessed
2. Write the following on the LIC [809](#):  
“The licensee was provided a copy of their appeal rights (LIC [9058](#) 12/15) and their signature on this form acknowledges receipt of these rights.”
3. Open the Print Only Forms database
  - A. Open the applicable civil penalty form
    - i. Complete the selected LIC form as required
    - ii. Print two copies for signatures by LPA and Licensee
    - iii. Provide one copy to Licensee and add the other copy to facility file at the Regional Office
  - B. In Print Only Forms database, open the LIC [9058](#) (12/15)
    - i. Print one copy
    - ii. Provide the copy to the Licensee

### Interim instructions for LIC [421D – Death](#), and for LIC [421E – Serious Bodily Injury/Physical Abuse](#)

A civil penalty for a violation suspected of resulting in death, serious bodily injury or physical abuse will not be assessed at the time of the site inspection because the final determination on these types of violations can only be made by the Program Administrator. Instead, it should be noted on the licensing report that a civil penalty determination is pending. The underlying violation that resulted in the death, serious bodily injury or physical abuse of a client shall be cited following normal procedures (see above).



If approved by the Program Administrator, a signed LIC [421D](#) or LIC [421E](#) form will be provided to the Regional Office. The Licensing Program Analyst shall conduct a subsequent visit to the facility to issue the civil penalty, or if the Regional Office determines it is appropriate, a non-compliance conference may be held. At the time of assessment, the Licensing Program Analyst should inform the licensee of his or her appeal rights specific to this type of civil penalty. A copy of both the licensing report and the civil penalty notice statement should be forwarded to the Civil Penalty Coordinator for invoicing and collection.

The LPA should consult with his or her Licensing Program Manager for specific questions on the new and amended LIC civil penalty forms.

Updated information will be provided once the civil penalty forms have been reprogrammed into FAS and the LPA is able to access them from within the facility file in FAS.

### **Contact with Complainants (RCFE only)**

This law requires the Department to make a good faith effort to contact and interview the complainant, and to notify the complainant in writing of its decision regarding the RCFE complaint within 10 business days of completing the investigation. This contact must be documented on page 2 of the LIC [802 "Complaint Report."](#) This contact usually takes the form of a phone call. If there is an address but no available phone number for the complainant, the LPA may mail the complainant the second page of the LIC [856 "Complaint Response Letter,"](#) specifically, the "Report of Findings" section, which describes the result of the LPA's investigation.

In addition, the Department must give priority to a complaint filed by a local long-term care ombudsman or the State Long-Term Care Ombudsman that alleges denial of a statutory right of access to an RCFE. Further, it requires the Department to notify the Office of the State Long-Term Care Ombudsman that such an investigation has been initiated.

Under a [Memorandum of Understanding](#) with the Office of the Long-Term Care Ombudsman, each Regional Office is responsible for notifying the local Ombudsman Program of substantiated complaints against Residential Care Facilities for the Elderly and Adult Residential Facilities. The Regional Offices must also provide the local Ombudsman, in a timely manner, with legible copies of all LIC [809s "Facility Evaluation Report"](#) and LIC [9099s "Complaint Investigation Report"](#) for all Residential Care Facilities for the Elderly and Adult Residential Facilities in the Regional Office's local planning and service area. ([EM Section 3-2650](#))

***Any civil penalties or deficiencies assessed prior to January 1, 2016, must be appealed according to the previously established procedure.***

## ACTION REQUIRED

### **ASSEMBLY BILL 1570 (Chesbro) Chapter 698, Statutes of 2014**

### **SENATE BILL 911 (Block) Chapter 705, Statutes of 2014**

**These bills become effective January 1, 2016.**

**Affects:** Residential Care Facilities for the Elderly

**Subject:** Residential care facilities for the elderly

**Summary:** [Assembly Bill \(AB\) 1570](#) and [Senate Bill \(SB\) 911](#) amended, repealed, and added various sections of the Health and Safety Code related to administrator certification and direct care staff training.

[SB 911](#) added sections of the Health and Safety Code related to prohibition on discrimination and retaliation for dialing or calling 9-1-1 and to restricted and prohibited health conditions and care.

AB 1570 and SB 911 increase training hour and topic requirements and enhance training methods for applicants for licensure, administrators, and direct care staff in Residential Care Facilities for the Elderly (RCFEs). They also enhance administrator certification requirements for applicants for licensure and administrators.

SB 911 prohibits licensees of RCFEs from discriminating or retaliating against a resident, employee, or other person for contacting 911. It also requires licensees providing care to residents with prohibited or restricted health conditions to ensure that care is provided by specified professionals under specified conditions.

The Implementation Plan for AB 1570 and SB 911 has been combined into one plan for ease of reference. This document is structured as follows:

<b>Topic</b>	<b>Audience</b>
Administrator Certification Requirements	Licensees Vendors Licensing Program Analysts
Direct Care Staff Training Requirements	Licensees Licensing Program Analysts
Prohibition on Discrimination and Retaliation for Dialing or Calling 9-1-1	
Restricted and Prohibited Health Conditions and Care	

## **IMPLEMENTATION**

Licensees must ensure that they comply with the requirements of the new law as well as continue to comply with the requirements of the California Code of Regulations (CCR), Title 22, RCFE and previously enacted law that are not changed by the new law and continue to apply.

The California Department of Social Services (CDSS) Community Care Licensing Division (CCLD) will also develop regulations and update policies and procedures.

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## **ADMINISTRATOR CERTIFICATION REQUIREMENTS**

### **SECTION A1: LICENSEES**

#### **OVERVIEW**

##### **New Applicants**

###### Prospective Licensees

If an applicant has never been licensed to operate a California RCFE, the applicant is required to meet new initial administrator certification requirements that include an increase in both training hours and exam questions.

###### Existing Licensees

- If an applicant for a new license, who is also an existing licensee, is required to meet initial administrator certification requirements that include an increase in both training hours and exam questions unless the applicant has:
  - Initial licensure prior to July 1, 1989, or
  - Successfully completed an approved certification program within the prior five (5) years, regardless if the licensee has met continuing education requirements to keep the certificate valid.

###### All Applicants

There has been no change to Health and Safety Code section [1569.23](#) which states:

If an applicant is a firm, partnership, association, or corporation, the chief executive officer, or other person serving in a like capacity, or the designated administrator of the facility, shall provide evidence of successfully completing an approved certification program.

##### **Existing Certified Administrators**

RCFE licensees who are also administrators and RCFE administrators certified prior to December 31, 2015, are not required to complete the new eighty (80)-hour Initial Certification Training Program (ICTP).

## REQUIREMENTS

### Initial Certification

Effective January 1, 2016, applicants for RCFE licensure and prospective certified RCFE administrators must complete an ICTP as defined in Health and Safety Code sections [1569.23](#) and [1569.616](#) that consists of the following:<sup>1</sup>

- Completing a CDSS-approved eighty (80)-hour ICTP, sixty (60) hours of which must be attended in person.
- A state-developed and administered examination that consists of no less than one hundred (100) questions based on the uniform Core of Knowledge (CoK) required for administrators.

Applicants for RCFE licensure and prospective certified RCFE administrators must complete coursework in the uniform CoK that has been updated in scope and topic to comply with Health and Safety Code sections [1569.23](#) and [1569.616](#).

The new and/or revised topics for administrator certification include:

- Medication management; including antipsychotics, and the adverse effects of psychotropic drugs for use in controlling the behavior of persons with dementia.
- Managing Alzheimer's disease and related dementias; including nonpharmacologic, person-centered approaches to dementia care.
- Managing the physical environment; including maintenance and housekeeping.
- Residents' rights, and the importance of initial and ongoing training for all staff to ensure residents' rights are fully respected and implemented.
- Cultural competency and sensitivity in issues relating to the underserved, aging, lesbian, gay, bisexual, and transgender community<sup>2</sup>.
- Postural supports, restricted health conditions, and hospice care.

A sample of the updated CoK is available for review on the CDSS CCLD Administrator Certification Section webpage.

### Documentation of Certification and Transfer of Certification to Another RCFE

Licensees must continue to maintain documentation that administrators have met certification requirements as specified in CCR, Title 22, sections [87406](#) and [87407](#), as specified in CCR, Title 22, section [87412](#).

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<sup>1</sup>Prior to January 1, 2016, some hyperlinks to statute may provide a screen that shows links to both old and new versions of statute. The old version of statute can be accessed by clicking on "(Amended by...)" The new version of statute can be accessed by clicking on "(Repealed (in...) and added by...)"

<sup>2</sup>The requirement to receive training on cultural competency and sensitivity has been a requirement for prospective administrators in Health and Safety Code section [1569.616](#). This requirement now also applies to applicants for licensure as specified in Health and Safety Code section [1569.23](#).

Licensees that meet new initial administrator certification requirements and apply for a new license to operate another RCFE can transfer their certification to another licensed RCFE, provided no more than five (5) years have passed since the date of their certification. After five (5) years, licensees that apply for a new license to operate another RCFE will need to repeat initial administrator certification. This certification requirement for licensees applies even if the licensee has kept their administrator certification current.

If they have met certification requirements as specified in CCR, Title 22, sections [87406](#) and [87407](#), administrators may transfer their certification from one licensed RCFE to another licensed RCFE, regardless of the date of their certification.

## ADMINISTRATOR CERTIFICATION REQUIREMENTS

### SECTION A2: VENDORS

#### OVERVIEW

Effective **January 1, 2016**, a RCFE ICTP must:

- consist of eighty (80) hours of coursework, at least sixty (60) hours of which, must be attended in person; and
- be approved by the CDSS.

