SUMMARY AND IMPLEMENTATION PLANS
2000 CHAPTERED LEGISLATION

RESIDENTIAL CARE FACILITIES
FOR THE ELDERLY

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Unless otherwise noted, all new legislation becomes effective on January 1, 2001

When conducting visits, LPAs should ensure that providers are aware of any new requirements.

ACTION REQUIRED

AB 1753 (ROMERO), CHAPTER 434, STATUTES OF 2000

Affects: Residential Care Facilities for the Elderly (RCFE)

Subject: Dementia Training for Direct Care Staff and Administrators
Disclosure of Special Facility Features

Summary: This legislation amends Sections 1569.15, 1569.33, and 1569.616 of, and adds Sections 1569.626 and 1569.627 to the Health and Safety Code relating to Alzheimer's disease and other dementia. The legislation requires licensed RCFEs that advertise or promote special care, programming or environments for person with dementia, to disclose the special features to the Department in their plan of operation and to the public upon request. In addition, RCFEs that specialize in dementia care, must provide direct care staff six hours of resident care orientation within the first four weeks of employment and eight hours of in-service training per year devoted to care of persons with dementia.

The legislation also modifies the Administrator Certification Program. It requires that at least four of the 40-hours core curriculum, and at least eight of the 40-hour continuing education requirement be specific to serving residents with dementia.

IMPLEMENTATION:

Until final regulations are issued, licensing staff will implement as follows:

During the next annual or complaint visit, notify the administrator of the new disclosure and training requirements.

1. Disclosure Requirements

Facilities that advertise or promote special care, programming or environments for persons with dementia must maintain advertising materials on file at the facility. The LPA should review any advertising materials used by the facility to promote specialized dementia care to ensure that facilities are able, under the current license and plan of operation, to provide the promoted services.

Facilities that advertise or promote special care, programming or environments for persons with dementia must disclose in their plan of operation and to the public upon request, information about the program. The legislation requires a brief narrative description of all of the following facility features. There are no correct or incorrect answers to these topics; they are intended to provide consumer information.

a) Philosophy, including, but not limited to, program goals
b) Pre-admission assessment
c) Admission
d) Assessment
e) Program
f) Staff
g) Staff training
h) Physical environment
i) Changes in condition, including, but not limited to, when and under what circumstances changes are made to a resident's care plan
j) Success indicators

2. Training Requirements

Effective July 1, 2001, Licensing Program Analysts (LPAs) must review the following for compliance. If the plan of operation indicates that the facility promotes special care, programming or environment for persons with dementia, or if advertising such as brochures, ads in the yellow pages, business cards, indicates that the facility promotes special care, programming or environments for persons with dementia, the following is required:

- Within the first four weeks of employment, new direct care staff (beginning work on or after July 1, 2001) must receive six hours of orientation specific to the care of residents with dementia. Facilities may use various methods of instruction in providing this orientation. Facilities must document the orientation hours in the employees' personnel records.

- All direct care staff must receive at least eight hours of in-service training per year on serving residents with dementia. In-service training must be developed in consultation with experts in dementia care or provided by an outside source with expertise in dementia care. This does not mean that facilities must hire consultants to develop the training, but that individuals or organizations specializing in dementia care training must be consulted for current and accurate presentation information. Examples of such individuals and organizations include: The Alzheimer's Association, Alzheimer's Disease Diagnostic and Treatment Centers affiliated with University of California, Family Caregiver Alliance and Caregiver Resource Centers, American Society on Aging, colleges and universities, individuals with educational and professional qualifications specific to this population or others with established track records working with dementia clientele. Facilities must document the training in the employees' personnel records. The facility must also document the specific dementia experts consulted to meet this requirement.

- New employees must meet both the six hours of orientation and the eight hours of in-service training during the first year of employment.

Administrator Certification:

Effective January 1, 2001, all Administrator Certification Programs must modify their curricula to include four hours of the 40 classroom hours on serving residents with dementia.

Effective January 1, 2002, administrator recertification will require at least eight hours of the total continuing education requirement be specific to serving residents with dementia.

These new requirements pertain to all administrators, whether or not the individual intends to administer a facility that serves residents with dementia.

AB 2034 (STEINBERG), CHAPTER 617, STATUTES of 2000

Affects: Residential Care Facilities for the Elderly, Adult Residential Facilities

Subject: Services to Homeless

Summary: This legislation amends the Welfare and Institutions Code and provides Funding to address the issues of the homeless and their unmet needs. Counties and cities that operate independent public mental health programs will provide health services and outreach to mentally ill adults who are homeless or at risk of becoming homeless. Many of the clients receiving services provided under the mandates of AB 2034 and AB 34 (passed in 1999) will reside in housing arrangements that do not require licensure by Community Care Licensing.

