
EVALUATOR MANUAL TRANSMITTAL SHEET

<u>Distribution:</u> <input type="checkbox"/> All Child Care Evaluator Manual Holders <input checked="" type="checkbox"/> All Residential Care Evaluator Manual Holders <input type="checkbox"/> All Evaluator Manual Holders	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;"><u>Transmittal No.</u></td> </tr> <tr> <td style="padding: 2px;">07APX-08</td> </tr> <tr> <td style="padding: 2px;"><u>Date Issued</u></td> </tr> <tr> <td style="padding: 2px;">November 2007</td> </tr> </table>	<u>Transmittal No.</u>	07APX-08	<u>Date Issued</u>	November 2007
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Subject:

Appendix E

Memorandum of Understanding between the California Department of Justice and the California Department of Social Services

MOU represents:

Community Care Licensing Division, Senior Care Program Office and the Office of the Attorney General, Bureau of Medi-Cal Fraud and Elder Abuse for Coordination of Communication concerning Residential Care Facilities for the Elderly.

New pages:

INSERT: Memorandum of Understanding

Approved:*Thomas Stahl, Chief**11/14/07*

THOMAS STAHL, Chief
 Policy Development Bureau
 Community Care Licensing Division

Date

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MEMORANDUM OF UNDERSTANDING

Between the

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES
Community Care Licensing Division (CCLD)
Senior Care Program Office (SCPO)

and the

CALIFORNIA DEPARTMENT OF JUSTICE
Office of the Attorney General
Bureau of Medi-Cal Fraud and Elder Abuse (BMFEA)

**For
Coordination of Communication Concerning Residential Care Facilities for the
Elderly (RCFEs)**

Effective December 1, 2007

The California Department of Social Services Community Care Licensing Division Senior Care Program Office and the California Department of Justice Office of the Attorney General Bureau of Medi-Cal Fraud and Elder Abuse have recognized a need to establish a formal working protocol between the two Departments. This memorandum of understanding (MOU) shall remain in effect until cancelled with a 30-day written notice from either party or replaced by a revised MOU.

I. DESCRIPTION AND PURPOSE OF PROGRAMS

The purpose of this MOU is to confirm mutually agreeable protocols between the parties in order to improve communication and efficiency. It is not intended to establish new legal duties or otherwise alter the respective responsibilities of the parties. Each party is responsible for its operations and the fulfillment of its statutory and regulatory obligations. The commitments set forth below are understood to be each party's "best efforts."

The California Department of Social Services, through its Community Care Licensing Division (CCLD) Senior Care Program Office (SCPO), is mandated under the California Residential Care Facilities for the Elderly Act, Health and Safety Code section 1569 et seq. to license Residential Care Facilities for the Elderly (RCFEs) and to monitor those facilities for compliance with licensing laws and regulations. CCLD investigators and licensing program analysts investigate complaints alleging violations of licensing laws and regulations by RCFEs. CCLD also establishes, monitors compliance with, and enforces regulations that are designed primarily to ensure the health, safety, care, supervision, and personal rights of RCFE residents.

The Department of Justice, through its Bureau of Medi-Cal Fraud and Elder Abuse (BMFEA) is mandated by the federal Social Security Act, through the "Medicare-Medicaid Anti-Fraud and Abuse Amendments," 42 U.S. Code Section 1396b(q) and authorized by California Government Code section 12528 to, among other things, investigate and prosecute fraud, abuse, neglect, and other criminal violations relating to residents in RCFEs. The Facilities Enforcement Team of BMFEA investigates, takes civil action and prosecutes individuals and corporate entities, including those licensed to operate RCFEs, for adopting policies or promoting practices that lead to neglect and poor quality of care.

II. NOTIFICATION RESPONSIBILITIES

The SCPO will refer to BMFEA those RCFEs, and the persons associated with those RCFEs, that are the subject of a substantiated abuse and/or neglect finding that results in administrative action. Upon request, SCPO will provide BMFEA with access to any needed licensing file documents and, within budget constraints, will provide copies of needed documents. The SCPO will report sensitive issues that may result in media contact to the BMFEA. As soon as possible, SCPO will report and refer to BMFEA any providers that are suspected of operating an unlicensed RCFE after having been served with a Notice of Operation in Violation of Law and have failed to submit an application

for licensure or have continued to operate unlicensed. Upon request, the SCPO will provide BMFEA with a list of RCFEs that have had a license revoked without stays, within the past 12 months.