All CDSS previously approved 40 (forty)-hour RCFE ICTPs expire **December 31, 2015**.

For the most current information on Administrator Certification activities, requirements, and forms, please see the CDSS CCLD Administrator Certification Section webpage.

## **ADMINISTRATOR CERTIFICATION REQUIREMENTS**

### **SECTION A3: LICENSING PROGRAM ANALYSTS**

#### **OVERVIEW**

Effective **January 1, 2016**, a RCFE ICTP must:

- consist of eighty (80) hours of coursework, at least sixty (60) hours of which, must be attended in person; and
- be approved by the CDSS.

All CDSS previously approved 40 (forty)-hour RCFE ICTPs expire **December 31, 2015**.

#### **REQUIREMENTS**

##### **Central Application Unit**

Licensing Program Analysts working in the Central Application Unit should ensure that applicants for new RCFE licensure meet new initial administrator certification requirements effective on January 1, 2016.

##### **Review of Administrator Training Records**

Licensing Program Analysts should review administrator training records to confirm that administrators have current and valid proof of certification that they have met certification requirements effective through December 31, 2015, or effective on January 1, 2016.

##### **Citation from Existing Regulations**

Licensing Program Analysts shall continue to cite from existing applicable regulations when administrators are found to not have current and valid proof of certification in administrator training records.

##### **Reminder to Licensees**

If an administrator's current and valid proof of certification is about to expire, Licensing Program Analysts should remind licensees that the administrator must renew their certification.



## DIRECT CARE STAFF TRAINING REQUIREMENTS

### SECTION B1: LICENSEES

#### OVERVIEW

Effective **January 1, 2016**, RCFE licensees must ensure that they meet initial and annual training requirements that include new:

- Required initial and annual training time and training topics for all RCFE general direct care staff.
- For all RCFE direct care staff assisting residents with self-administration of medication, additional required initial and annual training time and training topic.
- For licensees that employ licensed or certified medical professionals, orientation, initial, and annual training requirements.

Licensees may permit RCFE general direct care staff and direct care staff assisting residents with self-administration of medication who start, but do not complete, initial or annual training **on or before December 31, 2015**, to count prior training towards new initial or annual training requirements.

Licensees must ensure that RCFE general direct care staff and direct care staff assisting residents with self-administration of medication who have started the existing initial or annual training complete training **on or before December 31, 2015** for laws and regulations effective in 2015 to apply. Licensees must ensure that all direct care staff who start initial training or are due for annual training **on or after January 1, 2016**, meet new initial or annual training requirements.

**NOTE:** The term “direct care staff” refers to staff that are not licensed or certified medical professionals, unless noted otherwise.

#### REQUIREMENTS

##### Updated Plan of Operation and Staff Training Plan

To meet the requirements of new law, the CCLD will require licensees to revise their plans of operation and staff training plans as necessary by January 1, 2016, to address the new law. Plans of operation must reflect that staff training plans have been updated to address new training requirements for direct care staff. Staff training plans must reflect new training requirements.

Licensees must send copies of their revised plans of operation and staff training plans to their Regional Offices for approval as currently required by CCR, Title 22, section

[87208\(a\)\(5\) and \(6\)](#).<sup>3</sup> Although approval may be pending, licensees will be required to be in compliance with new law as of January 1, 2016. On an ongoing basis, licensees will only need to send copies of their revised training plans to their Regional Offices.

## **General Direct Care Staff Who Are Not Licensed or Certified Medical Professionals**

### **Initial General Training**

Licensees must ensure that all RCFE general direct care staff complete forty (40) hours of initial training on a general, or core curriculum, as specified in Health and Safety Code section [1569.625](#). This training must be divided into two (2) phases:

- (1) initial twenty (20) hours, which must be completed before working independently with residents; and
- (2) remaining twenty (20) hours, which must be completed within the first four (4) weeks of employment.

Licensees have flexibility to design staff training plans, as shown on the following grid. The CDSS provides some guidelines for licensees to consider as they design staff training plans:

- If the required minimum training hours are not specified in either the “Initial 20 hours” or “Remaining 20 hours” columns for a training topic, licensees have discretion with regard to the training topic.
- “Licensee discretion” means that licensees may determine the number of training hours to be dedicated to a training topic or when a training topic is taught. For the training topic “Postural supports, restricted health conditions, and hospice care,” the number of training hours to be dedicated during the remaining 20 hours of training is to be determined by licensees. For all other training topics at licensee discretion, licensees are to determine the number of hours to be dedicated to training and training can be provided anytime during the 40 hours of training, as long as the total 40 hours of training are met.
- For training topics at licensee discretion, the number of training hours to be dedicated to a training topic or when a training topic is taught should be based on the needs of residents in a RCFE, what staff need to know before and while working with residents, and the needs of a RCFE.

New training topics included in the general, or core curriculum shown on the following grid are noted by **boldface** font.

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<sup>3</sup>When viewing hyperlinks to regulations from the CCLD website in Adobe Acrobat Reader, it is necessary to search for the appropriate section of regulations by either: 1) clicking on the “Edit” tab, then clicking on “Find” to search for the section in the linked pages, or 2) scrolling through the linked pages to find the section. For greater ease of use, the CDSS CCLD has provided direct hyperlinks to the Westlaw/Barclays version of the California Code of Regulations in this Implementation Plan.

General, or Core Curriculum Training Topic	Minimum Training Hours	
	Initial 20 hours	Remaining 20 hours
<b>Cultural competency</b>	Licensee Discretion	
Personal care services	3	
Physical limitations and needs of the elderly	2	
Psychosocial needs of the elderly	Licensee Discretion	
Residents' rights	Licensee Discretion	
<b>Dementia care</b>	6	6
<b>Building and fire safety and appropriate response to emergencies</b>	Licensee Discretion	
<b>Antipsychotic and psychotropic medication*</b>	Licensee Discretion	
Policies and procedures regarding medications	2	
<b>Postural supports, restricted health conditions, and hospice care</b>	4	Licensee Discretion
Total Required – Initial 20 hours	10	
Total Required – Remaining 20 hours		6
Remaining TOTAL hours for training topics at licensee discretion	24	
<b>TOTAL</b>	<b>40</b>	

\*Applies separately to both RCFE general direct care staff and direct care staff assisting residents with self-administration of medication.

### Hands-On Training Requirement

All RCFE general direct care staff must complete **sixteen (16) hours of hands-on training** as part of initial training within the first four (4) weeks of employment. Licensees may require that direct care staff complete a portion of these hours before providing care to residents independently, and complete a remaining portion of these hours anytime within the first four (4) weeks of employment. This requirement may be based on direct care staff knowledge, ability, and skill necessary to ensure the health and safety of residents in the facility.

### Annual General Training

Licensees must ensure that all RCFE general direct care staff complete twenty (20) hours of annual training on the general, or core curriculum, as specified in Health and Safety Code section [1569.625](#). The total required hours of training must include:

- (1) eight (8) hours of training on dementia care, as required by Health and Safety Code section [1569.626](#); and
- (2) four (4) hours of training on postural supports, restricted health conditions, and hospice care, as required by Health and Safety Code section [1569.696](#).

The remaining eight (8) hours of annual training can be in any of the topics required for initial training, at the discretion of licensees.

### Documentation of Training and Transfer of Training to Another RCFE

Licensees must maintain documentation that all RCFE general direct care staff completed initial and annual general, or core curriculum, training on the topics required by new law and existing regulations in the personnel records for direct care staff required by CCR, Title 22, section [87412](#).

Certain initial and annual general, or core curriculum, training topics can be portable, or transferred to, another RCFE. The hiring licensee has discretion on whether to accept training records for certain initial and annual training topics or provide training. Licensees that accept transfer of training must have documentation that RCFE general direct care staff successfully completed initial and annual training, determine whether the training meets the requirements and needs of their facilities, and document the training as being acceptable for their facilities.

The following initial and annual general, or core curriculum, training topics can be transferred to another RCFE with appropriate documentation:

- Cultural competency.
- Personal care services.
- Physical limitations and needs of the elderly.
- Psychosocial needs of the elderly.
- Residents' rights.
- Postural supports, restricted health conditions and hospice care, if initial or annual training is general and not resident-specific.

Licensees may not accept transfer of, and must have RCFE general direct care staff repeat, initial and annual training on the following general, or core curriculum, training topics:

- Building and fire safety and appropriate response to emergencies.
- Dementia care, as required by CCR, Title 22, section [87707\(a\)\(1\)\(A\)](#).
- Medication training, as required by Health and Safety Code section [1569.69\(a\)\(8\)](#).

Licensees may be part of joint ownership or joint management and use the same training plan at all of their RCFEs. In this situation, all initial and annual general, or core curriculum, training topics are portable between connected facilities. The exception to this is training on building and fire safety and appropriate response to emergencies, which may vary among facilities.

## **Direct Care Staff Who Are Not Licensed or Certified Medical Professionals Assisting Residents with Self-Administration of Medication**

### **Initial Medication Training**

In RCFEs licensed to provide care for fifteen (15) or fewer residents, licensees must ensure that all direct care staff assigned to assist residents with self-administration of medication complete ten (10) hours of initial training as specified in Health and Safety Code section [1569.69](#). This training must consist of:

- (1) six (6) hours of hands-on training, to be completed before assisting residents with self-administration of medication; and
- (2) four (4) hours of other training or instruction, to be completed within the first two (2) weeks of employment.

