EVALUATOR MANUAL TRANSMITTAL SHEET
2014 RESIDENTIAL CARE FACILITIES FOR THE ELDERLY IMPLEMENTATION PLANS

Distribution:	**Transmittal No.**
	15APX-06
___ **All Child Care Evaluator Manual Holders** ___ **All Residential Care Evaluator Manual Holders** _X_ **All Evaluator Manual Holders**	**Date Issued** July 2015

Subject:

Appendix A- 2014 Chaptered Legislation
Community Care Licensing, Residential Care Facilities for the Elderly

Reason for Change:

This document transmits implementation plans that include summaries of, and implementation procedures for, legislation chaptered in 2014 affecting the Community Care Licensing Division, Residential Care Facilities for the Elderly.

Filing Instructions:

REMOVE: 2014 Chaptered Legislation, 15APX-04 issued June 2015.

INSERT: 2014 Chaptered Legislation. Do not remove similar documents from the previous years.

Approved:

Signed by Wendy Nelson ***7/23/2015***

WENDY NELSON, CHIEF Date
Policy Development Bureau
Community Care Licensing Division

Contact Person: Susan Hutchinson Phone Number: (916) 654-2462

SUMMARY OF CHANGES
2014 Legislation Implementation Plan

The following summarizes the substantive changes from document 14APX-15 issued December 2014 to 15APX-04 issued June 2015:

1. AB 1523 – Added Implementation Plan (page 1)
2. AB 1572 – Corrected publication number and provided hyperlink to PUB 474 – Rights of Resident Councils (page 6)
3. AB 1572 – Clarified in Addendum A and B that the Department has a duty to review appeals within 10 working days (pages 10 and 11)
4. AB 2044 – Removed requirement for licensee to make personnel files available to the Department within 60 minutes if the designated substitute does not have access to personnel records (page 16)
5. AB 2044 – Added note to top of the chart indicating that licensees must ensure compliance with the requirements of the new law and continue to comply with the requirements of existing regulations (page 20)
6. AB 2171 – Added definition of “resident representative” (page 28)
7. AB 2171 – Added note to top of the chart indicating that licensees must ensure compliance with the requirements of the new law and continue to comply with the requirements of existing regulations (page 36)
8. AB 2386 – Added Implementation Plan (page 54)
9. SB 895 – Added hyperlink to PUB 475 – Licensing Complaint Poster (page 56)
10. SB 895 – Added poster size and content requirements, if not using PUB 475 (page 56)

2014 CHAPTERED LEGISTATION

Summaries and Implementation Plans

RESIDENTIAL CARE FACILITIES FOR THE ELDERLY

"ACTION REQUIRED"		
BILL INFORMATION	**SUBJECT**	**PAGE**
Assembly Bill 1523 (Atkins) Chapter 205, Statutes of 2014	**Residential care facilities for the elderly: liability insurance.** Added Section 1569.605 to the Health and Safety Code.	1
Assembly Bill 1572 (Eggman) Chapter 177, Statutes of 2014	**Residential care facilities for the elderly: Resident and family councils.** Amended Sections 1569.157 and 1569.158 of the Health and Safety Code.	4
Assembly Bill 1821 (Gordon) Chapter 650, Statutes of 2014	**Medical foster homes.** An act to add and repeal Chapter 5 (commencing with Section 1850) of Division 8 of the Military and Veterans Code.	12
Assembly Bill 1899 (Brown) Chapter 700, Statutes of 2014	**Residential care facilities for the elderly.** Amended Section 1569.19 and Section 1569.50 of the Health and Safety Code and incorporated changes to Section 1569.682 of the Health and Safety Code as specified in Senate Bill 873.	14
Assembly Bill 2044 (Rodriguez) Chapter 701, Statutes of 2014	**Residential care facilities for the elderly.** Amended Sections 1569.618 and 1569.625 of the Health and Safety Code	15
Assembly Bill 2171 (Wieckowski) Chapter, 702, Statutes of 2014	**Residential care facilities for the elderly.** Added Article 2.5 (commencing with Section 1569.261 and including Sections 1569.265, 1569.267, and 1569.269) to Chapter 3.2 of Division 2 of the Health and Safety Code.	26
Assembly Bill 2386 (Mullin) Chapter 503, Statutes of 2014	**Care Facilities: Carbon Monoxide Detectors** Amended Sections 1597.45 and 1597.46 and added Sections 1503.2, 1568.043, 1569.311, 1596.954, and 1597.543 to the Health and Safety Code.	54

Senate Bill 895 (Corbett) Chapter 704, Statutes of 2014	**Residential care facilities for the elderly.** Amends Section 1569.33 and 1569.335, and adds Section 1569.331 to the Health and Safety Code, relating to residential care facilities for the elderly.	56
Senate Bill 1153 (Leno)Chapter 706, Statutes of 2014	**Residential care facilities for the elderly.** Added Section 1569.545 to the Health and Safety Code.	59

"INFORMATION ONLY – NO ACTION REQUIRED"		
BILL INFORMATION	**SUBJECT**	**PAGE**
Senate Bill 1382 (Block) Chapter 707, Statues of 2014	**Residential care facilities for the elderly.** Amended Section 1569.185 of the Health and Safety Code.	62

Unless otherwise noted, all new legislation becomes effective on January 1, 2015. When conducting licensing visits, Licensing Program Analysts (LPAs) should, to the extent practical, make sure that providers are aware of any new requirements. However, regardless of whether this information is provided, it is the licensee's responsibility to be aware of any new requirements affecting their program.

ACTION REQUIRED

ASSEMBLY BILL 1523 (Atkins), Chapter 205, Statutes of 2014

This law becomes effective July 1, 2015.

Affects: Residential Care Facilities for the Elderly

Subject: Residential care facilities for the elderly: liability insurance

Summary: Assembly Bill (AB) 1523, effective July 1, 2015, added Section 1569.605 to the Health and Safety Code.

This bill requires all RCFEs, except those facilities that are part of a continuing care retirement community, to maintain liability insurance covering injury to residents or guests in the amount of at least $1,000,000 per occurrence and $3,000,000 in the total annual aggregate to cover injury to residents or guests caused by the negligent acts or omission to act of, or neglect by, the licensee or its employees.

Licensees

Licensees will be required to submit proof of liability insurance, which meets the requirement stated above, to their local Regional Office by July 1, 2015. Licensees are required to maintain a copy of current proof of liability insurance at the facility for review by the Licensing Program Analyst during visits. Examples of proof of liability insurance may include a declaration or certificate of insurance. The licensee is required to send to their local Regional Office proof of current liability insurance when the liability insurance policy has been renewed, revised, or a new liability insurance policy is obtained.

Applicants/Newly Licensed

If possible, applicants should submit proof of liability insurance, which meets the requirement stated above, during the application process. If this is not possible, submission of proof of liability insurance to their local Regional Office is required within 60 days of licensure. A copy of the proof of liability insurance shall be maintained at the facility for review by the Licensing Program Analyst. The licensee is required to send to their local Regional Office proof of liability insurance when the liability insurance policy has been renewed, revised, or a new liability insurance policy is obtained.

Licensing Program Analysts

Inspection – Prior to conducting the inspection, the Licensing Program Analyst will check the facility's file to determine if the licensee has sent in proof of liability insurance meeting the requirements of the statute. During the visit, the Licensing Program Analyst will review the licensee's proof of insurance to verify the liability insurance covers injury to residents and guests in the amount of at least $1,000,000 per occurrence and

$3,000,000 in the total aggregate and that the policy is current.

Complaint Visit – Unless the complaint is related to insurance coverage, injury to residents and guests or an act of negligence by the licensee or its employees, the Licensing Program Analyst is not required to review the licensee's proof of insurance.

The Licensing Program Analyst will cite those licensees who do not provide proof of insurance or whose insurance policy does not meet the requirements noted above under Health and Safety Code section 1569.605. This violation may be considered a Type B or Type C violation depending on the level of risk the violation represents. For example, a potential Type B violation may include situations where the licensee does not have liability insurance and it is indicative of financial distress of the licensee or a history of non-compliance. An example of a potential Type C violation would include situations where the licensee's policy on file with the local Regional Office expired and the licensee is waiting for an updated copy of the renewed policy. Please see Evaluator Manual, Reference Material Facility Evaluation/Visit section 3-4200, Facility Evaluation for additional information on Type A, B and C violations and assessing the risk of violations.

When citing a Type B violation, the plan of correction shall include a reasonable timeframe (due date) for the licensee to come into compliance with the required liability insurance requirement. Approval for extensions to the plan of correction due date may be granted to the licensee by the Licensing Program Analyst if the licensee demonstrates the following:

- The licensee has attempted to obtain liability insurance and can demonstrate these attempts. This may include, but is not limited to, denial letters from insurance carriers.
- The licensee is under the approval process through an insurance carrier and can demonstrate the status of this process through written documentation from the insurance carrier.

Additional reasons for an extension of a plan of correction due date may be considered on a case-by-case basis.

Civil penalties shall be assessed when the licensee fails to correct the violation to Health and Safety Code Section 1569.605 following any appropriate extensions to the plan of correction due date. Please see Evaluator Manual, Reference Material Enforcement Actions section 1-0060, Civil Penalties Assessed for Failure to Meet Plan of Correction Due Date for additional information. Repeat violations shall be assessed civil penalties if the violation occurred within 12 months of the last violation. Please see Evaluator Manual, Reference Material Enforcement Actions section 1-0065, Civil Penalties for Repeat Violations for additional information.

Regulations will be revised for Sections 87155 – Application for License in Title 22 of the CCR and in the Evaluator Manual for RCFE. Revisions in the Reference Materials –

Enforcement Actions, sections 1-0060 (Civil Penalties Assessed for Failure to Meet Plan of Correction Due Date) and 1-0065 (Civil Penalties for Repeat Violations) are anticipated. Revisions in the Reference Materials – Facility Evaluation/ Visit, section 3-4200 (Facility Evaluation) are also anticipated. Application instructions for a Facility License (LIC 281) will be revised, as well.

For legislative information related to this new law:
Bill Text - AB-1523 Residential care facilities for the elderly: liability insurance.

ACTION REQUIRED

ASSEMBLY BILL 1572 (Eggman), Chapter 177, Statutes of 2014

This law became effective January 1, 2015.

Affects: Residential Care Facilities for the Elderly

Subject: Residential care facilities for the elderly: resident and family councils

Summary: Assembly Bill (AB) 1572 amends Section 1569.157 and 1569.158 of the Health and Safety Code

Resident Councils

This law grants resident councils additional rights, adds requirements for licensees, and limits membership of a resident council to RCFE residents, except at the invitation of resident council. Family members, resident representatives, advocates, long-term care ombudsman program representatives, facility staff or others may participate in resident council meetings and activities at the invitation of the resident council.

AB 1572 requires licensees to:

- Assist residents in establishing and maintaining a single resident council (formerly referred to as resident-oriented facility council) at the request of two or more residents, instead of a majority of its residents.
- Provide a written response within 14 calendar days to written concerns or recommendations of resident councils regarding any action or inaction taken in response to concerns or recommendations.
- Inform resident council members of their right to be interviewed as part of the regulatory inspection process.
- Promote established resident councils by providing information on the council to new residents, as specified.
- Inform in writing new residents and resident representatives, upon admission, of their right to form a resident council when no council is currently established.
- Upon request and with permission of the council, share resident council contact information with the long-term care ombudsman.
- Post the text of Health and Safety Code Section 1569.157 with the heading “Rights of Resident Councils” in a prominent place at the facility accessible to residents, family members, and resident representatives.

For a facility with a licensed capacity of 16 or more beds, this bill also requires a licensee to designate a staff person to assist with resident council meetings and notifications, including, making a room available for resident council meetings, and posting information in a central location readily accessible to residents, relatives, and

resident representatives.

AB 1572 prohibits licensees from:

- Having policies limiting the rights of residents to meet independently with outside persons or facility personnel.
- Willfully interfering with the formation, maintenance, or promotion of a resident council or its participation in the regulatory inspection process.

A violation of any provision in this section is considered a violation of resident rights and subjects the licensee to a daily civil penalty of $250 until the violation is corrected and verified.

Family Councils

This law grants family councils' additional rights, adds requirements for licensees, and specifies that facility personnel or visitors may attend family council meetings only at the invitation of the family council.