The BMFEA will notify the SCPO if and when BMFEA initiates its own investigation of the referred RCFE. When feasible, BMFEA will keep the SCPO apprised of the status of any BMFEA investigation of an RCFE. BMFEA will report sensitive issues that may result in media contact to the SCPO. BMFEA will notify the SCPO when BMFEA takes action against unlicensed providers. BMFEA will notify the SCPO when BMFEA determines that any former licensee is found to be operating without a license. Whenever possible, BMFEA will notify the SCPO prior to the arrest of a caregiver or licensee of an RCFE, especially if the arrest may negatively impact operation of the RCFE.

III. COMMUNICATION RESPONSIBILITIES

The SCPO will: 1) Maintain ongoing communication by attending meetings with BMFEA when requested, 2) Share training opportunities available with BMFEA and involve BMFEA staff as trainers when relevant training is being offered, 3) Provide information after investigations are completed that produce substantiated findings, 4) Inform BMFEA of any relevant changes pertaining to laws, regulations, and policies and procedures regarding the reporting of suspected abuse, as well as any relevant changes in the CCLD operations including local program staffing when requested, 5) Contact a designated BMFEA liaison when issues have not been satisfactorily resolved at the local level, 6) Make available to BMFEA information regarding the general status of cases except detailed, sensitive, or confidential information that may be detrimental to an investigation. Law enforcement investigations are confidential, so it will be within the CCLD's discretion as to what information, if any, can be disclosed to BMFEA, 7) Maintain communication between the Regional Special Agent Supervisor (SAS) and Senior Care Program Regional Managers as needed, 8) Provide up-to-date contact lists when requested, and 9) Notify BMFEA prior to issuing a press release when jointly working on an investigation.

The BMFEA will: 1) Maintain ongoing communication by attending meetings with CCLD when requested, 2) Share training opportunities available with CCLD, and will involve CCLD staff as trainers when relevant training is being offered, 3) Provide information after investigations are completed that produce substantiated findings, 4) Inform CCLD of any relevant changes pertaining to laws, regulations, and policies and procedures regarding the reporting of suspected abuse, as well as any relevant changes in the BMFEA operations including local program staffing when requested, 5) Contact a designated CCLD liaison when issues have not been satisfactorily resolved at the local level, 6) Make available to CCLD information regarding the general status of cases except detailed, sensitive, or confidential information that may be detrimental to an investigation. Law enforcement investigations are confidential, so it will be within the BMFEA's discretion as to

what information, if any, can be disclosed to CCLD, 7) Maintain communication between the Senior Care Program Regional Managers and the Regional SAS as needed, 8) Provide up-to-date contact lists when requested, and 9) Notify CCLD prior to issuing a press release when jointly working on an investigation.

IV. COMPLAINT REPORTING

The SCPO will report to BMFEA all substantiated complaints resulting in administrative action taken by CCLD against a licensee or individual. SCPO will fax complaint referrals to BMFEA Complaint Intake and Development (CID) and the local DOJ office within 24 hours of referring the case for administrative action. SCPO will make a follow-up call to the appropriate Regional SAS to ensure the timely receipt of the complaint.

The BMFEA will give priority to complaints referred by CCLD, while recognizing that complaint referrals alleging an immediate threat to a resident's health and safety should be given the highest priority. The BMFEA will review all complaint referrals to determine whether an investigation is warranted. In a timely manner following the receipt of the complaint information, BMFEA will notify the CCLD of its decision to investigate. Upon request, BMFEA will provide SCPO with a list of referred cases that have been rejected for investigation.

If SCPO receives a complaint that it believes constitutes an urgent matter and that BMFEA should immediately begin investigating, SCPO can contact BMFEA and request that BMFEA investigate prior to any finding by SCPO. SCPO can also send BMFEA any complaint that it has investigated that has resulted in an inconclusive finding if it believes that additional investigation by BMFEA might be warranted.

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Jo Frederick

10/23/2007

Jo Frederick
Deputy Director
Community Care Licensing Division
California Department of Social Services

Date

Dianne L. Kryter

10/29/2007

Dianne L. Kryter
Assistant General Counsel
Legal Division
California Department of Social Services

Date

Thomas R. Yanger

5 November 2007

Thomas R. Yanger
Executive Director, BMFEA
Office of the Attorney General
California Department of Justice

Date

Dane Gillette

11/6/2007

Dane Gillette
Chief Assistant Attorney General
Office of the Attorney General
California Department of Justice

Date