In RCFEs licensed to provide care for sixteen (16) or more residents, licensees must ensure that all direct care staff assigned to assist residents with self-administration of medication complete twenty-four (24) hours of initial training as specified in Health and Safety Code section [1569.69](#). This training must consist of:

- (1) sixteen (16) hours of hands-on training, to be completed before assisting residents with self-administration of medication; and
- (2) eight (8) hours of other training or instruction, to be completed within the first four (4) weeks of employment.

Direct care staff must complete training on the medication topics specified in Health and Safety Code section [1569.69](#). This law has been updated to include antipsychotic and psychotropic medication.

### **Annual Medication Training**

Licensees must ensure that all RCFE direct care staff assigned to assist residents with self-administration of medication complete eight (8) hours of annual training on the training topics specified in Health and Safety Code section [1569.69](#).

### **Documentation of Training and Transfer of Training to Another RCFE**

Licensees must maintain documentation that all RCFE direct care staff assigned to assist residents with self-administration of medication completed initial and annual medication training required by new law and existing regulations in the personnel records for direct care staff required by CCR, Title 22, section [87412](#).

Licensees may not accept transfer of, and must have RCFE direct care staff assigned to assist residents with self-administration of medication repeat, initial and annual medication training, as required by Health and Safety Code section [1569.69\(a\)\(8\)](#).

Licensees may be part of joint ownership or joint management and use the same training plan at all of their RCFEs. In this situation, all initial and annual medication training topics are portable between connected facilities.

## **Licensed or Certified Medical Professionals<sup>4</sup>**

### Facility-Specific Orientation

Licensees must ensure that all RCFE direct care staff with currently valid licenses or certificates as licensed vocational nurses (LVNs), registered nurses (RNs), or certified nurse assistants (CNAs) complete eight (8) hours of facility-specific orientation on the following topics specified in Health and Safety Code section [1569.625](#) before providing direct care to residents:

- Resident characteristics.
- Resident records.
- Facility practices and procedures prior to providing direct care to residents.

### Initial General Training

Licensees must also ensure that all CNAs working as direct care staff in RCFEs complete twelve (12) hours of initial general, or core curriculum, training on dementia care, as required by Health and Safety Code section [1569.625](#).

### Annual General Training

Licensees must ensure that all CNAs working as direct care staff in RCFEs also complete the annual general, or core curriculum, training required for all general direct care staff in Health and Safety Code section [1569.625](#).<sup>5</sup>

### Documentation of Training and Transfer of Training to Another RCFE

Licensees must maintain documentation that all RCFE direct care staff who are licensed or certified medical professionals completed facility-specific orientation and required initial and annual general, or core curriculum, training on the topics required by new law in the personnel records for direct care staff required by CCR, Title 22, section [87412](#).

Licensees may not permit RCFE direct care staff who are licensed or certified medical professionals to transfer completion of their facility-specific orientation from one licensed RCFE to another licensed RCFE.

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<sup>4</sup>These direct care staff, which include paraprofessional CNAs and licensed professionals, i.e., LVNs and RNs, must also comply with their respective licensing and certification requirements.

<sup>5</sup>The specific requirement to receive training on building and fire safety and the appropriate response to emergencies does not apply to CNAs on and after January 1, 2016. Although not required by new law, licensees are encouraged to include CNAs, as well as LVNs and RNs, in training on this topic received by other direct care staff.

Licensees may not accept transfer of, and must have RCFE direct care staff who are CNAs repeat, initial training on dementia care, as required by CCR, Title 22, section [87707\(a\)\(1\)\(A\)](#).

Certain general, or core curriculum, training topics to be taken as annual training by direct care staff who are CNAs, can be portable, or transferred to, another RCFE. The hiring licensee has discretion on whether to accept training records for certain annual training topics or provide training. Licensees that accept transfer of training must have documentation that direct care staff who are CNAs successfully completed initial and annual training, determine whether the training meets the requirements and needs of their facilities, and document the training as being acceptable for their facilities.

The following general, or core curriculum, training topics addressed in annual training taken by direct care staff who are CNAs can be transferred to another RCFE with appropriate documentation:

- Cultural competency.
- Personal care services.
- Physical limitations and needs of the elderly.
- Psychosocial needs of the elderly.
- Residents' rights.
- Postural supports, restricted health conditions and hospice care, if annual training is general and not resident-specific.

Licensees may be part of joint ownership or joint management and use the same training plan at all of their RCFEs. In this situation, all initial and annual general, or core curriculum, training topics that apply to direct care staff who are CNAs are portable between connected facilities. The exception to this is training on building and fire safety and appropriate response to emergencies, which may vary among buildings in facilities that are connected.

## DIRECT CARE STAFF TRAINING REQUIREMENTS

### SECTION B2: LICENSING PROGRAM ANALYSTS

#### OVERVIEW

Effective **January 1, 2016**, RCFE licensees are required to ensure that they meet initial and annual training requirements that include new:

- Required initial and annual training time for all RCFE general direct care staff who are not licensed or certified medical professionals.
  - Forty (40) hours of initial training on a general, or core curriculum, divided into two (2) phases:
    - (1) initial twenty (20) hours, which must be completed before working independently with residents, with the total required hours to include six (6) hours of training on dementia care and four (4) hours of training on postural supports, restricted health conditions, and hospice care.
    - (2) remaining 20 hours, which must be completed within the first four (4) weeks of employment, with the total required hours to include six (6) hours of training on dementia care.
  - Sixteen (16) hours of hands-on training must be completed as part of initial training, with timing of these hours at licensee discretion, within the first four (4) weeks of employment.
  - Twenty (20) hours of annual training on the general, or core curriculum, with the total required hours to include:
    - (1) eight (8) hours of training on dementia care; and
    - (2) four (4) hours of training on postural supports, restricted health conditions, and hospice care.
- Training topics.
  - Cultural competency.
  - Dementia care.
  - Building and fire safety and appropriate response to emergencies.
  - Antipsychotic and psychotropic medication.\*
  - Postural supports, restricted health conditions, and hospice care.

\*Applies separately to both RCFE general direct care staff and direct care staff assisting residents with self-administration of medication.

- For all RCFE direct care staff who are not licensed or certified medical professionals assisting residents with self-administration of medication, additional required initial and annual training time.
  - In RCFEs licensed to provide care for fifteen (15) or fewer residents, ten (10) hours of initial training, to include:



- (1) six (6) hours of hands-on training, to be completed before assisting residents with self-administration of medication; and
  - (2) four (4) hours of other training or instruction, to be completed within the first two (2) weeks of employment.
- In RCFEs licensed to provide care for sixteen (16) or more residents, twenty-four (24) hours of initial training, to include:
  - (1) sixteen (16) hours of hands-on training, to be completed before assisting residents with self-administration of medication; and
  - (2) eight (8) hours of other training or instruction, to be completed within the first four (4) weeks of employment.
- For licensees that employ licensed or certified medical professionals, orientation, initial, and annual training requirements.
  - All RCFE direct care staff with currently valid licenses or certificates as licensed vocational nurses (LVNs), registered nurses (RNs), or certified nurse assistants (CNAs) are required to complete eight (8) hours of facility-specific orientation before providing direct care to residents.
  - Facility-specific orientation is required to be on:
    - Resident characteristics.
    - Resident records.
    - Facility practices and procedures prior to providing direct care to residents.
  - CNAs working as direct care staff in RCFEs are required to complete:
    - twelve (12) hours of initial general, or core curriculum, training on dementia care.
    - annual general, or core curriculum, training required for all RCFE general direct care staff.

Licensees may permit RCFE general direct care staff and direct care staff assisting residents with self-administration of medication who start, but do not complete, initial or annual training **on or before December 31, 2015**, to count prior training towards new initial or annual training requirements.

Licensees are required to ensure that RCFE general direct care staff and direct care staff assisting residents with self-administration of medication who have started the existing initial or annual training complete training **on or before December 31, 2015** for laws and regulations effective in 2015 to apply. Licensees are required to ensure that all direct care staff who start initial training or are due for annual training **on or after January 1, 2016**, meet new initial or annual training requirements.

## **REQUIREMENTS**

### **Review of Direct Care Staff Training Records**

Licensing Program Analysts should review direct care staff training records to confirm that all general direct care staff, direct care staff assisting residents with self-

administration of medication, and direct care staff who are licensed or certified medical professionals have met initial and annual training requirements effective through December 31, 2015, or effective on January 1, 2016.

**Citation from New Law or Existing Regulations**

Licensing Program Analysts shall cite from new law or continue to cite from existing applicable regulations when licensees are found to not have met initial and annual training requirements for direct care staff as specified in provisions of new law or existing regulations. The following examples are provided to assist Licensing Program Analysts for potential situations that may be identified on or after January 1, 2016.

Situation	Cite
A direct care staff member was permitted to continue working with residents after completing only six (6) of the required twelve (12) hours of initial training on dementia care within the first four (4) weeks of employment.	Health and Safety Code sections <a href="#">1569.625(b)(1)</a> & <a href="#">1569.626(a)(1)</a> .
A direct care staff member does not have initial or annual training on cultural competency and sensitivity in issues relating to the underserved, aging, lesbian, gay, bisexual, and transgender community.	Health and Safety Code section <a href="#">1569.625(c)(9)</a> .
A CNA working in a RCFE did not have initial training on facility practices and procedures.	Health and Safety Code section <a href="#">1569.625(d)(1)</a> .
A direct care staff member in a facility licensed to provide care to fifteen (15) or fewer residents was permitted to assist residents with self-administration of their medications before completing the required hours of hands-on training.	Health and Safety Code section <a href="#">1569.69(a)(2)</a> .
A direct care staff member who continues to assist residents with self-administration of their medications does not have training on adverse effects of psychotropic drugs for use in controlling the behavior of persons with dementia, and the increased risk of death when elderly residents with dementia are given antipsychotic medications.	Health and Safety Code section <a href="#">1569.69(a)(4)(I)</a> .
A direct care staff member does not have initial training on postural supports, restricted health conditions, and hospice care.	Health and Safety Code sections <a href="#">1569.625(b)(1)</a> & <a href="#">1569.696(a)(1)</a> .