AB 1572 requires licensees to:

- Provide a written response within 14 calendar days to written concerns or recommendations of family councils regarding any action or inaction taken in response to concerns or recommendations.
- Promote established family councils and to provide notice of the family council and its meetings in routine mailings to family members and resident representatives and to inform family members and resident representatives of the existence of the family council, as specified.
- Inform in writing the resident's family or resident representative - who are identified on the admission agreement or in the resident's records - upon admission of a new resident, of their right to form a family council when no council is currently established.
- Upon request and with the permission of the council, to share council contact information with the long-term care ombudsman.

For a facility with a licensed capacity of 16 or more beds, this bill also requires the licensee to designate a staff person to provide assistance to the family council and respond to written requests that result from family council meetings.

AB 1572 prohibits licensees from:

- Willfully interfering with the formation, maintenance, or promotion of a family council or its participation in the regulatory inspection process.

A violation of any provision in this section is considered a violation of resident rights and subjects the licensee to a daily civil penalty of $250 until the violation is corrected and

verified.

IMPLEMENTATION

Description of Councils

The following is the statutory definition of each council:

Resident Council - Per 1569.157(a) of the Health and Safety Code, “the resident council shall be composed of residents of the facility. Family members, resident representatives, advocates, long-term care ombudsman program representatives, facility staff, or others may participate in resident council meetings and activities at the invitation of the resident council.”

Family Council - Per 1569.158(c) of the Health and Safety Code, family council “means a meeting of family members, friends, representatives, or agents as defined in Section 14110.8 of the Welfare and Institutions Code of two or more residents to confer in private without facility staff.”

The primary difference between two councils is that a resident council is composed of residents only, unless others as specified in Health and Safety Code Section 1569.157(a) are invited to participate at the request of the resident council. Family councils are composed only of family members, friends, representatives, or agents, as specified, of two or more residents. Statute specifies that “facility personnel or visitors may attend a family council meeting only at the family council’s invitation.”

Councils that self-identify as a resident or family council would be required to follow the statute specific to that council.

Licensees

Licensees must comply with the provisions of this law in all aspects of facility operation, including, but not limited to, facility policies, procedures and practice.

Licensees are required to respond to resident and/or family council concerns or recommendations within 14 calendar days, but are not required to resolve the concerns or implement the recommendations within 14 calendar days. Licensees are required to inform each resident council member of their right to be interviewed as part of the regulatory inspection process. A licensee may wish to include this notification in a prospective resident’s admission agreement or as an addendum to an existing resident’s admission agreement.

Licensees are required to post, in a prominent place in the facility accessible to residents, family members, and resident representatives, the text of Health and Safety Code Section 1569.157 with the heading “Rights of Resident Councils.” Prior to January 1, 2015, the Department will develop a form to meet the specific requirements

of this section. Licensees may access a copy of the "Rights of Resident Councils" (PUB 474) form from the Department's website after January 1, 2015 at http://www.dss.cahwnet.gov/cdssweb/PG167.htm (scroll to the bottom of the page) or may develop their own form to meet this requirement.

"Resident representative" means an individual who has the authority, by law or by designation of the resident, to act on behalf of the resident including, but not limited to, a responsible person or a legal representative such as, attorney-in-fact under a power of attorney, surrogate health care decision-maker or conservator.

Licensing Program Analysts

Violations

I. Resident Councils

If a Licensing Program Analyst identifies a violation of any provision of Health and Safety Code Section 1569.157(a) through (h), it shall constitute a violation of resident rights as specified in Health and Safety Code Section 1569.269(a)(27). The Licensing Program Analyst may identify a violation by noting the absence of the mandated "Rights of Resident Councils" posting or the failure of the mandated posting to recite the specific text of Health and Safety Code Section 1569.157, or by interviewing residents and/or staff to determine lack of compliance with this section. If a violation is identified, the Licensing Program Analyst shall cite:

- *Health and Safety Code Section 1569.157 (include the specific subdivision(s) violated) and assess the corresponding civil penalty, as instructed below.*

Pursuant to Health and Safety Code Section 1569.157(i), a violation of this section is subject to a daily civil penalty of $250. The LIC 421 series notifying licensees of the assessment of civil penalties will be updated to accommodate penalties created by this law. Interim procedures described below are to be utilized by field staff until the updated form is available.

II. Family Councils

If a Licensing Program Analyst identifies a violation of any provision of Health and Safety Code Section 1569.158(a) through (i), it shall constitute a violation of resident rights. The Licensing Program Analyst may identify a violation by interviewing residents, family members and/or staff to determine non-compliance. If a violation is identified, the Licensing Program Analyst shall cite:

- *Health and Safety Code Section 1569.158 (include the specific subdivision(s) violated) and assess the corresponding civil penalty, as instructed below.*

Pursuant to Health and Safety Code Section 1569.157(j), a violation of this section is subject to a daily civil penalty of $250. The LIC 421 series notifying licensees of the

assessment of civil penalties will be updated to accommodate penalties created by this law. Interim procedures described below are to be utilized by the field staff until the updated form is available.

Health and Safety Code Section 1569.158(g)(2) requires the licensee to provide upon admission of a new resident, written information to the resident's family or resident representative of their right to form a family council if no council exists. The resident's family that are noticed should be at the discretion of the resident and respectful of the confidentiality of the resident pursuant to Section 87506(c) of Title 22, California Code of Regulation (CCR).

Interim Civil Penalty Assessment Procedures

Until the updated LIC 421 series form is available, procedures for assessing a civil penalty for a violation(s) of either Health and Safety Code section 1569.157 or 1569.158 are as follows:

- Provide notice, including instructions and appeal rights, to the licensee about the assessment of a civil penalty using the Facility Evaluation Report (LIC 809) or the Complaint Investigation Report (LIC 9099), as appropriate. See **Addendums** (Addendum A – Resident Councils, Addendum B – Family Councils) for civil penalty assessment language, instructions and appeal rights.
- Follow instructions provided in the Evaluator Manual Reference Material, Plan of Correction, Section 3-3600; Clearing the Deficiency, Section 3-3605; and, Proof of Correction/Non-Visits, Section 3-3700.
- Provide a copy of the signed LIC 809 or LIC 9099 that includes the assessment of the civil penalty to the office support staff processing the civil penalty billing.
- A copy of the LIC 809 or the LIC 9099 must be included as part of the package that is sent to the Accounting and Systems Bureau. These steps are necessary in order to provide an audit trail and for the Cashier's Office to know where to credit civil penalty payments received from the licensee. See the Office Procedures Manual for additional information on civil penalty billing.

This process should be utilized for the assessment of civil penalties related to a violation of Health and Safety Code Section 1569.157 (resident councils) and/or Health and Safety Code 1569.158 (family councils). If both Health and Safety Code sections are violated, the licensee is liable for a civil penalty assessment pursuant to each code section.

The daily civil penalty will accrue until the violation(s) is corrected. The civil penalty assessment is for a violation of the specified code section, regardless of how many subsections are violated. The date of correction will be considered the date in which a facility licensee submits documentation of the correction to the Department of Social Services and the correction is verified by the department to have been corrected by that date.

California Code of Regulations, Title 22, Section 87221 and civil penalty forms will be updated. Applicable revisions to the Evaluator Manual will follow.

For legislative information related to this new law: Bill Text - AB 1572 Residential care facilities for the elderly

ADDENDUM A

ASSEMBLY BILL 1572 INTERIM CIVIL PENALTY NOTICE
Applies to Residential Care Facilities for the Elderly only

Resident Councils

The following statement shall be included in all reports in which a civil penalty is being assessed for a violation of Health and Safety Code Section 1569.157(a)-(h)**,** until the LIC 421 series is updated.

> Civil penalties shall be assessed against any facility which fails to take corrective action within described time periods. Per California Health and Safety Code Section 1569.157(i), you are hereby notified that a $250 civil penalty per day will be assessed until the violation is corrected. The date of correction will be considered the date in which the licensee submits documentation of the correction to the Department of Social Services and the correction is verified by the Department of Social Services to have been completed by that date.
>
> You will receive an invoice in the mail. Payment is due when billed. Payment must be made by a personal, business or cashier's check or money order made payable to the "California Department of Social Services". Please write the facility number and invoice number on your check and include a copy of your invoice with the payment. You will find the invoice number on our invoice. **DO NOT SEND CASH.**
>
> **APPEAL RIGHTS**
> The applicant/licensee has a right without prejudice to discuss any disagreement concerning the proper application of licensing laws and regulations with the licensing agency. When civil penalties are involved, the licensee may request a formal review by the licensing agency to amend, extend the due date, or to dismiss the penalty. Requests for civil penalty appeal must be in writing, must be postmarked within 10 days of receipt of this form, and must be addressed to the Regional Office or licensing office with jurisdiction over the facility. The agency has a duty to review the facts presented without prejudice within 10 working days. Upon review of the facts upon which the appeal is based, the agency may amend any portion of the action taken, or may dismiss the violation. The licensing agency review of the appeal may be conducted based upon information provided in writing by the licensee. The licensee may request an office interview to provide additional information. The licensee will be notified in writing of the results of the agency review.

ADDENDUM B

ASSEMBLY BILL 1572 INTERIM CIVIL PENALTY NOTICE
Applies to Residential Care Facilities for the Elderly only

Family Councils

The following statement shall be included in all reports in which a civil penalty is being assessed for a violation of Health and Safety Code section 1569.158(a)-(i)**,** until the LIC 421 series is updated.

> Civil penalties shall be assessed against any facility which fails to take corrective action within described time periods. Per California Health and Safety Code Section 1569.158(j), you are hereby notified that a $250 civil penalty per day will be assessed until the violation is corrected. The date of correction will be considered the date in which the licensee submits documentation of the correction to the Department of Social Services and the correction is verified by the Department of Social Services to have been completed by that date.
>
> You will receive an invoice in the mail. Payment is due when billed. Payment must be made by a personal, business or cashier's check or money order made payable to the "California Department of Social Services". Please write the facility number and invoice number on your check and include a copy of you invoice with the payment. You will find the invoice number on our invoice. **DO NOT SEND CASH.**
>
> **APPEAL RIGHTS**
> The applicant/licensee has a right without prejudice to discuss any disagreement concerning the proper application of licensing laws and regulations with the licensing agency. When civil penalties are involved, the licensee may request a formal review by the licensing agency to amend, extend the due date, or to dismiss the penalty. Requests for civil penalty appeal must be in writing, must be postmarked within 10 days of receipt of this form, and must be addressed to the Regional Office or licensing office with jurisdiction over the facility. The agency has a duty to review the facts presented without prejudice within 10 working days. Upon review of the facts upon which the appeal is based, the agency may amend any portion of the action taken, or may dismiss the violation. The licensing agency review of the appeal may be conducted based upon information provided in writing by the licensee. The licensee may request an office interview to provide additional information. The licensee will be notified in writing of the results of the agency review.

ACTION REQUIRED

ASSEMBLY BILL 1821 (Gordon), Chapter 650, Statutes of 2014)

This law became effective January 1, 2015.

Affects: Community Care Facilities (CCF), Residential Care Facilities for Persons with Chronic Life-Threatening Illness (RCF-CI), and Residential Care Facilities for the Elderly (RCFE)

Subject: Pilot Program for Medical Foster Homes for Veterans

Summary: Assembly Bill (AB) 1821 adds and repeals Chapter 5 (commencing with Section 1850 of Division 8 of the Military and Veterans Code.

AB 1821 created the Medical Foster Home (MFH) pilot program. This pilot program exempts MFHs from licensure or regulation by the California Department of Social Services (CDSS) as a CCF, RCFE, or RCF-CI, provided that specified federal requirements are satisfied. The bill would also require the United States Department of Veterans Affairs (USDVA) to obtain criminal background information for caregivers and specified individuals residing in the home.

The USDVA's MFH program provides a specialized, long-term, home-like care option for veterans that are appropriate for their specialized medical needs and has been successful in other states. This bill allows for a pilot program with data collection and evaluation by the State Auditor to determine whether the USDVA's MFH program will be a viable option in California for veterans. These facilities will be regulated directly by the USDVA.

IMPLEMENTATION

This bill is effective January 1, 2015, however, it requires the pilot program to be established by the USDVA no sooner than June 1, 2015 and will remain in effect until January 1, 2018.