The housing arrangements for these individuals are negotiated by contract between the County Mental Health Department and a for-profit agency authorized to do outreach and placement of this population and individuals willing to provide room and board.

IMPLEMENTATION:

The legislation does not change licensing requirements nor does the statute specifically exempt these housing arrangements from licensure. If licensing staff receive complaints from neighbors, residents, or family members about the facility and its operation, the LPA will make the required ten-day visit. If in the LPA's professional judgment, the arrangement appears to require a license, this decision will be discussed with the facility owner who has the option to discontinue those elements that make the operation subject to licensing. The LPA should follow the Evaluator Manual's procedures for "Operation Without a Licensee" when appropriate. The housing arrangements funded under this legislation will vary and may include adult and elderly populations in the same setting.

In those cases where a Notice of Operation in Violation of Law is issued to an individual who is contracting to provide services to this population, the licensing office will forward a copy of the Notice to Shauneen Zupan, Policy Analyst at Mail Station 19-50.

Shauneen will work directly with the Department of Mental Health on these specific cases regarding what constitutes care and supervision and the need for licensing under the current statute. Questions on housing arrangements for the homeless funded under AB 2034 or AB 34 may be addressed to Shauneen at 916/324-4043.

SB 1896 (ORTIZ), CHAPTER 817, STATUTES OF 2000

Affects: Residential Care Facilities for the Elderly, Adult Residential Facilities, Residential Care Facilities for the Chronically Ill, Children's Residential Facilities

Subject: Fire Safety Requirements For Facilities with Bedridden Residents

Summary: This legislation adds Sections 1566.45, 1568.0832 and amends Section 1569.72 to the Health and Safety Code. These changes clarify that bedridden residents may be admitted to and remain in specific residential facilities that secure and maintain an appropriate fire clearance. The changes require the Department and the Office of the State Fire Marshal, in consultation with the Department of Developmental Services, to develop regulations to clarify fire safety and fire clearance requirements for care facilities.

It is the intent of this legislation to allow bedridden persons to avoid institutionalization and be admitted to, and safely remain in, community-based residential care facilities that provide a home-like setting.

A bedridden resident is a non-ambulatory person (as defined in Section 87101(n)(2) of the regulations) who also

(1) requires assistance in turning and repositioning in bed;

<u>or</u>

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

The determination of bedridden status of persons with developmental disabilities will be made by the licensing agency, in consultation with the delegated representative of the Department of Developmental Services, after consulting the resident's individual program plan. The determination of bedridden status of all other persons with disabilities, who are not developmentally disabled, will be made by the licensing agency.

For purposes of this definition, the bedridden status does not include being bedridden because of any illness that persists for 14 days or less.

IMPLEMENTATION:

This legislation allows bedridden residents to be admitted and retained in an RCFE under certain conditions. It does not change the prohibition against retaining people in the facility needing 24-hour nursing care or monitoring. Until final regulations are issued, licensing staff will use the statutory provision in the Health and Safety Code as the authority for citing and implementing. Permission to accept or retain a bedridden individual must be approved on an exception basis by the licensing agency. Effective January 1, 2001, licensing staff will use the following policies and procedures:

1. To admit/retain a resident who is bedridden:

   - A bedridden fire clearance must be obtained.

   - At the request of the applicant/licensee, the licensing agency will submit a Fire Safety Inspection Request (Form Std 850) for a bedridden fire clearance on behalf of the applicant/licensee to the local fire authority.

   In the event of a factual dispute, either the licensee, the resident, the resident's representative, or local fire official may request a written opinion from the Office of the State Fire Marshal concerning the interpretation of the State Fire Marshal regulations. The State Fire Marshal willissue the written opinion within 45 days of the request.

2. The applicant/licensee must meet the following criteria to obtain an exception to accept or retain a bedridden individual:

   a) Staff providing direct care to the bedridden resident must receive training from a licensed health care professional on the appropriate care for a bedridden individual, prior to caring for the resident. The training must include standard medical procedures to safely reposition bedridden individuals at least every 2 hours.