**Reminder to Licensees**

If direct care staff are due for annual training, Licensing Program Analysts should remind licensees that direct care staff must meet new annual training requirements.

**REFERENCE GUIDE: OVERVIEW OF RCFE REQUIREMENTS FOR TRAINING OF  
GENERAL DIRECT CARE STAFF WHO ARE NOT LICENSED OR CERTIFIED  
MEDICAL PROFESSIONALS**

**Key:** New or revised requirements as specified in new law are indicated in **boldface** font.

Please note that licensees must ensure that they comply with the requirements of the new law and continue to comply with existing requirements of the CCR, Title 22, RCFE. Existing general direct care staff must meet existing initial or annual training requirements **on or before December 31, 2015** for laws and regulations effective in 2015 to apply. Otherwise, these direct care staff completing initial or annual training requirements after **January 1, 2016** must meet the requirements of new law.

<b>INITIAL TRAINING GENERAL DIRECT CARE STAFF WHO ARE NOT LICENSED OR CERTIFIED MEDICAL PROFESSIONALS</b>					
	Training Topic	Statute and/or Regulation Citation <sup>6</sup>  (Health & Safety Code or Title 22, California Code of Regulations)	Existing: 10 hours (Through December 31, 2015)	New: 40 hours <sup>7</sup> (Effective January 1, 2016)	
				Initial 20 hours  (Before working independently with residents)	Remaining 20 hours  (Within 1 <sup>st</sup> 4 weeks of employment)
<b>BASIC SERVICES</b>	<b>Cultural competency and sensitivity in issues relating to the underserved, aging, lesbian, gay, bisexual, and transgender community</b> <a href="#">(AB 1570)</a> 1569.2	<a href="#">1569.625(c)(9)</a>	No requirement	Not specified <sup>8</sup>	
	Personal care services	<a href="#">1569.625(c)(2)</a> <a href="#">87411(c)(3)(B) &amp; (d)(3)</a> and <a href="#">(d)(5)</a>	3 hours	No change in requirement	

<sup>6</sup>Prior to January 1, 2016, some hyperlinks to statute may provide a screen that shows links to both old and new versions of statute. The old version of statute can be accessed by clicking on "(Amended by...)" The new version of statute can be accessed by clicking on "(Repealed (in...) and added by...)". When viewing hyperlinks to regulations from the CCLD website in Adobe Acrobat Reader, it is necessary to search for the appropriate section of regulations by either: 1) clicking on the "Edit" tab, then clicking on "Find" to search for the section in the linked pages, or 2) scrolling through the linked pages to find the section. For greater ease of use, the CDSS CCLD has provided direct hyperlinks to the Westlaw/Barclays version of the California Code of Regulations in this chart.

<sup>7</sup>Sixteen (16) hours of the new 40-hour initial training must be hands-on training, which may be provided within the initial 20 hours of training before working independently with residents or the remaining 20 hours of training within the first four (4) weeks of employment, at the discretion of licensees. Refer to Health and Safety Code section [1569.625\(b\)\(1\)](#).

<sup>8</sup>If a required number of hours of training on a topic are not specified in statute or regulations, the number of hours of training on a topic will be up to licensees pending regulations.

**INITIAL TRAINING  
GENERAL DIRECT CARE STAFF  
WHO ARE NOT LICENSED OR CERTIFIED MEDICAL PROFESSIONALS**

	Training Topic	Statute and/or Regulation Citation <sup>6</sup>  (Health & Safety Code or Title 22, California Code of Regulations)	Existing: 10 hours (Through December 31, 2015)	New: 40 hours <sup>7</sup> (Effective January 1, 2016)	
				Initial 20 hours  (Before working independently with residents)	Remaining 20 hours  (Within 1 <sup>st</sup> 4 weeks of employment)
	Physical limitations and needs of the elderly	<a href="#">1569.625(c)(1)</a> <a href="#">87411(c)(3)(A)</a>	2 hours	No change in requirement	
	Psychosocial needs of the elderly	<a href="#">1569.625(c)(5)</a> <a href="#">87411(c)(3)(E)</a>	Not specified	No change in requirement	
	Residents' Rights	<a href="#">1569.625(c)(3)</a> <a href="#">87411(c)(3)(C)</a>	Not specified	No change in requirement	
<b>DEMENTIA CARE</b>	<b>Special needs of persons with Alzheimer's disease and dementia, including nonpharmacologic, person-centered approaches to dementia care (AB 1570)</b>	<a href="#">1569.625(b)(1), (c)(7) &amp; (8)</a> <a href="#">1569.626(a)(1)</a> <a href="#">87411(c)(3)(F)</a> , <a href="#">87705(c)(3)(A) and (c)(3)(B)</a> , and <a href="#">87707(a)(2)(A)(2.) and (a)(2)(A)(4.)</a> <sup>9</sup>	No requirement <sup>10</sup>	6 hours	6 hours
<b>EMERGENCY PREPAREDNESS</b>	Building and fire safety and appropriate response to emergencies ( <a href="#">AB 1570</a> & <a href="#">AB 2044</a> )	<a href="#">1569.625(c)(6)</a>	No requirement	Not specified	

<sup>9</sup>With the exception of the training topic of recognizing signs and symptoms of dementia in individuals, which applies to all licensees as specified in CCR, Title 22, section [87411](#), these training topics will continue to be required for direct care staff working for licensees that currently either accept or retain residents diagnosed with dementia as specified in CCR, Title 22, section [87705](#) or advertise dementia special care as specified in CCR, Title 22, section [87707](#). Pending new regulations, all licensees will be permitted to address these training topics since direct care staff working in all facilities will now be required to receive training on dementia care as specified in new law.

<sup>10</sup>Title 22, CCR, section [87707\(a\)\(1\)](#) requires six (6) hours of initial training (currently referred to in regulations as "orientation") on dementia care for staff working at facilities advertising dementia special care. Facilities advertising dementia special care will continue to be required to meet initial training requirements specified in Title 22, CCR, section [87707\(a\)\(1\)\(C\), \(a\)\(1\)\(C\)\(1.\), \(a\)\(2\)\(B\) & \(E\)](#). Regulations will be revised to address dementia care training in all facilities.

**INITIAL TRAINING  
GENERAL DIRECT CARE STAFF  
WHO ARE NOT LICENSED OR CERTIFIED MEDICAL PROFESSIONALS**

	Training Topic	Statute and/or Regulation Citation <sup>6</sup>  (Health & Safety Code or Title 22, California Code of Regulations)	Existing: 10 hours (Through December 31, 2015)	New: 40 hours <sup>7</sup> (Effective January 1, 2016)	
				Initial 20 hours (Before working independently with residents)	Remaining 20 hours (Within 1 <sup>st</sup> 4 weeks of employment)
<b>MEDICATION</b>	Interaction of drugs commonly used by the elderly, <b>use and misuse of anti-psychotics, and the adverse effects of psychotropic drugs for use in controlling the behavior of persons with dementia</b> ( <a href="#">AB 1570</a> & <a href="#">SB 911</a> ) <sup>11</sup>	<a href="#">1569.625(c)(7)</a> <a href="#">1569.69(a)(4)(I)</a> <sup>12</sup>	No requirement	Not specified	
	Policies and procedures regarding medications	<a href="#">1569.625(c)(4)</a> <a href="#">1569.69(a)(4)(A)-(G)</a> <a href="#">87411(c)(3)(D)</a> & <a href="#">(d)(4)</a>	2 hours	No change in requirement	
<b>POSTURAL SUPPORTS &amp; SPECIAL CARE</b>	Postural Supports, Restricted Health Conditions, and Hospice Care ( <a href="#">AB 1570</a> & <a href="#">SB 911</a> )	<a href="#">1569.625(b)(1)</a> <a href="#">1569.696(a)(1)</a>	No requirement	4 hours	No requirement

<sup>11</sup>As required by new law, all direct care staff, including direct care staff assigned to assist residents with self-administration of medication, must complete training on the adverse effects of psychotropic drugs for use in controlling the behavior of persons with dementia. [(Health and Safety Code sections [1569.625\(c\)\(7\)](#) and [1569.69\(a\)\(4\)\(I\)](#)] Licensees are required to ensure that this topic is addressed in training for all direct care staff as required by Health and Safety Code section [1569.625](#). However, licensees shall ensure that this topic is also addressed in training for all direct care staff assigned to assist residents with self-administration of medication as required by Health and Safety Code section [1569.69](#). Given the specific job duties of those direct care staff, this would be more intensive training.

<sup>12</sup>These training topics will continue to be required for direct care staff working for licensees that currently either accept or retain residents diagnosed with dementia as specified in CCR, Title 22, section [87705](#) or advertise dementia special care as specified in CCR, Title 22, section [87707](#). Pending new regulations, all licensees will be permitted to address these training topics since direct care staff working in all facilities will now be required to receive training on dementia care as specified in new law.