Licensing Program Analysts

If there is a complaint regarding a facility being unlicensed and the CDSS has reason to believe it is an MFH, the Licensing Program Analyst should call the MFH Program Coordinator to verify if the address is a MFH facility. When leaving a message, indicate the urgency of the call. The following is the MFH Coordinator's direct contact information:

Sacramento Veterans Affairs Medical Center
California Medical Foster Home Program Coordinator
Phone: (916) 640-8451
Fax: (916) 640-0995

In the event that the Licensing Program Analyst verifies that the complaint is for an MFH, the Licensing Program Analyst should contact the complainant and refer them to the Sacramento Veterans Affairs Medical Center. In addition, for any general inquiries about the USDVA's MFH pilot program and/or the USDVA services, the Licensing Program Analyst should refer them to the Sacramento Veterans Affairs Medical Center. The Center's contact information is as follows:

Sacramento Veterans Affairs Medical Center
For Public Complaints and General Inquiries
(916) 843-7000 or (800) 382-8387

ACTION REQUIRED

ASSEMBLY BILL 1899 (Brown), Chapter 700, Statutes of 2014

This law became effective January 1, 2015.

Affects: Residential Care Facilities for the Elderly

Subject: Residential Care Facilities for the Elderly

Summary: Assembly Bill (AB) 1899 amends Health and Safety Code Sections 1569.19 and 1569.50.

AB 1899 does the following:

- States that a licensee who abandons a facility and residents in care, in addition to forfeiture and revocation of license, shall be excluded from licensure in facilities licensed by the department without the right to petition for reinstatement.
- Incorporates changes to Section 1569.682 of the Health and Safety Code as specified in Senate Bill (SB) 873.

IMPLEMENTATION

Licensing Program Analysts and Staff Services Analysts

The Licensing Program Analyst or Staff Services Analyst that is reviewing the application will deny an application for licensure if it is found that the applicant was a former licensee whose license was revoked for abandoning a facility and residents in care, resulting in immediate and substantial threat to the abandoned residents' health and safety, as well as deny any petition for reinstatement from the applicant. The Licensing Program Analyst or Staff Services Analyst shall refer to Health and Safety Code Section 1569.50(c).

Management/Program Office Staff

All petitions for reinstatement by licensees who abandoned residents shall also be denied without review and the denial letter shall refer to Section 1569.50 of the Health and Safety Code.

Revisions will be made to Regulation Interpretations and Procedures for Denial of License Application, Section 87163 and Reference Material, "Preliminary Approval", Section 03-0963 of the Evaluator Manual.

For legislative information related to this law, see: Bill Text - AB 1899

ACTION REQUIRED

ASSEMBLY BILL 2044 (Rodriguez), Chapter 701, Statutes of 2014

This law became effective January 1, 2015.

Affects: Residential Care Facilities for the Elderly

Subject: Residential care facilities for the elderly

Summary: Assembly Bill 2044 amended Sections 1569.618 and 1569.625 of the Health and Safety Code.

AB 2044 requires the presence of an administrator, a facility manager, or a designated substitute and sufficient staffing by direct care and other staff qualified to perform functions at Residential Care Facilities for the Elderly (RCFE) as specified. It also requires direct care staff training in specified safety procedures.

IMPLEMENTATION

This law became effective January 1, 2015 with additional changes from AB 1570 (Statutes of 2014) to be phased in as of January 1, 2016.

Licensees must ensure that they comply with the requirements of the new law and continue to comply with the requirements of the California Code of Regulations (CCR), Title 22, RCFE. The California Department of Social Services Community Care Licensing Division (CCLD) will also develop regulations and update policies and procedures.

As a supplement to the information provided in this Implementation Plan, please refer to the attached table titled "Requirements of Existing Regulations and AB 2044," as it provides a reference to existing requirements in the CCR, Title 22, RCFE and provisions of the new law.

Licensees

The new law has the effect of requiring licensees who are not already in compliance with the new law to revise their plans of operation as necessary to reflect the requirements for staffing and training in the new law. As currently required in CCR, Title 22, Section 87208(a)(5) and (6), licensees must send copies of any revised plans of operation to their local Regional Offices for approval.

Although the CCLD does not require licensees to have a policy on whether facility staff may provide cardiopulmonary resuscitation (CPR), plans of operation may not prohibit facility staff from voluntarily providing emergency medical services, such as CPR,

pursuant to AB 633 (Salas, Chapter 591, Statutes of 2013).

Presence of an Administrator Facility Manager, or Designated Substitute

All licensees must meet requirements for the presence of an administrator, a facility manager, or a designated substitute as specified in Health and Safety Code Section 1569.618 and continue to follow requirements for the presence of an administrator as specified in CCR, Title 22, Section 87405.

All licensees shall ensure that at least one administrator, facility manager, or designated substitute who is at least 21 years of age and meets specified requirements, is on the premises of a facility 24 hours per day. A designated substitute may be a direct care staff member. A designated substitute must meet qualifications that include, but are not limited to: knowledge of the requirements for providing care and supervision appropriate to each resident of the facility; familiarity with the facility's planned emergency procedures; and training to effectively interact with emergency personnel in the event of an emergency call, including an ability to provide a resident's medical records to emergency responders.

Licensees must ensure and document that designated substitutes meet the qualifications specified in the new law. These qualifications may be obtained on-the-job at the facility, through formal training, or a combination of both.

Sufficient Staffing

All licensees must meet the staffing requirements specified in Health and Safety Code Section 1569.618 and continue to follow the staffing requirements specified in CCR, Title 22, Sections 87405, 87411, and 87555. All licensees must also continue to follow the night staffing requirements specified in CCR, Title 22, Section 87415.

Licensees must ensure that: a sufficient number of staff are employed and scheduled to provide the care required in each resident's record of care; ensure the health, safety, comfort, and supervision of residents; ensure that at least one staff member who has CPR training and first aid training be on duty and on the premises of a facility at all times; and ensure that a facility is clean, safe, sanitary, and in good repair at all times.

Additionally, licensees of facilities licensed for 16 or more residents must continue to follow the staffing requirements specified in CCR, Title 22, Sections 87219 and 87465. Licensees of facilities providing care to residents with dementia must additionally continue to follow the staffing requirements specified in CCR, Title 22, Section 87705.

Direct Care Staff Training

All licensees must meet the direct care staff training requirements specified in Health and Safety Code Sections 1569.618 and 1569.625 and continue to ensure that direct care staff receive training on the topics. Please see Senate Bill 911 (Statutes of 2014)

and Assembly Bill 1570 (Statutes of 2014) for additional training requirements that will take effect January 1, 2016.

Licensees shall ensure that at least one staff member is on duty and on the premises at all times has appropriate training in CPR. Licensees shall also ensure that all direct care staff receive training in building and fire safety and the appropriate response to emergencies.

Licensing Program Analysts

Licensing Program Analysts should inspect plans of operation and facility operations and records as necessary to evaluate licensee compliance with the staffing and training requirements of the new law.

Presence of an Administrator, Facility Manager, or Designated Substitute

Licensing Program Analysts should review the following documents for compliance:

- Staff schedules and related records at facilities to verify on-site 24 hour coverage by appropriate staff (i.e. administrator, facility manager, or designated substitute).

- Applicable personnel and staff training records at facilities to determine whether:
  - The administrator, facility manager, or designated substitute(s) providing coverage has met the requirement to be 21 years of age; and
  - The designated substitute(s) providing coverage has met knowledge, familiarity, and training requirements.

Licensing Program Analysts shall cite from the new law or continue to cite from applicable regulations when licensees are found to be in violation of requirements for the presence of an administrator, a facility manager, or a designated substitute as specified in provisions of the new law or existing regulations. The following scenarios based on the new law are provided as examples to assist Licensing Program Analysts for noncompliance occurring on or after January 1, 2015.

Scenario	Cite
At breakfast time, there is a facility manager who is less than 21 years of age in charge at a facility.	Health and Safety Code Section 1569.618(b).
A designated substitute does not know that a resident needs to receive assistance with self-administration of medication to be taken at bedtime.	Health and Safety Code Section 1569.618(b).
A designated substitute is unable to communicate effectively with emergency personnel.	Health and Safety Code Section 1569.618(b).

Sufficient Staffing

Licensing Program Analysts should review staff schedules and related records at facilities to determine whether licensees employed and scheduled sufficient staffing to: provide the care required in each resident's record of care; ensure the health, safety, comfort, and supervision of residents; ensure that at least one staff member who has CPR training and first aid training be on duty and on the premises of a facility at all times; and ensure that a facility is clean, safe, sanitary, and in good repair at all times.

Licensing Program Analysts shall cite from the new law or continue to cite from applicable regulations when licensees are found to be in violation of requirements for sufficient staffing as specified in provisions of the new law or existing regulations. The following scenarios based on the new law are provided as examples to assist Licensing Program Analysts for noncompliance occurring on or after January 1, 2015.

Scenario	Cite
No staff person is available to assist a resident whose record of care indicates that she needs to be escorted to the bathroom when the resident states her need to use the bathroom.	Health and Safety Code Section 1569.618(c)
During the 3:00 PM to 12:00 AM swing shift, there is no staff member with current training in CPR on duty at a facility.	Health and Safety Code Section 1569.618(c)

Direct Care Staff Training

Licensing Program Analysts should review staff training records to confirm that all direct care staff have received training in building and fire safety and emergency response procedures in compliance with the new law.

Licensing Program Analysts shall cite from the new law or continue to cite from applicable regulations when licensees are found to be in violation of requirements for direct care staff training as specified in provisions of the new law or existing regulations. The following scenarios based on the new law are provided as examples to assist Licensing Program Analysts for noncompliance occurring on or after January 1, 2015.

Scenario	Cite
A direct care staff member does not have training in building and fire safety and the appropriate response to emergencies.	Health and Safety Code Section 1569.625(c)(6).

Revisions to the California Code of Regulations, Title 22, RCFE and corresponding

Evaluator Manual sections, including, but not limited to, sections 87208, 87411, and 87412 will be made.

For legislative information related to this law, see: Bill Text - AB-2044 Residential care facilities for the elderly.

REQUIREMENTS OF EXISTING REGULATIONS AND AB 2044

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	**AB 2044** (Effective January 1, 2015)
Presence of An Administrator, A Facility Manager, or A Designated Substitute	
All Facilities • An administrator must be on the premises of the facility for a sufficient number of hours to permit adequate attention to the management and administration of the facility. The California Department of Social Services (CDSS) may require that the administrator devote additional hours to responsibilities at the facility when the need for additional hours is substantiated by written documentation. [(CCR, Title 22, Section 87405(a)] • When an administrator is not on the premises of a facility, there must be coverage by a designated substitute at all times. [(CCR, Title 22, Section 87405(a)]	**All Facilities** • At least one administrator, *facility manager,* or designated substitute must be on the premises of the facility *24 hours* per day. [(Health and Safety Code Section 1569.618(b)]
• An administrator or a designated substitute must be at least 21 years of age. [(CCR, Title 22, Section 87405(d)(7)]	• An administrator, *a facility manager,* or a designated substitute must be at least 21 years of age. [(Health and Safety Code Section 1569.618(b)]
• When an administrator is not on the premises of a facility, there must be coverage by a designated substitute who must have knowledge, education, and experience qualifications adequate to be responsible and accountable for management and administration of the facility as specified in regulations. [(CCR, Title 22, Section 87405, subsections (a) and (d) through (g)]	• A designated substitute *may be a direct care staff member*. [(Health and Safety Code Section 1569.618(b)] • A designated substitute *is not required to meet the educational, certification, or training requirements of an administrator, but must meet qualifications that include, but are not limited to:* ○ *Knowledge of requirements for*