      A licensed health care professional means a physician or an individual licensed or certified under Division 2 of the Business and Professions Code to perform the necessary resident care procedures prescribed by a physician. Health care professionals include Registered Nurse, Public Health Nurse, Licensed Vocational Nurse, Psychiatric Technician, Physical Therapist, Occupational Therapist and Respiratory Therapist.

   b) The care facility must maintain training documentation in each staff member's personnel file, including the name, license number and credential of the health care professional who trained the staff member, the date the training occurred, and the topics covered.

c) The licensee has awake night staff available and capable of repositioning the bedridden resident.

d) The licensee has 24-hour telephone access to a licensed medical doctor, nurse practitioner or registered nurse should questions arise concerning the bedridden individual's condition. This contact information must be current and readily available to staff.

e) The plan of operation must include the type of care the facility will provide to bedridden individuals.

f) The licensee has indicated what equipment and appliances are available to assist and protect bedridden residents. Equipment and appliances may include, but are not limited to:

- Egg-crate mattress (or equivalent to relieve pressure)
- Heel and elbow protectors
- Partial bed rails (an exception is not required for a bedridden individual)
- Screens and/or curtains to ensure privacy if the resident shares a room with another resident
- Over-bed table
- Bedside commode
- Urinal
- Bed Pan
- Wheelchair

3. A licensee must notify the licensing agency if a new bedridden individual will be placed in the facility; or building modifications are planned that would affect the existing fire clearance. The licensing agency will determine whether a new bedridden fire clearance is required.

4. Any other changes to the status of the license, the licensee, the licensing category, the location of the facility, etc. will require a new bedridden fire clearance.

The Department Of Social Services will continue to work closely with the Department of Developmental Services and the Office of the State Fire Marshal to develop and implement regulations consistent with the new statute and the California Building Code for fire and life safety. CCL will write and enforce the regulations with the aim of allowing residents to remain in home-like settings.

INFORMATION ONLY – NO ACTION REQUIRED

AB 499 (ARONER), CHAPTER 557, STATUTES OF 2000

Affects: Residential Care Facilities for the Elderly

Subject: Medi-Cal Assisted Living: Demonstration Project

Summary: This legislation requires the Department of Health Services (DHS) to develop an assisted-living demonstration project to provide reimbursement to RCFE's for services provided to elderly Medi-Cal recipients. The demonstration project request will be submitted to the Health Care Finance Administration (HCFA). The project must be approved by HCFA prior to any implementation. On or before January 1, 2003, DHS must prepare and submit an evaluation of the program to the legislature.

IMPLEMENTATION:

The Department of Health Services must develop and submit a waiver to HCFA. The Community Care Licensing Division, Policy Development Bureau will work with DHS to develop the waiver. The waiver must be approved prior to implementation of the program. This program is expected to begin in calendar 2002; however, implementation of this legislation is contingent on the appropriation of funds for this project. No action is required by CCLD field staff until the waiver is developed and approved by HCFA. Further information will be forwarded at that time.

AB 2623 (PACHECO), CHAPTER 623, STATUTES OF 2000

Affects: Residential Care For The Elderly, Community Care Facilities, Residential Care Facilities for the Chronically Ill and Child Care Facilities

Subject: Criminal Record Information

Summary: This legislation adds Section 11105.75 to the Penal Code to require the Department of Justice (DOJ) to provide conviction information to the Department even if the information has not been verified with fingerprints. Before giving the conviction information to the Department, DOJ is required to compare all of an individual's identifying characteristics with those that appear in the criminal history to ensure that they are the same person. The Department will assume that the information it obtains in this way is accurate, and will process it the same way it processes any other criminal history information. If the Department takes an action based upon the non-fingerprint-verified information, the individual may appeal that action on the grounds that he/she is not the correct person.

SB 1992 (CHESBRO), CHAPTER 819, STATUTES OF 2000

Affects: Residential Care Facilities for the Elderly, Community Care Facilities, Residential Care Facilities for the Chronically Ill and Child Care Facilities

Subject: Fingerprint Clearances and Exemptions

Summary:

- This legislation adds the following convictions to the list of crimes for which the Department cannot grant an exemption:

  - ✓ Torture
  - ✓ Car jacking
  - ✓ Willful poisoning knowing it will be taken by a human being
  - ✓ Unlawfully using a loaded firearm on the grounds of a child care facility
  - ✓ Arson causing great bodily injury
  - ✓ Arson of an inhabited structure
  - ✓ Sexual exploitation by a physician, psychotherapist, counselor, etc.

- Provides the Department flexibility in all licensing categories to determine, by regulation, who may be exempt from background check requirements. Allows the Department flexibility to cease or continue processing a license application when an applicant is awaiting trial. This means that if there are adequate grounds to deny a license without the results of the trial, the Department may deny the license without waiting for the completion of the trial. Previously, if an individual was awaiting trial, the law required the Department to cease all aspects of processing an application, including a denial, until the trial was completed. Clarifies language regarding exemptions for medical professionals.