**INITIAL TRAINING  
GENERAL DIRECT CARE STAFF  
WHO ARE NOT LICENSED OR CERTIFIED MEDICAL PROFESSIONALS**

Training Topic	Statute and/or Regulation Citation <sup>6</sup>  (Health & Safety Code or Title 22, California Code of Regulations)	Existing: 10 hours (Through December 31, 2015)	New: 40 hours <sup>7</sup> (Effective January 1, 2016)	
			Initial 20 hours  (Before working independently with residents)	Remaining 20 hours  (Within 1 <sup>st</sup> 4 weeks of employment)
		10 hours of initial training required – 7 of those hours are specific training topics	20 hours of initial training required – 10 of those hours are specific training topics	20 hours of remaining training required – 6 of those hours are specific training topics

**Points to remember for initial training:**

- The seven (7) hours of specified initial training required under current regulations will remain required after January 1, 2016. Until new regulations are developed and become effective, licensees can determine whether to require direct care staff to complete this training during the first twenty (20) hours of initial training or the second twenty (20) hours of initial training.
- While Cardiopulmonary Resuscitation (CPR) training is not required for all direct care staff, licensees must ensure there is at least one staff person who has CPR training to be on duty and on the premises of a facility at all times as required by [AB 2044](#). Refer to Health and Safety Code section [1569.618\(c\)\(3\)](#).
- Licensees must also ensure that all direct care staff assigned to assist residents with self-administration of medication in a RCFE complete specific initial training on medication as specified in [SB 911](#).
  - In facilities licensed for 15 or fewer residents, direct care staff must complete ten (10) rather than the current six (6) hours of initial training, to consist of six (6) hours of hands-on shadowing training completed prior to assisting residents with self-administration of medications, and four (4) hours of other training to be completed within the first 2 weeks of employment.
  - In facilities licensed for 16 or more residents, direct care staff must complete twenty-four (24) rather than the current sixteen (16) hours of initial training, to consist of sixteen (16) hours of hands-on shadowing training completed prior to assisting residents with self-administration of medications, and eight (8) hours of other training to be completed within the first 4 weeks of employment.

Please refer to Health and Safety Code section [1569.69\(a\)\(1\) & \(2\)](#).

- Trainer qualifications, training methods, and training location vary slightly in statute and regulation. Statute permits these aspects of training to “include, but not be limited, to,” and regulations specify that training “may include.” Thus, the CDSS CCLD will permit licensee discretion in these aspects of training, as appropriate to their RCFEs. Regulations will be revised.

<b>ANNUAL TRAINING GENERAL DIRECT CARE STAFF WHO ARE NOT LICENSED OR CERTIFIED MEDICAL PROFESSIONALS</b>				
	Training Topic	Statute and/or Regulation Citation <sup>13</sup>  (Health & Safety Code or Title 22, California Code of Regulations)	Existing: 4 hours (Through December 31, 2015)	New: 20 hours (Effective January 1, 2016)
<b>BASIC SERVICES</b>	Cultural competency and sensitivity in issues relating to the underserved, aging, lesbian, gay, bi-sexual, and trans-gender community (AB 1570)	<a href="#">1569.625(c)(9)</a>	No requirement	Not specified <sup>14</sup>
	Personal care services	<a href="#">1569.625(c)(2)</a> <a href="#">87411(c)(3)(B) &amp; (d)(5)</a>	Not specified	Not specified
	Physical limitations and needs of the elderly	<a href="#">1569.625(c)(1)</a> <a href="#">87411(c)(3)(A)</a>	Not specified	Not specified
	Psychosocial needs of the elderly	<a href="#">1569.625(c)(5)</a> <a href="#">87411(c)(3)(E)</a>	Not specified	Not specified
	Residents' rights	<a href="#">1569.625(c)(3)</a> <a href="#">87411(c)(3)(C)</a>	Not specified	Not specified

<sup>13</sup>Prior to January 1, 2016, some hyperlinks to statute may provide a screen that shows links to both old and new versions of statute. The old version of statute can be accessed by clicking on “(Amended by...)”. The new version of statute can be accessed by clicking on “(Repealed (in...) and added by...)”. When viewing hyperlinks to regulations from the CCLD website in Adobe Acrobat Reader, it is necessary to search for the appropriate section of regulations by either: 1) clicking on the “Edit” tab, then clicking on “Find” to search for the section in the linked pages, or 2) scrolling through the linked pages to find the section. For greater ease of use, the CDSS CCLD has provided direct hyperlinks to the Westlaw/Barclays version of the California Code of Regulations in this chart.

<sup>14</sup>If a required number of hours of training on a topic are not specified in statute or regulations, the number of hours of training on a topic will be up to licensees pending regulations.

**ANNUAL TRAINING  
GENERAL DIRECT CARE STAFF  
WHO ARE NOT LICENSED OR CERTIFIED MEDICAL PROFESSIONALS**

	Training Topic	Statute and/or Regulation Citation <sup>13</sup>  (Health & Safety Code or Title 22, California Code of Regulations)	Existing: 4 hours (Through December 31, 2015)	New: 20 hours (Effective January 1, 2016)
<b>DEMENTIA CARE</b>	Special needs of persons with Alzheimer's disease and dementia, including nonpharmacologic, person-centered approaches to dementia care (AB 1570) <sup>15</sup>	<a href="#">1569.625(b)(1), (c)(7) &amp; (8)</a> , <a href="#">1569.626(a)(1)</a> , <a href="#">87411(c)(3)(F)</a> , <a href="#">87705(c)(3)(A)</a> and <a href="#">(c)(3)(B)</a> , and <a href="#">87707(a)(2)(A)(2.)</a> and <a href="#">(a)(2)(A)(4.)</a>	No requirement <sup>16</sup>	8 hours
<b>EMERGENCY PREPAREDNESS</b>	Building and fire safety and appropriate response to emergencies (AB 1570 & AB 2044)	<a href="#">1569.625(c)(6)</a>	No requirement	Not specified
<b>MEDICATION</b>	Interaction of drugs commonly used by the elderly, use and misuse of anti-psychotics, and the adverse effects of psychotropic drugs for use in controlling the behavior of persons with dementia (AB 1570 & SB 911)	<a href="#">1569.625(c)(7)</a> <a href="#">1569.69(a)(4)(I)</a> <sup>17</sup>	No requirement	Not specified

<sup>15</sup>All licensees will be required to address this training topic since direct care staff working in all facilities will now be required to receive training on dementia care as specified in new law. The training topic of recognizing signs and symptoms of dementia in individuals still applies to all licensees as specified in CCR, Title 22, section [87411](#). Training topics will continue to be required for direct care staff working for licensees that currently either accept or retain residents diagnosed with dementia as specified in CCR, Title 22, section [87705](#) or advertise dementia special care as specified in CCR, Title 22, section [87707](#).

<sup>16</sup>Title 22, CCR, section [87707\(a\)\(2\)](#) requires eight (8) hours of annual training on dementia care for staff working at facilities advertising dementia special care.

<sup>17</sup>These training topics will continue to be required for direct care staff working for licensees that currently either accept or retain residents diagnosed with dementia as specified in CCR, Title 22, section [87705](#) or advertise dementia special care as specified in CCR, Title 22, section [87707](#). Pending new regulations, all licensees will be permitted to address these training topics since direct care staff working in all facilities will now be required to receive training on dementia care as specified in new law.



**ANNUAL TRAINING  
GENERAL DIRECT CARE STAFF  
WHO ARE NOT LICENSED OR CERTIFIED MEDICAL PROFESSIONALS**

	Training Topic	Statute and/or Regulation Citation <sup>13</sup>  (Health & Safety Code or Title 22, California Code of Regulations)	Existing: 4 hours (Through December 31, 2015)	New: 20 hours (Effective January 1, 2016)
	Policies and procedures regarding medications	<a href="#">1569.625(c)(4)</a> <a href="#">1569.69(a)(4)(A)-(G)</a> <a href="#">87411(c)(3)(D) &amp; (d)(4)</a>	No requirement	Not specified
<b>POSTURAL SUPPORTS &amp; SPECIAL CARE</b>	Postural Supports, Restricted Health Conditions, and Hospice Care <a href="#">(AB 1570 &amp; SB 911)</a>	<a href="#">1569.625(b)(1)</a> <a href="#">1569.696(a)(1)</a>	No requirement	4 hours
			<b>4 hours of initial training required – 0 of those hours are specific training topics</b>	<b>20 hours of annual training required – 12 of those hours are specific training topics</b>

**Points to remember for annual training:**

- Different annual training requirements apply to licensed or certified health professionals as specified in [AB 1570](#). Refer to Health and Safety Code section [1569.625\(d\)\(2\)](#).
- Licensees must also ensure that all direct care staff assigned to assist residents with self-administration of medication in a RCFE complete eight (8), rather than the current four (4), hours of annual training on medication, as specified in [SB 911](#). Refer to Health and Safety Code section [1569.69\(b\)](#)
- Trainer qualifications, training methods, and training location vary slightly in statute and regulation. Statute permits these aspects of training to “include, but

not be limited, to,” and regulations specify that training “may include.” Thus, the CDSS CCLD will permit licensee discretion in these aspects of training, as appropriate to their RCFEs. Regulations will be revised.

**REFERENCE GUIDE: OVERVIEW OF RCFE REQUIREMENTS FOR TRAINING OF  
DIRECT CARE STAFF WHO ARE LICENSED OR CERTIFIED MEDICAL  
PROFESSIONALS**

<b>INITIAL TRAINING LICENSED VOCATIONAL NURSES (LVNS), REGISTERED NURSES (RNS), AND CERTIFIED NURSE ASSISTANTS (CNAS)</b>				
	Training Topic	Statute and/or Regulation Citation <sup>18</sup>  (Health & Safety Code or Title 22, California Code of Regulations)	Existing: (Through December 31, 2015)	New: 8 hours (Effective January 1, 2016)  (Before providing direct care to residents)
<b>FACILITY-SPECIFIC ORIENTATION</b>	Resident characteristics	<a href="#">1569.625(d)(1)</a>	No requirement	Not specified <sup>19</sup>
	Resident records.	<a href="#">1569.625(d)(1)</a>	No requirement	Not specified
	Facility practices and procedures prior to providing direct care to residents.	<a href="#">1569.625(d)(1)</a>	No requirement	Not specified
				<b>8 hours of initial training required</b>

**Points to remember for initial training:**

- Statute does not specify requirements for trainer qualifications, training methods, and training location for facility-specific orientation. Thus, the CDSS CCLD will permit licensee discretion in these aspects of training, as appropriate to their RCFEs. Regulations will be revised.