Existing California Code of Regulations, Title 22, RCFE	AB 2044 (Effective January 1, 2015)
	providing care and supervision appropriate to each resident in the facility. ○ *Familiarity with the facility's emergency procedures.* ○ *Training to interact with emergency personnel and provide a resident's medical information in case of an emergency.* [(Health and Safety Code Section 1569.618(b)]
Sufficient Staffing	
All Facilities • An administrator has the responsibility to provide or ensure that services are provided to residents for their physical and mental well-being and needs, including services in residents' pre-admission appraisal. [(CCR, Title 22, Section 87405(i)(5)] • Facilities must be staffed in sufficient numbers and competent to: ○ Provide services necessary to meet resident needs. ○ Provide food service to meet resident needs. ○ As necessary, perform office work, cooking, housecleaning, laundering, and maintenance. [(CCR, Title 22, Sections 87411(a) and 87555(b)(18)] • Staff who provide care must have appropriate training in first aid. [(CCR, Title 22, Section 87411(c)(1)] • The department may require a licensee to have additional staff when the needs of residents, extent of services provided, or physical arrangements of the facility require additional staff for adequate services as substantiated by documentation. [(CCR, Title 22, Section 87411(a) and (c)(1)]	**All Facilities** • *A licensee must employ* and *an administrator must schedule,* a sufficient number of direct care staff and other staff to: ○ Provide *the care* required *in each resident's record of care*. ○ *Ensure the health, safety, comfort, and supervision of residents.* ○ Ensure that *at least one staff member who has CPR training and first aid training is on duty and on the premises at all times.* ○ Ensure that the *facility is clean, safe, sanitary, and in good repair at all times.* [(Health and Safety Code Section 1569.618(c)]

Existing California Code of Regulations, Title 22, RCFE	AB 2044 (Effective January 1, 2015)

Night Supervision (All Facilities)
 	
• Facilities are required to have night supervision from 10:00 PM to 6:00 AM by the following staff prepared for emergencies. In facilities providing care for:
  ○ Less than 16 residents, there must be a qualified person on call on the premises of the facility.
  ○ Sixteen to 100 residents, there must be:
  ✓ At least 1 staff member awake and on duty on the premises of the facility.
  ✓ Another employee on call and able to respond within 10 minutes.
  ○ One hundred and one to 200 residents, there must be:
  ✓ One staff member on call on the premises.
  ✓ One staff member awake and on duty on the premises of the facility
  ✓ One staff member on call and able to respond within 10 minutes.
  ○ More than 200 residents, there must be 1 additional staff member awake and on duty on the premises of the facility for every additional 100 residents. [(CCR, Title 22, Section 87415(a)(1) through (a)(4)]	

Facilities Licensed for 16 or More Residents
 	
• Facilities must have at least 1 staff member with responsibility for:
  ○ Organization, conduct, and evaluation of planned activities.
  ○ Food planning, preparation, and service.
  ○ Providing personal assistance and	

Existing California Code of Regulations, Title 22, RCFE	AB 2044 (Effective January 1, 2015)
care as needed by residents with postural supports. ○ Assuring that residents receive needed assistance with self-administration of medication, first aid, and emergency medical services. [(CCR Title 22, Sections 87219(e); 87411(a); 87465(j); and 87555(b)(16)]	
Facilities Providing Care for Residents with Dementia • Licensees must ensure that there is: ○ An adequate number of direct care staff to support each resident's social, emotional, safety, and health care needs as identified in his or her current appraisal. ○ If providing care to fewer than 16 residents, at least 1 night staff member awake and on duty if any resident with dementia is determined to have the need for awake night supervision. [(CCR, Title 22, Section 87705(c)(4) and (c)(4)(A)]	
Direct Care Staff Training	
All Facilities • Staff who provide care must have appropriate training in first aid. [(CCR, Title 22, Section 87411(c)(1)] • Licensees must ensure that all direct care staff receive training on: ○ The aging process and physical limitations and special needs of the elderly. ○ Psychosocial needs of the elderly, such as recreation, companionship, and independence. ○ Importance and techniques of personal care services, including	**All Facilities** • At least one staff member who has training in *CPR* and first aid must be on duty and on the premises at all times. [(Health and Safety Code Section 1569.618(c)] • Licensees must also ensure that all direct care staff receive training on *building and fire safety and emergency response procedures*. [(Health and Safety Code Section 1569.625(c)(6)]

Existing California Code of Regulations, Title 22, RCFE	AB 2044 (Effective January 1, 2015)
but not limited to, bathing, grooming, dressing, feeding, toileting, and universal precautions. ○ Skill and knowledge required to provide necessary resident care and supervision, including the ability to communicate with residents. ○ Residents rights, as specified in section 87468, Personal Rights. ○ Policies and procedures regarding medications and knowledge required to safely assist with prescribed medications which are self-administered. ○ Knowledge necessary to recognize early signs of illness and the need for professional help. ○ Recognizing signs and symptoms of dementia in individuals. ○ Principles of good nutrition, good food preparation and storage, and menu planning. ○ Housekeeping and sanitation principles. ○ Knowledge of community services and resources. [(CCR, Title 22, Section 87411(c)(3)(A) through (c)(3)(F) and (d)]	
Facilities Providing Care for Residents with Dementia • Licensees must ensure that all direct care staff receive training on: ○ The care of residents with dementia. ○ Effects of medications on the behavior of residents with dementia. ○ Common problems, such as wandering, aggression, and inappropriate sexual behavior. ○ Positive therapeutic interventions and activities such as exercise, sensory stimulation, activities of daily living, and social, recreational	

Existing California Code of Regulations, Title 22, RCFE	AB 2044 (Effective January 1, 2015)
and rehabilitative activities. ○ Communication skills (resident/staff relations). ○ Promoting resident dignity, independence, individuality, privacy and choice. ○ End of life issues, including hospice. [(CCR, Title 22, Section 87707 (a)(1) and (a)(2)(A)(1.) through (a)(2)(A)(6.)]	

ACTION REQUIRED

ASSEMBLY BILL 2171 (Wieckowski) Chapter 702, Statutes of 2014

This law became effective January 1, 2015.

Affects: Residential Care Facilities for the Elderly

Subject: Residential care facilities for the elderly: Residents' personal rights

Summary: Assembly Bill (AB) 2171 added Article 2.5 (commencing with Section 1569.261 and including Sections 1569.265, 1569.267, and 1569.269) to Chapter 3.2 of Division 2 of the Health and Safety Code.

AB 2171 enacts a "bill of rights" for residents of Residential Care Facilities for the Elderly (RCFE) and consists of 30 rights. Many of the concepts in these rights currently exist in the California Code of Regulations (CCR), Title 22, Division 6, Chapter 8, RCFE, Section 87468, Personal Rights. It requires licensees to advise residents of and provide residents with a copy of these rights. It also requires licensees to post a copy of resident rights in a facility and post these rights in any other language when five percent or more of the residents in a facility can only read that other language. In addition, AB 2171 requires licensees to observe a policy of not discriminating against prospective or current residents. It requires licensees to provide initial and ongoing training to facility staff on personal rights.

The resident personal rights in the bill apply only to privately operated RCFEs. They do not apply to publicly operated RCFEs, such as RCFEs licensed to the California Department of Veteran's Affairs. Licensees of publicly operated RCFEs must continue to meet the requirements of CCR, Title 22, Section 87468 regarding Personal Rights.

IMPLEMENTATION

Licensees of privately operated RCFEs 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.

At the end of this document is a table titled "Existing Personal Rights Requirements in the California Code of Regulations (CCR), Title 22 and New Personal Rights Requirements in AB 2171." The purpose of this table is to provide a reference to provisions of the new law and existing requirements in the CCR, Title 22, RCFE, as well as assist Licensing Program Analysts in determining the appropriate sections to cite should noncompliance with personal rights statute and regulations be identified as having occurred prior to January 1, 2015.

Licensees

The section below specifies the following requirements: plans of operation; nondiscrimination; resident personal rights, resident notification, and posting of resident personal rights; admission agreements; staff training; and civil penalties.

Plans of Operation

To meet the requirements of the new Health and Safety Code sections, the CCLD is requiring new applicants for licensure of privately operated RCFEs to include in their plans of operation the following information by January 1, 2015:

- A nondiscrimination statement that applies to all residents of the facility as specified below. [In accordance with Health and Safety Code Section 1569.269(b) and CCR, Title 22, Section 87208(a)(3)]

- Attached admission agreements as specified below. [In accordance with Health and Safety Code Section 1569.267(a) and CCR, Title 22, Section 87208(a)(2)]

- Initial and ongoing training to be received by all facility staff on all resident personal rights as specified below. [In accordance with Health and Safety Code Section 1569.267(d) and CCR, Title 22, Section 87208(a)(6)]

Current licensees should ensure that their plan of operation is consistent with all new laws and regulations. As required by CCR, Title 22, Section 87208, licensees shall maintain a current plan of operation on file at the facility. Any revisions to this plan of operation must be maintained at the facility and submitted to their Licensing Program Analyst.

Nondiscrimination

Per Section 1569.269(b) of the Health and Safety Code, licensees of privately operated facilities are not permitted to discriminate against a person seeking admission to a facility or a resident of a facility based on his or her sex, race, color, religion, national origin, marital status, registered domestic partner status, ancestry, actual or perceived sexual orientation, or actual or perceived gender identity. Licensees are required to comply with this new law, as well as continue to comply with all of the nondiscrimination protections specified in CCR, Title 22, Section 87118.

Resident Personal Rights, Resident Notification, and Posting of Resident Personal Rights

Licensees of privately operated facilities must:

- At the time of admission, advise a resident and the resident's representative of, and give a complete written copy of, the personal rights in Section 1569.269 of

the Health and Safety Code and the personal rights in CCR, Title 22, Section 87468.

- The licensee must also have each new resident and new resident's representative, if applicable, sign and date a copy of the resident's rights and include the signed and dated copy in the resident's record.

    - Until the Personal Rights - Residential Care Facilities for the Elderly (LIC 613C) form is revised, the licensee may print out a copy of Section 1569.269 of the Health and Safety Code and the LIC 613C for signature by the resident and resident's representative if applicable, to meet the requirements of Section 1569.267(a) of the Health and Safety Code.

      "Resident representative" means an individual who has the authority, by law or by designation of the resident, to act on behalf of the resident including, but not limited to, a responsible person or a legal representative such as, attorney-in-fact under a power of attorney, surrogate health care decision-maker or conservator.

- Post all of the resident rights specified in Section 1569.269 of the Health and Safety Code and CCR, Title 22, Section 87468 and post information that residents may use to report complaints about a licensed facility in a prominent location in the facility. (For posting of information about how residents can report complaints, please also refer to the Implementation Plan for Senate Bill 895 (Chapter 704, Statutes of 2014) specific to the complaint poster.)

  This resident's rights information must be posted in English and, if five percent or more of the residents in the facility primarily read in another language, personal rights information must also be posted in that language. Licensing Program Analysts shall ask the licensee how the determination was made that the five percent threshold was met or unmet. Licensees are encouraged to list the primary language read by residents on their register of residents for this purpose.

    - Licensees may post a printed copy of the personal rights in Section 1569.269 of the Health and Safety Code and in CCR, Title 22, Section 87468 to meet the requirement specified above. Licensees are required to post the complaint poster required by Senate Bill 895 (Chapter 704, Statutes of 2014) to inform residents how to report complaints about a licensed facility.

Admission Agreements

This bill requires licensees of privately operated facilities who do not already comply with all of the provisions of the new law to revise their admission agreements and/or include an addendum to existing agreements, required by the CCR, Title 22, Section 87507, as necessary to comply with the new law by January 1, 2015.

- Admission agreements may not limit the resident's personal rights, as specified in the new law in Section 1569.269 of the Health and Safety Code and all of the personal rights specified in the CCR, Title 22, Section 87468.

- Admission agreements must include a comprehensive description of the method for evaluating residents' service needs and the fee schedule for the items and services provided.

Admission agreements that are executed on or after January 1, 2015 must comply with the new law and continue to comply with the CCR, Title 22, Section 87507.

No provision of an admission agreement, including all documents that a resident or the resident's representative, if any, is required to sign as part of the admission agreement, or as a condition of, admission to a residential care facility for the elderly, shall require that a resident waive benefits or rights to which he or she is entitled under this chapter or provided by federal or other state law or regulation, as specified in the new law in Section 1569.269(c) of the Health and Safety Code. Some examples of such provisions include the requirement to waive Supplemental Security Income benefits.

If a licensee must amend the admission agreement in order to be compliant with this new law, the licensees must send copies of any revised admission agreements and/or addendum to existing agreements to their local Regional Offices. Licensees must incorporate any revised admission agreements and/or addendum to existing agreements into their plans of operation in accordance with this new law. Licensing Program Analysts may review the revised plan of operation and admission agreement upon inspection.

Staff Training

Licensees of privately operated facilities must provide initial and ongoing training for all facility staff to ensure that resident rights are fully respected and implemented, as specified in the new law in Section 1569.267(d) of the Health and Safety Code. This training must be on all of the resident rights specified in the new law in Section 1569.269 of the Health and Safety Code. Licensees must also continue to provide initial and ongoing training for all facility staff on all of the personal rights specified in the CCR, Title 22, Section 87468 as required by the CCR, Title 22, Section 87411. In addition, licensees must update personnel records to include documentation of this training and have personnel records available for inspection by their Licensing Program Analyst.

Civil Penalties

All licensees, both public-sector and private, are subject to civil penalties for noncompliance with the requirement to assist residents in having a resident council at the facility as specified in Section 1569.157 of the Health and Safety Code or the requirement to permit the formation of a family council as specified in Section 1569.158

of the Health and Safety Code. Both violations are subject to a daily civil penalty of $250 until the violation is corrected as specified in Sections 1569.157(i) or 1569.158(j) of the Health and Safety Code. (For more information, please also refer to the Implementation Plan for AB 1572 (Chapter 177, Statutes of 2014).)

Licensees of privately operated facilities are subject to civil penalties as specified in CCR, Title 22, Section 87761 for noncompliance with nondiscrimination requirements and resident personal rights specified in the new law in Section 1569.269 of the Health and Safety Code and for violations of nondiscrimination requirements and personal rights specified in CCR, Title 22, Sections 87118 and 87468 to the extent not otherwise superseded by the new statutes.

Residents

The new law includes provisions for resident choice and flexibility in program options and in exercising their personal rights. It also permits residents to have choices in programs that may restrict personal rights. Residents may voluntarily choose program options based on the new law as specified below. Residents have the right to:

- To make choices concerning their daily life in the facility. [Health and Safety Code Section 1569.269(a)(8)]

- To fully participate in planning their care, including the right to attend and participate in meetings or communications regarding the care and services to be provided in accordance with Section 1569.80, and to involve persons of their choice in the planning process. The licensee shall provide necessary information and support to ensure that residents direct the process to the maximum extent possible, and are enabled to make informed decisions and choices. [Health and Safety Code Section 1569.269(a)(9)]

- To reasonable accommodation of individual needs and preferences in all aspects of life in the facility, except when the health or safety of the individual or other residents would be endangered. [Health and Safety Code Section 1569.269(a)(16)]

It is essential for licensees to balance the health, safety and personal rights of all residents in a facility. Should residents' choices impair their own health and safety or that of other residents in a facility, licensees are not required to comply with the request of the resident.

Any violation of these and any other personal rights may result in a licensee being cited under the new law.

Licensing Program Analysts

Although the requirement to comply with AB 2171 only applies to licensees of privately operated facilities, Licensing Program Analysts must monitor all licensees for compliance with resident personal rights. Licensing Program Analysts shall use the protocols for implementation below.

For noncompliance with personal rights occurring prior to January 1, 2015, Licensing Program Analysts shall continue to cite personal rights regulations in the Title 22, CCR, RCFE. For noncompliance occurring after January 1, 2015, Licensing Program Analysts shall cite privately-owned licensees from the new statutes when the identified noncompliance applies to the new statute or continue to cite from other applicable regulations in the Title 22, CCR, RCFE that apply and are not superseded by the new statutes in question. For public-sector licensees, Licensing Program Analysts shall only cite for noncompliance with personal rights found in the other applicable regulations in the Title 22, CCR, RCFE that apply. For further guidance, please also see the table titled "Existing Personal Rights Requirements in the California Code of Regulations (CCR), Title 22 and New Personal Rights Requirements in AB 2171" at the end of this document.

Plans of Operation

Applications: When reviewing applications submitted on or after January 1, 2015, Licensing Program Analysts and Staff Services Analysts shall carefully review plans of operation to determine whether applicants for licensure as privately operated facilities comply with the requirements specified above.

No application for licensure that includes a plan of operation that does not comply with the new law may be approved.

Inspections and Complaints: According to inspection protocols, Licensing Program Analysts shall carefully review plans of operation approved prior to January 1, 2015 to determine whether licensees of privately operated facilities have plans of operation that comply with the new law.

Licensing Program Analysts shall review plans of operation according to inspection protocols during inspections or when investigating complaints. If the licensee is noncompliant in regard to plans of operation on or after January 1, 2015, Licensing Program Analysts shall cite from the new law in Sections 1569.267 or 1569.269 of the Health and Safety Code and continue to cite from applicable regulations in the CCR, Title 22, Section 87208. The following scenarios based on the new law are provided as examples to assist Licensing Program Analysts.

Nondiscrimination

Inspections and Complaints: According to inspection protocols, Licensing Program Analysts shall carefully consider and determine whether licensees of privately operated facilities comply with the nondiscrimination requirements specified for those licensees above. When investigating complaints, Licensing Program Analysts shall use the date the alleged noncompliance occurred to determine whether the new law or existing regulations apply.

If noncompliance occurred in regard to nondiscrimination after January 1, 2015, Licensing Program Analysts shall cite from the new law in Section 1569.269 of the Health and Safety Code, if applicable, or applicable regulations in the CCR, Title 22, Section 87118 that are not otherwise superseded by the new statutes. Licensing Program Analysts shall also cite from any other regulations in the CCR, Title 22, RCFE that apply. The following scenarios are provided only as examples to assist Licensing Program Analysts.

Scenario	Cite
Before January 1, 2015:	
A prospective resident was not allowed into a facility in November of 2014 because of his or her actual or perceived sexual orientation.	CCR, Title 22, Section 87118(a).
After January 1, 2015:	
A resident is not allowed to participate in an activity at the facility in February of 2015 because of his or her registered domestic partner status.	Health and Safety Code Section 1569.269(b).

For plans of correction, licensees are to agree that licensee policies, procedures, or practices will be revised to address deficiencies or substantiated allegations in regard to nondiscrimination.

If the licensee is noncompliant with the nondiscrimination requirements, licensees are subject to civil penalties as specified in the CCR, Title 22, Section 87761.

Resident Personal Rights, Resident Notification, and Posting of Resident Personal Rights

Inspections and Complaints: According to inspection protocols, Licensing Program Analysts shall carefully consider and determine whether licensees of privately operated facilities comply with the resident personal rights, resident notification, and posting of resident personal rights requirements specified for those licensees above. When

investigating complaints, Licensing Program Analysts shall use the date the alleged noncompliance occurred to determine whether the new law or existing regulations applies.

If noncompliance occurred in regard to resident personal rights, resident notification, and posting of resident personal rights after January 1, 2015, Licensing Program Analysts shall cite from the new Section 1569.269 of the Health and Safety Code, if applicable, or applicable regulations in the CCR, Title 22, Section 87468 that have not been superseded by the new code sections. Licensing Program Analysts shall also cite from any other regulations in the CCR, Title 22, RCFE that apply. The following scenarios are provided only as examples to assist Licensing Program Analysts.

Scenario	**Cite** ***Before January 1, 2015***	**Cite** ***After January 1, 2015***
A resident was subject to a hurtful remark by facility staff.	CCR, Title 22, Section 87468(a)(1).	Health and Safety Code Section 1569.269(a)(1).
A resident was not allowed to spend his or her own money on a treat that is not harmful to his or her well-being.	CCR, Title 22, Section 87468(a)(12).	Health and Safety Code Section 1569.269(a)(30)
A resident and his or her friends in the facility who want to start a resident council are told they cannot when they talk with the administrator about forming the council~~s~~.	CCR, Title 22, Section 87221, relating to resident councils.	Health and Safety Code Section 1569.157(a), relating to resident councils.
There are no resident personal rights posted in Spanish to accommodate residents in a facility who primarily read in Spanish.	CCR, Title 22, Section 87468(c), requiring that personal rights be posted in facilities licensed for 7 or more residents and (d), requiring that personal rights be posted in other languages that can be read by residents when a significant number of residents in a facility primarily read in other languages.	Health and Safety Code Section 1569.267(c), requiring that personal rights be posted in all facilities and that personal rights be posted in other languages that can be read by residents when 5% or more of residents in a facility primarily read in other languages.

For plans of correction, licensees are to agree that licensee policies, procedures, or practices will be revised to address noncompliance in regard to resident personal rights, resident notification, and posting of resident personal rights.

If noncompliance of resident and family council requirements occur, licensees are subject to civil penalties specified in Sections 1569.157(i) or 1569.158(j) of the Health and Safety Code. If noncompliance of resident personal rights, resident notification, and posting of resident personal rights requirements of the new statues occur, licensees are subject to civil penalties as specified in the CCR, Title 22, Section 87761.

Admission Agreements

Applications: When reviewing applications submitted on or after January 1, 2015, Licensing Program Analysts and Staff Services Analysts shall carefully review admission agreements to determine whether applicants for licensure as privately operated facilities have agreements that comply with the requirements specified above.

No application for licensure that includes an admission agreement that does not comply with the new law may be approved.

Inspections and Complaints: According to inspection protocols, Licensing Program Analysts shall carefully review admission agreements to determine whether licensees of privately operated facilities have existing or new admission agreements that include the information required for those licensees above.

For noncompliance occurring after January 1, 2015, Licensing Program Analysts shall cite from the new Section 1569.269 of the Health and Safety Code, if applicable, and continue to cite from applicable regulations in the CCR, Title 22, Section 87507 if not otherwise superseded by the new statutes. The following scenarios based on the new law are provided as examples to assist Licensing Program Analysts.

Scenario	Cite
Admission agreement does not include a comprehensive description of the method for evaluating residents' service needs.	Health and Safety Code Section 1569.269(a)(14).
Admission agreement includes a clause that requires a resident to waive the right to Supplemental Security Income benefits in order to remain in the facility.	Health and Safety Code Section 1569.269(c).

For plans of correction, licensees are to agree to comply with the new law by revising the admission agreement and/or using an addendum.

Staff Training

Inspections and Complaints: According to inspection protocols, Licensing Program Analysts shall carefully review personnel records to determine whether licensees of privately operated facilities comply with the staff training requirements specified for those licensees above.

If noncompliance occurred in regard to staff training requirements on or after January 1, 2015, Licensing Program Analysts shall cite from the new Section 1569.267 of the Health and Safety Code, if applicable, and continue to cite from applicable regulations in the CCR, Title 22, Section 87411. The following scenario based on the new law is provided as an example to assist Licensing Program Analysts.

Scenario	Cite
Licensee does not provide staff training that includes all of the resident personal rights in the new law and all of the personal rights in CCR, Title 22, Section 87468.	Health and Safety Code Section 1569.267(a) and (d).

Licensees shall develop plans of correction to comply with staff training requirements.

Regulations, including, but not limited to, revisions to California Code of Regulations, Title 22, Sections 87468 and 87508, revisions to forms (Personal Rights – Residential Care Facilities for the Elderly (LIC 613C), and revisions to Evaluator Manual sections will be developed.

For legislative information related to this law, see: Bill Text - AB-2171 Residential care facilities for the elderly**.**

The following table on page 30 provides a review of provisions for nondiscrimination, personal rights, and admission agreements in existing regulations and AB 2171.

[ADDITIONAL INFORMATION CONTAINED ON PAGE 33]

EXISTING PERSONAL RIGHTS REQUIREMENTS IN THE CALIFORNIA CODE OF REGULATIONS (CCR), TITLE 22 and NEW PERSONAL RIGHTS REQUIREMENTS IN AB 2171

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.

NONDISCRIMINATION		
Existing Nondiscrimination Requirements CCR, Title 22, Section 87118 *Cited if noncompliance occurred before January 1, 2015.*	**New Nondiscrimination Requirements Added in Section 1569.269 of the Health and Safety Code by AB 2171** *Cited for privately-operated facilities if noncompliance occurred after January 1, 2015.*	**Other Regulations in CCR, Title 22, Applicable to Nondiscrimination** *May also be cited, if applicable to citations based on existing nondiscrimination requirements before January 1, 2015 or if applicable to citations based on new nondiscrimination requirements after January 1, 2015.*
• All licensed facilities shall receive persons on a nondiscriminatory basis according equal treatment and services without regard to race, color, religion, national origin, actual or perceived sexual orientation or ancestry. [CCR, Title 22, Section 87118(b)]	• A licensed residential care facility for the elderly shall not discriminate against a person seeking admission or a resident based on *sex,* race, color, religion, national origin, *marital status, registered domestic partner status,* ancestry, actual or perceived sexual orientation, or *actual or perceived gender identity*. [Health and Safety Code Section 1569.269(b)]	• An exception shall be made in the case of any bona fide nonprofit religious, fraternal or charitable organization which can demonstrate to the satisfaction of the Department or the licensing agency that its primary or substantial purpose is not to evade this section. ○ It may establish reception policies limiting or giving preference to its own members or adherents, provided,

		however, such membership is nondiscriminatory and such policies shall not be construed as a violation of this section. ○ Any reception of nonmembers or nonadherents shall be subject to the requirements of this section. [CCR, Title 22, Section 87118(c)]

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.