<sup>18</sup>Prior to January 1, 2016, some hyperlinks to statute may provide a screen that shows links to both old and new versions of statute. The old version of statute can be accessed by clicking on "(Amended by...)" The new version of statute can be accessed by clicking on "(Repealed (in...) and added by...)". When viewing hyperlinks to regulations from the CCLD website in Adobe Acrobat Reader, it is necessary to search for the appropriate section of regulations by either: 1) clicking on the "Edit" tab, then clicking on "Find" to search for the section in the linked pages, or 2) scrolling through the linked pages to find the section. For greater ease of use, the CDSS CCLD has provided direct hyperlinks to the Westlaw/Barclays version of the California Code of Regulations in this chart.

<sup>19</sup>If a required number of hours of training on a topic are not specified in statute or regulations, the number of hours of training on a topic will be up to licensees pending regulations.

## INITIAL TRAINING CNAs Only

	Training Topic	Statute and/or Regulation Citation <sup>20</sup>  (Health & Safety Code or Title 22, California Code of Regulations)	Existing: (Through December 31, 2015)	New: 12 hours (Effective January 1, 2016)	
				Initial Hours  (Before working independently with residents)	Remaining Hours (Within 1 <sup>st</sup> 4 weeks of employment)
<b>DEMENTIA CARE</b>	Special needs of persons with Alzheimer's disease and dementia, including nonpharmacologic, person-centered approaches to dementia care <a href="#">(AB 1570)</a>	<a href="#">1569.625(d)(2)</a>	No requirement	6	6
				<b>6 initial hours of training required</b>	<b>6 remaining hours of training required</b>

### Points to remember for initial training:

- Trainer qualifications, training methods, and training location for general direct care staff vary slightly in statute and regulation. Statute permits these aspects of training to “include, but not be limited, to,” and regulations specify that training “may include.” Since statute requires the same initial training for general direct care staff and direct care staff who are CNAs, the CDSS CCLD will permit licensee discretion in these aspects of initial training for both general direct care staff and direct care staff who are CNAs, as appropriate to their RCFEs. Regulations will be revised.

<sup>20</sup>Prior to January 1, 2016, some hyperlinks to statute map provide a screen that shows links to both old and new versions of statute. The old version of statute can be accessed by clicking on “(Amended by...)” The new version of statute can be accessed by clicking on “(Repealed (in...) and added by...)”. When viewing hyperlinks to regulations from the CCLD website in Adobe Acrobat Reader, it is necessary to search for the appropriate section of regulations by either: 1) clicking on the “Edit” tab, then clicking on “Find” to search for the section in the linked pages, or 2) scrolling through the linked pages to find the section. For greater ease of use, the CDSS CCLD has provided direct hyperlinks to the Westlaw/Barclays version of the California Code of Regulations in this chart.

## ANNUAL TRAINING CNAs Only

	Training Topic	Statute and/or Regulation Citation <sup>21</sup> (Health & Safety Code or Title 22, California Code of Regulations)	Existing: (Through December 31, 2015)	New: 20 hours (Effective January 1, 2016)
<b>BASIC SERVICES</b>	Cultural competency and sensitivity in issues relating to the underserved, aging, lesbian, gay, bisexual, and transgender community (AB 1570)	<a href="#">1569.625(d)(2)</a>	No requirement	Not specified <sup>22</sup>
	Personal care services	<a href="#">1569.625(d)(2)</a>	No requirement	Not specified
	Physical limitations and needs of the elderly	<a href="#">1569.625(d)(2)</a>	No requirement	Not specified
	Psychosocial needs of the elderly	<a href="#">1569.625(d)(2)</a>	No requirement	Not specified
	Residents' Rights	<a href="#">1569.625(d)(2)</a>	No requirement	Not specified

<sup>21</sup>Prior to January 1, 2016, some hyperlinks to statute may provide a screen that shows links to both old and new versions of statute. The old version of statute can be accessed by clicking on "(Amended by...)" The new version of statute can be accessed by clicking on "(Repealed (in...) and added by...)". When viewing hyperlinks to regulations from the CCLD website in Adobe Acrobat Reader, it is necessary to search for the appropriate section of regulations by either: 1) clicking on the "Edit" tab, then clicking on "Find" to search for the section in the linked pages, or 2) scrolling through the linked pages to find the section. For greater ease of use, the CDSS CCLD has provided direct hyperlinks to the Westlaw/Barclays version of the California Code of Regulations in this chart.

<sup>22</sup>If a required number of hours of training on a topic are not specified in statute or regulations, the number of hours of training on a topic will be up to licensees pending regulations.

## ANNUAL TRAINING CNAs Only

	Training Topic	Statute and/or Regulation Citation <sup>21</sup> (Health & Safety Code or Title 22, California Code of Regulations)	Existing: (Through December 31, 2015)	New: 20 hours (Effective January 1, 2016)
<b>DEMENTIA CARE</b>	<b>Special needs of persons with Alzheimer's disease and dementia, including nonpharmacologic, person-centered approaches to dementia care (AB 1570)</b>	<a href="#">1569.625(b)(1), (c)(7) &amp; (8)</a> , <a href="#">1569.626(a)(1)</a> , <a href="#">87411(c)(3)(F)</a> , <a href="#">87705(c)(3)(A)</a> and <a href="#">(c)(3)(B)</a> , and <a href="#">87707(a)(2)(A)(2.)</a> and <a href="#">(a)(2)(A)(4.)</a> <sup>23</sup>	No requirement <sup>24</sup>	8 hours
<b>MEDICATION</b>	Interaction of drugs commonly used by the elderly, <b>use and misuse of anti-psychotics, and the adverse effects of psychotropic drugs for use in controlling the behavior of persons with dementia (AB 1570 &amp; SB 911)</b>	<a href="#">1569.625(c)(7)</a> <a href="#">1569.69(a)(4)(l)</a> <sup>25</sup>	No requirement	Not specified
	Policies and procedures regarding medications	<a href="#">1569.625(c)(4)</a> , <a href="#">1569.69(a)(4)(A)-(G)</a> , <a href="#">87411(c)(3)(D)</a> & <a href="#">(d)(4)</a>	No requirement	Not specified

<sup>23</sup>With the exception of the training topic of recognizing signs and symptoms of dementia in individuals, which applies to all licensees as specified in CCR, Title 22, section [87411](#), these training topics will continue to be required for direct care staff working for licensees that currently either accept or retain residents diagnosed with dementia as specified in CCR, Title 22, section [87705](#) or advertise dementia special care as specified in CCR, Title 22, section [87707](#). Pending new regulations, all licensees will be permitted to address these training topics since direct care staff working in all facilities will now be required to receive training on dementia care as specified in new law.

<sup>24</sup>Title 22, CCR, section [87707\(a\)\(2\)](#) requires eight (8) hours of annual training on dementia care for staff working at facilities advertising dementia special care.

<sup>25</sup>These training topics will continue to be required for direct care staff working for licensees that currently either accept or retain residents diagnosed with dementia as specified in CCR, Title 22, section [87705](#) or advertise dementia special care as specified in CCR, Title 22, section [87707](#). Pending new regulations, all licensees will be permitted to address these training topics since direct care staff working in all facilities will now be required to receive training on dementia care as specified in new law.

## ANNUAL TRAINING CNAs Only

	Training Topic	Statute and/or Regulation Citation <sup>21</sup> (Health & Safety Code or Title 22, California Code of Regulations)	Existing: (Through December 31, 2015)	New: 20 hours (Effective January 1, 2016)
<b>POSTURAL SUPPORTS &amp; SPECIAL CARE</b>	Postural Supports, Restricted Health Conditions, and Hospice Care ( <a href="#">AB 1570</a> & <a href="#">SB 911</a> )	<a href="#">1569.625(b)(1)</a> <a href="#">1569.696(a)(1)</a>	No requirement	4 hours
				<b>20 hours of annual training required – 12 of those hours are specific training topics</b>

### Points to remember for annual training:

- Trainer qualifications, training methods, and training location for general direct care staff vary slightly in statute and regulation. Statute permits these aspects of training to “include, but not be limited, to,” and regulations specify that training “may include.” Since statute requires the same annual training for general direct care staff and direct care staff who are CNAs, the CDSS CCLD will permit licensee discretion in these aspects of annual training for both general direct care staff and direct care staff who are CNAs, as appropriate to their RCFEs. Regulations will be revised.

# **PROHIBITION ON DISCRIMINATION AND RETALIATION FOR DIALING OR CALLING 9-1-1**

## **SECTION C1: LICENSEES**

### **OVERVIEW**

Licensees are prohibited from discriminating or retaliating against a resident, employee, or other person for contacting 9-1-1.

### **REQUIREMENTS**

Licensees must continue to comply with the requirements for contacting 9-1-1 as specified in CCR, Title 22, section [87465](#).<sup>26</sup>

As specified in Health and Safety Code section [1569.371](#), licensees and officers or employees of licensees are prohibited from discriminating or retaliating in any manner against a resident or employee of a RCFE due to the resident, employee, or any other person dialing or calling 9-1-1.