Resident Personal Rights		
Existing Personal Rights in CCR, Title 22, Section 87468 *Cited if noncompliance occurred before January 1, 2015*	**New Personal Rights Added in Section 1569.269 of the Health and Safety Code by AB 2171** *Cited for privately-operated facilities if noncompliance occurred after January 1, 2015.*	**Other Regulations in CCR, Title 22, Applicable to Personal Rights** *May also be cited, if applicable to citation based on existing personal rights before January 1, 2015 or if applicable to citation based on new personal rights after January 1, 2015 if not otherwise superseded by statute.*
• To be accorded dignity in his/her personal relationships with staff, residents, and other persons. [CCR, Title 22, Section 87468(a)(1)]	• To be accorded dignity in their personal relationships with staff, residents, and other persons. [Health and Safety Code Section 1569.269(a)(1)]	• Care and supervision of residents shall be provided without physical or verbal abuse, exploitation or prejudice. Licensee must provide for and encourage all personnel

		to report observations or evidence of abuse, exploitation, or prejudice. [CCR, Title 22, Section 87413(a)(2) and (3)] • Licensees with facilities that specialize in dementia care must ensure that staff receive regularly scheduled training in promoting resident dignity, independence, individuality, privacy and choice. [CCR, Title 22, Section 87707(a)(2)(A)(5)]
• To have access to individual storage space for private use. [CCR, Title 22, Section 87468(a)(13)] • To have reasonable access to telephones, to both make and receive confidential calls. The licensee may require reimbursement for long distance calls. [CCR, Title 22, Section 87468(a)(14)] • To mail and receive unopened correspondence in a prompt manner. [CCR, Title 22, Section 87468(a)(15)]	• To be granted a reasonable level of personal privacy in accommodations, *medical treatment, personal care and assistance,* visits, *communications,* telephone conversations, *use of the Internet,* and *meetings of resident and family groups*. [Health and Safety Code Section 1569.269(a)(2)]	• To permit a free exchange of ideas at resident council meetings, at least part of each meeting must be conducted without the presence of any facility personnel. (CCR, Title 22, Section 87221) • The facility shall provide comfortable living accommodations and privacy for residents. Individual privacy shall be provided in all toilet, bath and shower areas. [CCR, Title 22, Section 87307(a) and (c)] • There shall be adequate privacy for first aid treatment of minor injuries and for examination by a physician if required. [CCR, Title 22, Section 87465(a)(8)] • Privacy shall be

		afforded when specified care is being provided. [CCR, Title 22, Sections 87621(b); 87622(b)(2); 87623(b)(4); and 87625(b)(8)]
• Not addressed by existing personal rights regulations.	• To confidential treatment of their records and personal information and to approve their release, except as authorized by law. [Health and Safety Code Section 1569.269(a)(3)]	• All information and records obtained from or regarding residents must be kept confidential. Licensees are responsible for storing active and inactive records and for safeguarding the confidentiality of their contents. Licensee and all employees shall only disclose confidential information upon the resident's written consent or consent of the resident's designated representative. [CCR, Title 22, Section 87506(c)(1) • The register of residents in a facility shall be treated as confidential information. [CCR, Title 22, Section 87508(c)(1)]
• To be free from corporal or unusual punishment, humiliation, intimidation, mental abuse, or other actions of a punitive nature, such as withholding of monetary allowances or interfering with daily living functions such as eating or sleeping patterns or elimination.	• To be encouraged and assisted in exercising their rights as citizens and as residents of the facility. Residents shall be free from *interference, coercion, discrimination,* and *retaliation in exercising their rights*. [Health and Safety Code Section 1569.269(a)(4)]	• Licensees shall encourage residents to maintain and develop their fullest potential for independent living through participation in planned activities. [CCR, Title 22, Section 87219(a)] • Licensees shall permit

[CCR, Title 22, Section 87468(a)(3)]		the formation of a resident council, provide space and post notice for meetings, and provide assistance in attending meetings for residents upon request. In order to permit a free exchange of ideas, at least part of each meeting shall be allowed to be conducted without the presence of any facility personnel. Residents shall be encouraged, but not compelled, to attend. (CCR, Title 22, Section 87221**)** ***Note: Please also see requirements in Section 1569.157 regarding resident councils (AB 1572, Statutes of 2014).***
• To be accorded safe, healthful and comfortable accommodations, furnishings and equipment. [CCR, Title 22, Section 87468(a)(2)]	• To be accorded safe, healthful, and comfortable accommodations, furnishings, and equipment. [Health and Safety Code Section 1569.269(a)(5)]	• Fire Clearance (CCR, Title 22, Section 87202); Fire Safety (CCR, Title 22, Section 87203); Limitations on Capacity and Ambulatory Status (CCR, Title 22, Section 87204); Maintenance and Operation (CCR, Title 22, Section 87303 and Personal Accommodations and Services (CCR, Title 22, Section 87307) also apply.
• Not addressed by existing personal rights regulations.	• To care, supervision, and services that meet their individual needs and are delivered by	• The use of alternate concepts, programs, services, procedures, techniques, equipment,

	staff that are sufficient in numbers, qualifications, and competency to meet their needs. [Health and Safety Code Section 1569.269(a)(6)]	space, personnel qualifications or staffing ratios, or the conduct of experimental or demonstration projects are not prohibited provided specified conditions are met. [CCR, Title 22, Section 87209(a)]
• Not addressed by existing personal rights regulations.	• To be served food of the quality and in the quantity necessary to meet their nutritional needs. [Health and Safety Code Section 1569.269(a)(7)]	• Residents' daily diet must be of the quality and in the quantity necessary to meet their needs and meet specified nutritional standards. All food must be selected, stored, prepared and served in a safe and healthful manner. [CCR, Title 22, Section 87555(a)]
• To have the freedom of attending religious services or activities of his/her choice and to have visits from the spiritual advisor of his/her choice. Attendance at religious services, either in or outside the facility, shall be on a completely voluntary basis. [CCR, Title 22, Section 87468(a)(5)] • To leave or depart the facility at any time and to not be locked into any room, building, or on facility premises by day or night. [CCR, Title 22, Section 87468(a)(6)] • To wear his/her own	• *To make choices concerning their daily life in the facility.* [Health and Safety Code Section 1569.269(a)(8)]	• Planned Activities (CCR, Title 22, Section 87219) and Resident Councils (CCR, Title 22, Section 87221), also apply.

clothes; to keep and use his/her own personal possessions, including his/her toilet articles; and to keep and be allowed to spend his/her own money. [CCR, Title 22, Section 87468(a)(12)] • To receive assistance in exercising the right to vote. [CCR, Title 22, Section 87468(a)(17)]		
• To have his/her family or responsible persons regularly informed by the facility of activities related to his care or services including ongoing evaluations, as appropriate to the resident's needs. [CCR, Title 22, Section 87468(a)(8)] • To have communications to the facility from his/her family and responsible persons answered promptly and appropriately. [CCR, Title 22, Section 87468(a)(9)] • To receive or reject medical care, or other services. [CCR, Title 22, Section 87468(a)(16)]	• *To fully participate in planning their care, including the right to attend and participate in meetings or communications regarding the care and services to be provided in accordance with Section 1569.80*, and to involve persons of their choice in the planning process. *The licensee shall provide necessary information and support to ensure that residents direct the process to the maximum extent possible, and are enabled to make informed decisions and choices.* [Health and Safety Code Section 1569.269(a)(9)]	• Licensees must meet with and involve a resident and others as specified in preparing, reviewing, and revising a written record of the care the resident will receive at the facility. [CCR, Title 22, Sections 87463(c) and 87467(a)] • Upon admission, licensees must provide residents, and representatives or responsible persons of residents, with written information about the right to make decisions concerning medical care. Information must include, but is not limited to, the Department brochure "Your Right To Make Decisions About Medical Treatment." [CCR, Title 22, Section 87469(a)]
• To be free from corporal or unusual punishment, humiliation, intimidation, mental abuse, or other	• To be free from *neglect, financial exploitation, involuntary seclusion,* punishment, humiliation,	• Bonding (CCR, Title 22, Section 87216); Safeguards for Resident Cash, Personal

actions of a punitive nature, such as withholding of monetary allowances or interfering with daily living functions such as eating or sleeping patterns or elimination. [CCR, Title 22, Section 87468(a)(3)] • To leave or depart the facility at any time and to not be locked into any room, building, or on facility premises by day or night. [Title 22, CCR, Section 87468(a)(6)]	intimidation, and *verbal,* mental, *physical,* or *sexual* abuse. [Health and Safety Code Section 1569.269(a)(10)]	Property, and Valuables (CCR, Title 22, Section 87217); Theft and Loss (CCR, Title 22, Section 87218); and Personnel Operations (CCR, Title 22, Section 87413), also apply.
• To be informed by the licensee of the provisions of law regarding complaints and of procedures to confidentially register complaints, including, but not limited to, the address and telephone number of the complaint receiving unit of the licensing agency. [CCR, Title 22, Section 87468(a)(4)] • Personal right regarding freedom from punishment. [CCR, Title 22, Section 87468(a)(3)] also applies.	• *To present grievances and recommend changes in policies, procedures, and services to the staff of the facility, the facility's management and governing authority, and to any other person without restraint, coercion, discrimination, reprisal, or other retaliatory actions. The licensee shall take prompt actions to respond to residents' grievances.* [Health and Safety Code Section 1569.269(a)(11)]	• Licensees are required to have procedures for addressing complaints. [CCR, Title 22, Section 87155) Note: Please see Health and Safety Code Sections 1569.157 and 1569.158 regarding resident councils and family councils.
• To be informed by the licensee of the provisions of law regarding complaints and of procedures to confidentially register complaints, including, but not limited to, the	• To *contact the State Department of Social Services, the long-term care ombudsman, or both,* regarding grievances against the licensee. The licensee shall post *the telephone*	• Notice to leave the facility must include a statement informing residents of their right to file a complaint with the licensing agency. [CCR, Title 22, Section 87224(d)(1)(C)]

address and telephone number of the complaint receiving unit of the licensing agency. [CCR, Title 22, Section 87468(a)(4)] • Facilities licensed for 7 or more shall prominently post personal rights and procedures for filing confidential complaints in areas accessible to the residents and their relatives. [CCR, Title 22, Section 87468(c)] • Information on personal rights and procedures for filing confidential complaints shall be posted in English, and in facilities where a significant portion of the residents cannot read English, in the language they can read. [CCR, Title 22, Section 87468(d)]	*numbers and addresses for the local offices of the State Department of Social Services and ombudsman program, in accordance with Section 9718 of the Welfare and Institutions Code,* conspicuously in the facility foyer, lobby, residents' activity room, or other location easily accessible to residents. [Health and Safety Code Section 1569.269(a)(12)] • *Licensees shall prominently post,* in areas accessible to the residents and their *representatives*, a copy of the residents' rights. [Health and Safety Code Section 1569.267(b)] • The rights posted pursuant to subdivision (b) shall be posted both in English and *in any other language* in a facility in which *5 percent or more* of the residents can only read that other language. [Health and Safety Code Section 1569.267(c)]	
• To be informed of the facility's policy concerning family visits and other communications with residents, as specified in Health and Safety Code Section 1569.313. [CCR, Title 22, Section 87468(a)(10)] • At admission, a resident and the resident's	• To be fully informed, *as evidenced by the resident's written acknowledgement, prior to or at the time of admission, of all rules governing residents' conduct and responsibilities*. *In accordance with Section 1569.885, all rules established by a*	• Admission agreements must include general policies for the purpose of making it possible for residents to live together. [CCR, Title 22, Sections 87224(a)(3) and 87507(c)(7)]

responsible person or conservator shall be personally advised of and given a list of these rights. The licensee shall have each resident and the resident's responsible person or conservator sign a copy of these rights, and the signed copy shall be included in the resident's record. [CCR, Title 22, Section 87468(b).]	*licensee shall be reasonable and shall not violate any rights set forth in this chapter or in other applicable laws or regulations.* [Health and Safety Code Section 1569.269(a)(13)] • At admission, *a facility staff person* shall personally advise a resident and the resident's *representative* of, and give a *complete written copy of, the rights in this article and the personal rights in Section 87468 of Title 22 of the California Code of Regulations*. The licensee shall have each resident and the resident's *representative* sign and *date* a copy of the resident's rights, and the licensee shall include the signed and dated copy in the resident's record. [Health and Safety Code Section 1569.267(a)]	
• Not addressed by existing personal rights regulations.	• *To receive in the admission agreement a comprehensive description of the method for evaluating residents' service needs and the fee schedule for the items and services provided, and to receive written notice of any rate increases pursuant to Sections 1569.655 and 1569.884.* [Health and Safety Code Section 1569.269(a)(14)]	• Admission agreements must specify basic and optional services, basic and optional services rates, and modification conditions. [CCR, Title 22, Section 87507(c)]

• Not addressed by existing personal rights regulations.	• *To be informed in writing at or before the time of admission of any resident retention limitations set by the state or licensee, including any limitations or restrictions on the licensee's ability to meet residents' needs.* [Health and Safety Code Section 1569.269(a)(15)]	• Admission agreements must specify actions, circumstances, or conditions specified in regulations which may result in the resident's eviction from the facility. [CCR, Title 22, Section 87507(c)(8)]
• Not addressed by existing personal rights regulations.	• To reasonable accommodation of individual needs and preferences in all aspects of life in the facility, except when the health or safety of the individual or other residents would be endangered. [Health and Safety Code Section 1569.269 (a)(16)]	• Planned Activities (Title 22, CCR, Section 87219); Resident Councils (Title 22, CCR, Section 87221); and Resident Participation in Decision-making (CCR, Title 22, Section 87467), also apply.
• Not addressed by existing personal rights regulations.	• To reasonable accommodation of resident preferences concerning room and roommate choices. [Health and Safety Code Section 1569.269 (a)(17)]	• Admission agreements must include general policies for the purpose of making it possible for residents to live together. [CCR, Title 22, Sections 87224(a)(3) and 87507(c)(7)] • Married couples may be provided with one appropriate sized bed. [CCR, Title 22, Section 87307(a)(3)(A)] • If a roommate of a resident receiving hospice care withdraws his or her agreement to accommodate hospice care verbally or in writing, a licensee must make alternative

		arrangements that fully meet the needs of the resident receiving hospice care. [CCR, Title 22, Section 87633 (h)(5)(A)]
• Not addressed by existing personal rights regulations.	• To written notice of any room changes at least 30 days in advance unless the request for a change is agreed to by the resident, required to fill a vacant bed, or necessary due to an emergency. [Health and Safety Code Section 1569.269(a)(18)]	• If a resident must be evicted by a licensee or is subject to a health relocation order issued by the department, a licensee must follow procedures to reduce transfer trauma to the resident. [CCR, Title 22, Sections 87224(i)(1) and 87637(b)(2)]
• Not addressed by existing personal rights regulations.	• To share a room with the resident's spouse, domestic partner, or a person of resident's choice when both spouses, partners, or residents live in the same facility and consent to the arrangement. [Health and Safety Code Section 1569.269(a)(19)]	• Married couples may be provided with one appropriate sized bed. [CCR, Title 22, Section 87307(a)(3)(A)]
• To receive or reject medical care or other services. [CCR, Title 22, Section 87468(a)(16)]	• To *select their own physicians, pharmacies, privately paid personal assistants, hospice agency*, and *health care providers, in a manner that is consistent with the resident's contract of admission or other rules of the facility, and in accordance with this act.* [Health and Safety Code Section 1569.269(a)(20)]	• Licensees must meet with and involve a resident and others as specified in preparing, reviewing, and revising a written record of the care the resident will receive at the facility and the resident's preferences regarding the services provided at the facility. [CCR, Title 22, Sections 87463(c) and 87467(a)] • Upon admission, licensees must provide

		residents, and representatives or responsible persons of residents, with written information about the right to make decisions concerning medical care. Information must include, but is not limited to, the Department brochure "Your Right To Make Decisions About Medical Treatment." [CCR, Title 22, Section 87469(a)]
• Not addressed by existing personal rights regulations.	• To have prompt access to review all of their records and to purchase photocopies. Photocopied records shall be promptly provided, not to exceed two business days, at a cost not to exceed the community standard for photocopies. [Health and Safety Code Section 1569.269(a)(21)]	• All information and records obtained from or regarding residents must be kept confidential. Licensees are responsible for storing active and inactive records and for safeguarding the confidentiality of their contents. Licensee and all employees shall only disclose confidential information upon the resident's written consent or consent of the resident's designated representative. [CCR, Title 22, Section 87506(c)(1)]
• Not addressed by existing personal rights regulations.	• To be protected from involuntary transfers, discharges, and evictions in violation of state laws and regulations. Facilities shall not involuntarily transfer or evict residents for grounds	• Licensees may, upon 30 days' written notice to the resident, evict the resident for one or more specified reasons. [CCR, Title 22, Section 87224(a)] • Licensees may, upon obtaining prior written

	other than those specifically enumerated under state law or regulations, and shall comply with enumerated eviction and relocation protections for residents. For purposes of this paragraph, “involuntary” means a transfer, discharge, or eviction that is initiated by the licensee, not by the resident. [Health and Safety Code Section 1569.269(a)(22)]	approval from the licensing agency, evict a resident upon 3 days written notice to quit. Licensing agency may grant approval for the eviction upon finding of good cause. Good cause exists if the resident is engaging in behavior which is a threat to the mental and/or physical health or safety of him/herself or to the mental and/or physical health or safety of others in the facility. [CCR, Title 22, Section 87224(b)]
• To move from the facility. [Title 22, CCR, Section 87468(a)(18)]	• To move from a facility. [Health and Safety Code Section 1569.269(a)(23)]	• Not addressed by other applicable regulations.
• To be informed of the facility's policy concerning family visits and other communications with residents, as specified in Health and Safety Code Section 1569.313. [CCR, Title 22, Section 87468(a)(10)] • To have his/her visitors, including ombudspersons and advocacy representatives permitted to visit privately during reasonable hours and without prior notice, provided that the rights of other residents are not infringed upon. [Title 22, CCR, Section 87468(a)(11)]	• To *consent to have relatives and other individuals of the resident’s choosing* visit during reasonable hours, privately and without prior notice. [Health and Safety Code Section 1569.269(a)(24)]	• Plan of operation and admission agreement must include a statement of the facility's policy concerning family visits and other communication with residents. [CCR, Title 22, Sections 87208(a)(10) and 87507(c)(9)]

• Not addressed by existing personal rights regulations.	• To receive written information on the right to establish an advanced health care directive and, pursuant to Section 1569.156, the licensee's written policies on honoring those directives. [Health and Safety Code Section 1569.269(a)(25)]	• Upon admission, licensees must provide residents, and representatives or responsible persons of residents, with written information about the right to make decisions concerning medical care. Information must include, but is not limited to, the Department brochure "Your Right To Make Decisions About Medical Treatment," and a copy of specified regulations describing what licensees must do to honor residents' Request to Forego Resuscitative Measures, Advance Health Care Directive and/or a Do-Not-Resuscitate (DNR) form. [CCR, Title 22, Section 87469(a)]
• Not addressed by existing personal rights regulations.	• To be encouraged to maintain and develop their fullest potential for independent living through participation in activities that are designed and implemented for this purpose, in accordance with Section 87219 of Title 22 of the California Code of Regulations. [Health and Safety Code Section 1569.269(a)(26)]	• Licensees shall encourage residents to maintain and develop their fullest potential for independent living through participation in planned activities. [CCR, Title 22, Section 87219(a)]
• Not addressed by existing personal rights regulations.	• To organize and participate in a resident council that is established pursuant to	

	Section 1569.157. [Health and Safety Code Section 1569.269(a)(27)]	
• Not addressed by existing personal rights regulations.	• To protection of their property from theft or loss in accordance with Sections 1569.152, 1569.153, and 1569.154. [Health and Safety Code Section 1569.269(a)(28)]	• Licensees must safeguard residents' cash resources, personal property and valuables entrusted to the licensee or facility staff. [CCR, Title 22, Section 87217(b)]
• To wear his/her own clothes; to keep and use his/her own personal possessions, including his/her toilet articles; and to keep and be allowed to spend his/her own money. [CCR, Title 22, Section 87468(a)(12)]	• To *manage their financial affairs. A licensee shall not require residents to deposit their personal funds with the licensee. Except as provided in approved continuing care agreements, a licensee, or a spouse, domestic partner, relative, or employee of a licensee, shall not do any of the following:* ○ *Accept appointment as a guardian or conservator of the person or estate of a resident.* ○ *Become or act as a representative payee for any payments made to a resident, without the written and documented consent of the resident or the resident's representative.* ○ *Serve as an agent for a resident under any general or special power of attorney.* ○ *Become or act as a joint tenant on any*	• If residents are incapable of handling their own cash resources, as documented by initial or subsequent appraisals, licensees must safeguard their cash resources in accordance with regulations. [CCR, Title 22, Section 87217(a)]

	account with a resident. ○ *Enter into a loan or promissory agreement or otherwise borrow money from a resident without a notarized written agreement outlining the terms of the repayment being given to the resident.* [Health and Safety Code Section 1569.269(a)(29)]	
• To wear his/her own clothes; to keep and use his/her own personal possessions, including his/her toilet articles; and to keep and be allowed to spend his/her own money. [CCR, Title 22, Section 87468(a)(12)]	• To *keep, have access to, and use their own personal possessions,* including toilet articles, and to keep and be allowed to spend their own money, *unless limited by statute or regulation.* [Health and Safety Code Section 1569.269(a)(30)]	• If residents are incapable of handling their own cash resources, as documented by initial or subsequent appraisals, licensees must safeguard their cash resources in accordance with regulations. [CCR, Title 22, Section 87217(a)]
• Not addressed by existing personal rights regulations.	• Residents' family members, friends, and representatives have the right to organize and participate in a family council that is established pursuant to Section 1569.158. [Health and Safety Code Section 1569.269(d)]	• Not addressed by other applicable 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.

Admission Agreements		
Existing Admission Agreements Requirements in CCR, Title 22, Section 87507 *Cited if noncompliance occurred before or after January 1, 2015.*	**New Admission Agreements Requirements Added in Section 1569.269 of the Health and Safety Code by AB 2171** *Cited for privately-operated facilities if noncompliance occurred after January 1, 2015.*	**Other Regulations in CCR, Title 22, Applicable to Admission Agreements** *Cited if noncompliance occurred before or after January 1, 2015.*
• Not addressed by existing admission agreements regulations. • Existing admission agreements regulations continue to apply.	• No provision of a contract of admission, including all documents that a resident or his or her representative is required to sign as part of the contract for, or as a condition of, admission to a residential care facility for the elderly, shall require that a resident waive benefits or rights to which he or she is entitled under this chapter or provided by federal or other state law or regulation. [Health and Safety Code Section 1569.269(c)]	• Not addressed by other applicable regulations.

ACTION REQUIRED

ASSEMBLY BILL 2386 (Mullin), Chapter 503, Statutes of 2014

This law became effective January 1, 2015.

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

Subject: Care facilities: carbon monoxide detectors

Summary: AB 2386 amended Sections 1597.45 and 1597.46 and added Sections 1503.2, 1568.043, 1569.311, 1596.954, and 1597.543 to the Health and Safety Code, establishing carbon monoxide detector requirements for all licensed facilities and certified family homes.

OVERVIEW

Effective January 1, 2015, this law requires all licensed facilities and certified family homes, as specified, to have one or more carbon monoxide (CO) detectors in the facility that meet specific standards, and requires the Department to account for their presence during inspections.