Licensees who violate this prohibition are subject to civil penalties as specified in Health and Safety Code [1569.49](#).<sup>27</sup>

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<sup>26</sup>When viewing hyperlinks to regulations from the CCLD website in Adobe Acrobat Reader, it is necessary to search for the appropriate section of regulations by either: 1) clicking on the "Edit" tab, then clicking on "Find" to search for the section in the linked pages, or 2) scrolling through the linked pages to find the section. For greater ease of use, the CDSS CCLD has provided direct hyperlinks to the Westlaw/Barclays version of the California Code of Regulations in this Implementation Plan.

<sup>27</sup>Prior to January 1, 2016, some hyperlinks to statute may provide a screen that shows links to both old and new versions of statute. The old version of statute can be accessed by clicking on "(Amended by...)." The new version of statute can be accessed by clicking on "(Repealed (in...) and added by...).



**PROHIBITION ON DISCRIMINATION AND RETALIATION FOR DIALING OR CALLING 9-1-1**

**SECTION C2: LICENSING PROGRAM ANALYSTS**

**OVERVIEW**

Licensees are prohibited from discriminating or retaliating against a resident, employee, or other person for contacting 9-1-1.

**REQUIREMENTS**

According to inspection protocols and when investigating complaints, Licensing Program Analysts shall carefully consider and determine whether noncompliance with the prohibition on discrimination and retaliation for dialing or calling 9-1-1 occurred. If noncompliance occurred in regard to the prohibition, Licensing Program Analysts shall cite from new law in Section [1569.371](#) of the Health and Safety Code. Licensing Program Analysts shall also cite from any other regulations in the CCR, Title 22, RCFE that may apply. The following example is provided to assist Licensing Program Analysts.

<b>Situation</b>	<b>Cite</b>
A resident was frightened by something that seemed like an emergency and when no one answered the resident's call for help, the resident contacted 911. Later, the licensee removed the phone from a resident's room to prevent the resident from calling 911 in the future.	Health and Safety Code section <a href="#">1569.371(a)</a> .

**REFERENCE GUIDE: PROHIBITION ON DISCRIMINATION AND RETALIATION FOR  
DIALING OR CALLING 9-1-1**

**REQUIREMENTS OF EXISTING REGULATIONS AND SB 911**

**Key:** *Italicized* text indicates how the new law changes requirements specified in regulations.

Please note that licensees must ensure that they comply with the requirements of the new law and continue to comply with the requirements of the CCR, Title 22, RCFE.

Existing California Code of Regulations, Title 22, RCFE <sup>28</sup>	SB 911 (Effective January 1, 2016)
<ul style="list-style-type: none"> <li>Licensees must contact 9-1-1 immediately if an injury or other circumstance results in an imminent threat to a resident's health including, but not limited to, an apparent life-threatening medical crisis except as specified in Section <a href="#">87469</a>. [(CCR, Title 22, section <a href="#">87465(g)</a>]</li> </ul>	<ul style="list-style-type: none"> <li><i>Licensees and officers or employees of licensees are prohibited from discriminating or retaliating in any manner against a resident or employee of a RCFE due to the resident, employee, or any other person dialing or calling 911. [(Health and Safety Code section <a href="#">1569.371(a)</a>]</i></li> <li><i>Licensees that violate this prohibition are subject to civil penalties as specified in Health and Safety Code section <a href="#">1569.49</a>. [(Health and Safety Code section <a href="#">1569.371(b)</a>]</i></li> </ul>

<sup>28</sup>When viewing hyperlinks to regulations from the CCLD website in Adobe Acrobat Reader, it is necessary to search for the appropriate section of regulations by either: 1) clicking on the "Edit" tab, then clicking on "Find" to search for the section in the linked pages, or 2) scrolling through the linked pages to find the section. For greater ease of use, the CDSS CCLD has provided direct hyperlinks to the Westlaw/Barclays version of the California Code of Regulations in this Implementation Plan.

## **RESTRICTED AND PROHIBITED HEALTH CONDITIONS AND CARE**

### **SECTION D1: LICENSEES**

#### **OVERVIEW**

Licensees providing care to residents with prohibited or restricted health conditions must ensure that care is provided by specified professionals under specified conditions.

#### **REQUIREMENTS**

Licensees may accept or retain residents with prohibited or restricted health conditions if requirements in the CCR, Title 22, RCFE are met. As specified in CCR, Title 22, section [87209](#), licensees may submit a written exception request if they agree that a resident has a prohibited or restricted health condition or has a prohibited health condition, but is not receiving hospice care, and believe that they can meet the intent of law through alternative means.<sup>29</sup> [(Title 22, CCR, section [87616\(a\)](#)] The CDSS CCLD permits prohibited or restricted health conditions to be in licensed RCFEs if a licensee's plan of operation does not prohibit these conditions and a written exception request has been approved by the CCLD Regional Office responsible for a RCFE.

As required by new law in Health and Safety Code section [1569.39](#), licensees must:

- Assist residents who have prohibited health conditions with accessing home health and hospice services, as indicated in the resident's current appraisal, to ensure that residents receive medical care as prescribed by the resident's physician and contained in the resident's service plan.
- Ensure that residents with restricted health conditions receive medical care, as prescribed by the resident's physician and contained in the resident's service plan, by appropriately skilled professionals acting within their scope of practice.

Licensees continue to be responsible for ensuring that residents with restricted and prohibited health conditions receive care prescribed by their physicians in a timely manner and documenting their efforts to schedule appointments as requested by, and work with, home health agencies and hospice care agencies when they accept or retain these residents.

Licensees who fail to meet or arrange to meet the needs of a resident who requires health-related services as specified in the resident's written record of care, or fail to notify the resident's physician of a resident's illness or injury that poses a danger of

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<sup>29</sup>When viewing hyperlinks to regulations from the CCLD website in Adobe Acrobat Reader, it is necessary to search for the appropriate section of regulations by either: 1) clicking on the "Edit" tab, then clicking on "Find" to search for the section in the linked pages, or 2) scrolling through the linked pages to find the section. For greater ease of use, the CDSS CCLD has provided direct hyperlinks to the Westlaw/Barclays version of the California Code of Regulations in this Implementation Plan.

death or serious bodily harm, are subject to civil penalties based on the nature or seriousness of a violation as specified in Health and Safety Code section [1569.49](#).<sup>30</sup>

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<sup>30</sup>Prior to January 1, 2016, some hyperlinks to statute may provide a screen that shows links to both old and new versions of statute. The old version of statute can be accessed by clicking on "(Amended by...)." The new version of statute can be accessed by clicking on "(Repealed (in...) and added by...).

**RESTRICTED AND PROHIBITED HEALTH CONDITIONS AND CARE**

**SECTION D2: LICENSING PROGRAM ANALYSTS**

**OVERVIEW**

Licensees providing care to residents with prohibited or restricted health conditions must ensure that care is provided by specified professionals under specified conditions.

**REQUIREMENTS**

According to inspection protocols and when investigating complaints, Licensing Program Analysts shall carefully consider and determine whether noncompliance with the responsibility to ensure appropriate care when accepting or retaining residents who require health-related services occurred. If noncompliance occurred in regard to the prohibition, Licensing Program Analysts shall cite from new law in Section [1569.39](#) of the Health and Safety Code. Licensing Program Analysts shall also cite from any other regulations in the CCR, Title 22, RCFE that may apply. The following examples are provided to assist Licensing Program Analysts.

<b>Situation</b>	<b>Cite</b>
An indwelling urinary catheter used by a resident was not irrigated by an appropriately skilled professional both as prescribed by the resident’s physician and as specified in the resident’s care plan.	Health and Safety Code section <a href="#">1569.39(b)</a> .
A licensee has not assisted a resident who has a naso-gastric (NG) tube due to complications from surgery with accessing adequate home health services to ensure that NG tube feedings are provided on the schedule prescribed by the resident’s physician and specified in the resident’s care plan.	Health and Safety Code section <a href="#">1569.39(a)</a> .

**REFERENCE GUIDE: RESTRICTED AND PROHIBITED HEALTH CONDITIONS AND CARE**

**REQUIREMENTS OF EXISTING REGULATIONS AND SB 911**

**Key:** *Italicized* text indicates how the new law changes requirements specified in regulations.

Please note that licensees must ensure that they comply with the requirements of the new law and continue to comply with the requirements of the CCR, Title 22, RCFE.

<b>Existing California Code of Regulations, Title 22, RCFE<sup>31</sup></b>	<b>SB 911</b> (Effective January 1, 2016)
<ul style="list-style-type: none"> <li>• Licensees are currently required to arrange, or assist in arranging, for medical or dental care appropriate to the conditions and needs of residents. [(CCR, Title 22, section <a href="#">87465(a)(1)</a>]</li> <li>• Licensees must:               <ul style="list-style-type: none"> <li>○ Before, or within two (2) weeks of admitting a resident, arrange a meeting with the resident, the resident's representative, if any, appropriate facility staff, and a representative of the resident's home health agency, if any, and any other appropriate parties, to prepare a written record of care the resident will receive in the facility. [(CCR, Title 22, section <a href="#">87467(a)</a>]</li> <li>○ Agree in writing with the home health or hospice agency on the responsibilities of the home health or hospice agency and licensee in caring for the resident's medical condition. [(CCR, Title 22, sections <a href="#">87609(b)(4)</a> and <a href="#">87633(b)(2) and (4)</a>]</li> <li>○ Contact or report to the physician, appropriately skilled professional,</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Licensees that accept or retain residents with:               <ul style="list-style-type: none"> <li>○ Restricted health conditions must ensure that residents receive medical care <i>as prescribed by the resident's physician and contained in the resident's service plan from appropriately skilled professionals acting within their scope of practice.</i> [(Health and Safety Code section <a href="#">1569.39(b)</a>]</li> <li>○ Prohibited health conditions must <i>assist residents with accessing home health or hospice services, as indicated in the resident's current appraisal, to ensure that residents receive medical care as prescribed by the resident's physician and contained in the resident's service plan.</i> [(Health and Safety Code section <a href="#">1569.39(a)</a>]</li> </ul> </li> <li>• <i>Licensees that fail to meet or arrange to meet the needs of residents who require health-related services as specified in the resident's written record of care or fail to notify the resident's physician of an illness or</i></li> </ul>

<sup>31</sup>When viewing hyperlinks to regulations from the CCLD website in Adobe Acrobat Reader, it is necessary to search for the appropriate section of regulations by either: 1) clicking on the "Edit" tab, then clicking on "Find" to search for the section in the linked pages, or 2) scrolling through the linked pages to find the section. For greater ease of use, the CDSS CCLD has provided direct hyperlinks to the Westlaw/Barclays version of the California Code of Regulations in this Implementation Plan.

<p>home health or hospice agency, or responsible person for a resident when necessary, such as when changes are observed in the resident, the resident requires additional care, or there has been an incident affecting the health and safety of the resident. Report to the licensing agency and the responsible person for a resident when specified emergency incidents involving a resident occur. [(CCR, Title 22, section <a href="#">87211(a)(1(A) through (C)</a>, <a href="#">87465(d)(1)</a>, <a href="#">87466</a>, <a href="#">87469(d)</a>, <a href="#">87609(b)(4)(B)</a> and <a href="#">87633(b)(4)</a>]</p> <ul style="list-style-type: none"> <li>• Licensees are subject to initial, immediate, and repeat civil penalties for serious deficiencies as specified in regulations. [(CCR, Title 22, section <a href="#">87761(a) and (c) through (f)</a>]</li> </ul>	<p><i>injury of the resident that poses a danger of death or serious bodily harm is subject to civil penalty pursuant to Section <a href="#">1569.49</a>.<sup>32</sup> [Health and Safety Code section <a href="#">1569.39(d)</a>]</i></p>
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<sup>32</sup>Prior to January 1, 2016, some hyperlinks to statute may provide a screen that shows links to both old and new versions of statute. The old version of statute can be accessed by clicking on "(Amended by...)." The new version of statute can be accessed by clicking on "(Repealed (in...) and added by...).

## INFORMATION ONLY – NO ACTION REQUIRED

### **ASSEMBLY BILL X2-15 (Eggman), Chapter 1, Statutes of 2015**

**This law becomes effective the 91st day after adjournment of the second extraordinary session. The second extraordinary session is still ongoing.**

**Affects:** State Department of Public Health

**Subject:** End of life

**Summary:** [Assembly Bill \(AB\) X2-15](#) repeals [Part 1.85](#) (commencing with section 442) and adds Part 1.85 (commencing with section 443) of Division 1 of the Health and Safety Code

### **OVERVIEW**

This bill enacts the End of Life Option Act and authorizes a mentally competent adult, who has been determined by his or her attending physician to be suffering from a terminal disease, to make a request for a drug for the purpose of ending his or her own life. This bill establishes a procedure for making these requests. This bill requires specific information to be documented in the individual's medical record, including all oral and written requests for an aid-in-dying drug.

The bill makes participation by health care providers and employees voluntary and makes health care providers immune from liability for refusing to engage in activities authorized.

This bill also specifies that a person or entity that elects, for reasons of conscience, morality, or ethics, not to participate, is not required to take any action in support of an individual's decision. The bill also provides a person, except as provided, immunity from civil or criminal liability solely because the person was present when the qualified individual self-administered the drug, or the person assisted the qualified individual by preparing the aid-in-dying drug so long as the person did not assist with the ingestion of the drug.

The bill makes it a felony to knowingly alter or forge a request for drugs to end an individual's life without his or her authorization or to conceal or destroy a withdrawal or rescission of a request for a drug, if it is done with the intent or effect of causing the individual's death. The bill also makes it a felony to knowingly coerce or exert undue influence on an individual to request the aid-in-dying drug, destroy a withdrawal or rescission of the request, or to administer an aid-in-dying drug to an individual without their knowledge or consent.



## **Participation by Licensees and Employees**

Residential Care Facilities for the Elderly (RCFE) are not considered health care providers or health care facilities under California law. For purposes of this bill, RCFE licensees and employees of the licensees are considered to be entities and individuals, as described in Section 443.14(e)(1) – “Participation in activities authorized pursuant to this part shall be voluntary. ... [A] person or entity that elects, for reasons of conscience, morality or ethics, not to engage in activities authorized by [this law] ... is not required to take any action in support of an individual’s decision under this part.”

“Participating in activities pursuant to this part” are described in Section 443.15(f), and, specific to the RCFE environment, include:

- Delivering the prescription for, dispensing, or delivering the dispensed aid-in-dying drug [Section 443.15(f)(2)(D)]
- Being present when the qualified individual takes the aid-in-dying drug prescribed [Section 443.15(f)(2)(E)]

Licensee may elect, for reasons of conscience, morality or ethics, not to have employees participate in activities pursuant to this act. Licensees may inform residents and prospective residents whether the licensee has elected not to participate in the activities related to the End of Life Option Act.

## **Resident’s Rights**

Individuals living in an RCFE and determined to be qualified to request the aid-in-dying drug (“qualified resident”) retain the rights to obtain and self-administer the prescription, regardless if the licensee has determined that the entity and employees elect to not participate in activities pursuant to this act. The resident becomes solely responsible to obtain and prepare the medication for self-administration. The qualified resident may also store their medication even if the RCFE centrally stores medication (see Medication Storage below).

The decision of a qualified resident to exercise their rights under this law shall not be basis for an eviction.

## **Written Request Form**

The End of Life Option Act requires an individual requesting a prescription for an aid-in-dying drug to submit two oral requests and a written request to his or her attending physician. The request shall be signed and dated, in the presence of two witnesses, by the individual seeking the aid-in-dying drug. The witnesses shall attest that to the best of their knowledge and belief that the individual is all of the following:

- An individual who is personally known to them or has provided proof of identity.
- An individual who voluntarily signed this request in their presence.
- An individual who they believe to be of sound mind and not under duress, fraud, or undue influence.
- Not an individual for whom either of them is the attending physician, consulting physician, or mental health specialist.

The law states only one of the two witnesses at the time the written request is signed shall own, operate, or be employed at a health care facility where the person is a patient or resident (Section 443.3). As stated previously, RCFE licensees and employees are not considered to be health care facilities or health care providers under California law. Therefore, one or both witnesses of the written request form can be obtained from facility staff that voluntarily elects to sign.

### **Medication Storage**

Qualified residents residing in RCFEs may elect to store the aid-in-dying drug themselves rather than relying upon the RCFE to store the medication. The aid-in-dying drug may be stored within the qualified resident's room or may be stored outside the facility with a friend or family member. Qualified residents will be counseled by the consulting physician on the importance of maintaining the aid-in-dying drug in a safe and secure location until the time of ingestion [Section 443.5(a)(5)].

RCFEs with a central medication storage policy cannot require a qualified resident to have their aid-in-dying medication centrally stored as long as the qualified resident has the medication in a safe and secure location.

The person or entity with custody or control of any unused aid-in-dying drugs after the death of the resident must ensure the appropriate disposal of the aid-in-dying medication. The person with custody or control of any unused aid-in-dying drugs or RCFE staff shall personally deliver the unused aid-in-dying medication for disposal by delivering it to the nearest qualified facility that properly disposes of controlled substances, or if none is available, shall dispose of it by lawful means in accordance with guidelines promulgated by the California State Board of Pharmacy or a federal Drug Enforcement Administration approved take-back program [Section 443.20].

### **Resident Disclosures**

Section 443.5(5)(A-E) of the law requires physicians to counsel qualified residents on the importance of the following:

- Having another person present when he or she ingests the aid-in-dying drug.
- Not ingesting the aid-in-dying drug in a public place.
- Notifying the next of kin of his or her request for an aid-in-dying drug.
- Participating in a hospice program.

- Maintaining the aid-in-dying drug in a safe and secure location until the time that the qualified individual will ingest it.

There are no requirements under this law for a qualified individual to disclose to anyone their intent to use the aid-in-dying drug (except for the medical professionals involved in qualifying the individual and dispensing the medication). Therefore, residents considering the use of the aid-in-dying drug or qualified to take the drug are not required to inform the licensee or facility staff of their intent to exercise their rights under this law.

However, qualified residents are encouraged to provide transparency with the licensee and direct care staff. With the transparency, the qualified resident, his or her family members or friends and the facility staff can provide an environment supportive of the qualified resident’s decision.

**Initial Participation in Other States**

The number of qualified individuals in California that elect to use the end-of-life drug is unknown. In other states with similar laws, participation during the first years after passage of the law is low. As shown by the chart below, very few individuals self-administered the medication while living in an assisted living environment.

	<b>Deaths after the Passage of Death with Dignity Acts</b>			
	<b>Oregon (effective 1998)</b>		<b>Washington (effective 2009)</b>	
	<b>Year 1</b>	<b>Year 2</b>	<b>Year 1</b>	<b>Year 2</b>
# deaths from aid-in-dying drug	16	27	36	51
# deaths from aid-in dying drug in long term care, assisted living or foster care facility	3	2	0	2