IMPLEMENTATION

During inspections, the Licensing Program Analyst (LPA) will ensure the presence of one or more State Fire Marshal approved CO detectors and shall ensure that the power/alarm light indicator is on.

In California, the marketing, distribution, or sale of CO devices is prohibited unless they are approved and listed by the State Fire Marshal (SFM), who is required to develop a certification and decertification process to list CO devices and to disapprove and remove previously approved devices from the list, if necessary.

A current online list of approved CO detectors from the California State Fire Marshal is available at: http://osfm.fire.ca.gov/strucfireengineer/strucfireengineer_bml.php

Note: This list is annually or periodically updated

The LPA, using the most *current* list found online, will ensure the CO detector(s) in the facility has been approved for use by the SFM.

Until regulations are updated, LPAs will cite the following statutes for noncompliance, based on the type of facility or home:

- Health and Safety Code Section 1503.2 for CCFs including Children's Residential Facilities and Certified Family Homes
- Health and Safety Code Section 1596.954 for CCCs
- Health and Safety Code Section 1597.543 for FCCHs
- Health and Safety Code Section 1568.043 for RCF-CI
- Health and Safety Code Section 1569.311 for RCFE

ACTION REQUIRED

SENATE BILL 895 (Corbett), Chapter 704, Statutes of 2014

This law became effective January 1, 2015.

Affects: Residential Care Facilities for the Elderly

Subject: Residential care facilities for the elderly

Summary: Senate Bill (SB) 895 amends Section 1569.33 and 1569.335, and adds Section 1569.331 to the Health and Safety Code, relating to residential care facilities for the elderly.

SB 895 requires:

- The licensee to remedy deficiencies cited by the Department within 10 days of the notification, unless otherwise specified in the plan of correction.
- The department to post on its Internet Web site information on how to obtain an inspection report. (This is currently available at http://ccld.ca.gov/PG3581.htm.)
- The department to design a poster that contains information on the appropriate reporting agency in case of emergencies or complaints, and the licensees to post this poster in the main entryway of its facility.
- The department to provide the Office of the State Long-Term Care Ombudsman with a precautionary notification if the department starts preparing to issue a temporary suspension or revocation of any license.

IMPLEMENTATION

Licensees

Licensees who receive a notice of deficiency are required to correct the deficiency within 10 days of the notification, unless the plan of correction specifies a different date. Licensees should continue to correct deficiencies as indicated in their plan of correction as documented on the LIC 809 – Facility Evaluation Report.

Every Residential Care Facility for the Elderly (RCFE) licensee shall post in the main entryway of its facility the poster that contains information on the appropriate reporting agency to contact in case of a complaint or emergency. The main entryway is interpreted to mean that the poster shall be posted in a conspicuous place accessible to residents, families and staff.

This required poster, Licensing Complaint Poster PUB 475 is available on the CDSS website at http://ccld.ca.gov/. The poster size must be 20 inches by 26 inches. Facilities may display alternate posters of this size as long as the content of the poster

is consistent with the PUB 475.

Licensing Program Analysts

Licensing Program Analysts shall continue to issue plan of correction dates according to existing Evaluator Manual policies. Licensing Program Analysts may continue to allow up to 30 days for correction.

All RCFEs must post the required poster in a conspicuous place accessible to residents, families and staff starting January 1, 2015. For the first three months of 2015, Licensing Program Analysts will also provide the poster during facility inspections. If a licensee does not have the required poster posted in a conspicuous place, the facility can be cited under the following applicable statute:

- *Residential Care Facilities for the Elderly Act, Health and Safety Code Section 1569.33(h)(2)*

Prior to January 1, 2015, RCFEs licensed to care for seven (7) or more residents were required to post, in areas accessible to residents and their relatives, procedures for filing confidential complaints. Complaints regarding facilities licensed to care for seven (7) or more residents alleging that, prior to January 1, 2015, the licensee did not meet these prior posting requirements should be investigated and if substantiated, the Licensing Program Analysts shall cite the facility under the following applicable statute:

- *Residential Care Facilities for the Elderly Act, California Code of Regulations Section 87468(c)(1)*

Compliance with this regulation will no longer be applicable after January 1, 2015 by virtue of compliance with the new law.

RCFEs licensed to care for seven (7) or more residents are still required to be in compliance with *Residential Care Facilities for the Elderly Act, California Code of Regulations Section 87468(d)*, whereby licensees are required to post complaint information in English, and in facilities where a significant portion of the residents cannot read English, in the language they can read.

The Program Administrator or his/her designated representative, the Assistant Program Administrator, will notify the Office of the State Long-Term Ombudsman if the department begins to prepare to issue a temporary suspension or revocation of a licensee.

Regulations will be developed for Health and Safety Code section 87468 related to the posting of the complaint poster, as well as Regulation Interpretations and Procedures for Personal Rights, Section 87468.

For legislative information related to this new law: Bill Text - SB-895 Residential care facilities for the elderly.

ACTION REQUIRED

SENATE BILL 1153 (Leno), Chapter 706, Statutes of 2014

This law became effective January 1, 2015.

Affects: Residential Care Facilities for the Elderly

Subject: Suspension of new admissions

Summary: Senate Bill (SB) 1153 adds Section 1569.545 to the Health and Safety Code.

In summary, SB 1153:

- Authorizes the Department to order a suspension of new admissions for a Residential Care Facility for the Elderly (RCFE) that has violated statute and/or regulation which presents a direct and immediate risk to the health, safety, or personal rights of a resident(s) of the facility and the violation is not immediately corrected. The suspension remains in effect until the Department determines that the licensee has corrected the violation.
- Authorizes the Department to order a suspension of new admissions for a licensee that has failed to pay a fine assessed by the Department after the licensee's appeal rights has been exhausted. The suspension remains in effect until the licensee pays the fine assessed by the Department.
- Authorizes the Department to make unannounced visits after a suspension of new admissions is lifted to ensure the licensee continues to maintain the correction of the violation. If the licensee has not maintained correction of the violation, the Department can order another suspension of new admissions or take other appropriate enforcement action if the licensee does not maintain correction of the violation.
- Allows a licensee to appeal the suspension of new admissions to the Director. The Department shall adopt regulations that specify the appeal process.
- States a suspension of new admissions ordered under this section shall not be stayed pending the licensee's appeal or request for review.

IMPLEMENTATION

Licensees

Licensees must comply with the provisions of this law in all aspects of facility operation, including, but not limited to, facility policies, procedures and practice.

Upon the Department's suspension of new admissions order for failure to immediately correct a violation that presents a direct and immediate risk to the health, safety, or

personal rights of a resident(s), the licensee must cease the admittance of new residents until the Department notifies the licensee that the suspension on admissions order has been lifted.

Prior to the Department's suspension of new admissions order for failure to pay a fine (civil penalty), the licensee will have already been provided the opportunity to dispute the civil penalty assessment through the existing appeal process (Title 22, Section 87763). Once the licensee exhausts their appeal rights and continues to have an unpaid civil penalty, the Department may issue a suspension of new admissions order. Upon issuance of such order, the licensee must cease the admittance of new residents until the licensee pays the civil penalty assessed by the Department and the Department notifies the licensee that the suspension on new admissions order has been lifted.

A licensee may appeal either type of suspension of new admissions order to the Director. The suspension of new admissions order shall not be stayed pending the licensee's appeal or request for review. Once the Department issues the suspension order, and the licensee submits an appeal, the order to suspend new admissions remains in effect. New residents can only be admitted once the Department lifts the suspension on new admissions.

Licensing Program Analysts

Violation presents a direct and immediate risk to the health, safety or personal rights of residents – The Licensing Program Analyst will continue to use existing processes when, during a facility or complaint visit of any type, the Licensing Program Analyst identifies violations presenting a direct and immediate risk to the health, safety or personal rights of resident(s). Some examples of violations that may rise to the level of issuing a suspension of new admissions order may include, but is not limited to:

- Any violation resulting in the injury or death of a resident
- Facility has no food, heat and/or water
- Inadequate level of supervision which could lead to the death, physical abuse or serious bodily injury to the resident

The suspension of new admissions order will be used for egregious violations. While Type A violations can present a direct or immediate risk to residents, not all Type A violations will rise to the level of warranting a suspension of new admissions.

The decision to issue a suspension will not be made by the Licensing Program Analyst, Licensing Program Manager or the Regional Manager. The decision to issue a suspension of new admission order for violations which present a direct and immediate risk to the health, safety or personal rights of residents will be made by the Director or Director's designee pursuant to:

Residential Care Facilities for the Elderly Act, Health and Safety Code Section 1569.545(b)(1).

Upon enforcement of the suspension of new admissions order, the Licensing Program Analyst will provide such notice in writing to the licensee. The Licensing Program Analyst will receive direction from the Regional Manager to determine inspection frequency following a suspension of new admissions order until the suspension has been lifted. Each situation will be evaluated on a case-by-case basis.

The authority to lift the suspension of new admissions order will also be made by the Director or the Director's designee. The Licensing Program Analyst and Regional Manager will not make this determination. Upon notification that a suspension of new admission order will be lifted, the Licensing Program Analyst will provide such notice in writing to the licensee.

Failure to pay a civil penalty fee assessed by the department – The process used by Licensing Program Analysts and/or civil penalty coordinators to assess and collect civil penalty fees will remain the same. The Licensing Program Analyst and/or civil penalty coordinators will alert management to cases where licensees have failed to respond to the second collection letter.

The decision to issue a suspension of new admission order for failure to pay a civil penalty fee assessed by the department will be made by the Director or the Director's designee, pursuant to:

- *Residential Care Facilities for the Elderly Act*, Health and Safety Code Section 1569.545(b)(2).

Upon enforcement of the suspension of new admissions order, the Licensing Program Analyst will provide such notice in writing to the licensee. The suspension of new admissions order will remain in place until the licensee pays the civil penalty assessed by the Department. Upon notification by the Director or Director's designee that the suspension of new admission order will be lifted, the Licensing Program Analyst will provide such notice in writing to the licensee.

Regulations, Evaluator Manual updates and forms will be developed regarding these suspensions and the appeal process when a suspension occurs.

For legislative information related to this law, see: Bill Text - SB-1153 Residential care facilities for the elderly.

"INFORMATION ONLY – NO ACTION REQUIRED"

SENATE BILL 1382 (Block), Chapter 707, Statutes of 2014

This law became effective January 1, 2015.

Affects: Residential Care Facilities for the Elderly

Subject: Residential care facilities for the elderly

Summary: Senate Bill (SB) 1382 amends Section 1569.185 of the Health and Safety (H&S) Code related to initial and annual licensing fees.

SB 1382 increases initial and annual licensing fees for Residential Care Facilities for the Elderly. This fee increase is in addition to the ten percent fee increase approved by the Legislature effective July 1, 2014.

Effective January 1, 2015, the following fees apply:

FEE SCHEDULE		
Capacity	Initial Application	Annual
1-3	$495.60	$495.60
4-6	$990.00	$495.60
7-15	$1,486.80	$742.80
16-30	$1,980.00	$990.00
31-49	$2,476.80	$1,238.40
50-74	$2,972.40	$1,448.00
75-100	$3,469.20	$1,734.00
101-150	$3,964.80	$1,982.40
151-200	$4,622.40	$2,311.20
201-250	$5,280.00	$2,640.00
251-300	$5,940.00	$2,970.00
301-350	$6,600.00	$3,300.00
351-400	$7,260.00	$3,630.00
401-500	$8,580.00	$4,290.00
501-600	$9,900.00	$4,950.00
601-700	$11,220.00	$5,610.00
701+	$13,200.00	$6,600.00

The annual fee increase will be reflected on licensing invoices having a due date of January 1, 2015. Annual licensing notices may reflect fees rounded down to the nearest

dollar. Licensees should review their annual licensing invoice carefully as the fees have increased and are different from the bill received the previous year.

Any application received on or after January 1, 2015, must conform to the new fee. If an application received on or after January 1, 2015, included a fee less than what is now in law, the Regional Office shall contact the applicant to request a check for the balance owed.

As a result of the changes to annual fee, late, change of location and probation fees are also amended. The revised fee chart will be available January 1, 2015 on the department's website.

Regulations will be revised for Section 87156 of the Code of Regulations.

For legislative information related to this new law: Bill Text - SB 1382 - Residential care facilities for the elderly