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## EVALUATOR MANUAL TRANSMITTAL SHEET

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<p><b><u>Distribution:</u></b></p> <p><input checked="" type="checkbox"/> Adult and Senior Care Program  <input type="checkbox"/> Children's Residential Program  <input type="checkbox"/> Child Care Program  <input type="checkbox"/> All Programs</p>	<p><b><u>Transmittal No.</u></b> 16RCFE-04</p> <hr/> <p><b><u>Date Issued</u></b> September 2016</p>
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**Subject:**

Regulation Interpretations and Procedures for Residential Care Facilities for the Elderly

**Reason for Change:**

Revises Section 87163, Denial of License Application

**Filing Instructions:**

REMOVE: pages 32, 33

INSERT: pages 32, 33

**Approved:**

*Original by Seton Bunker*

*September 14, 2016*

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**SETON BUNKER, Chief**  
 Policy & Process Management Bureau  
 Community Care Licensing Division

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Date

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**87162 PROVISIONAL LICENSE****87162****(a) POLICY**

Provisional licenses are not for the purpose of “expediting” the licensing process and are not to be used as “probationary licenses.” An applicant must comply with the criminal record and fire-clearance requirements in order to meet the substantial compliance criteria. To the extent that waiting for these clearances “hold ups” the licensing approval process, a provisional license cannot be used to remedy the situation.

**PROCEDURE**

When an application for a provisional license is approved, route it to the clerk for typing and logging. Prepare a cover letter that describes the conditions of the provisional license and states the deficiencies to be corrected before a regular license can be granted. The cover letter should conclude with the statement that unless all conditions are fulfilled, a regular license will not be granted. Supervisory review of the provisional license and the cover letter signed by the Regional Manager is required before mailing.

If during the term of a provisional license, health and safety risks arise:

1. Issue a Notification of Initial Application Denial letter (LIC 192) and establish in that letter the date the facility must cease operations, taking into consideration any resident relocations that may be necessary (see Regulation Section 87163).
2. If the facility continues operation after the effective date in the LIC 192, issue a Notice of Operation in Violation of Law (LIC 195) (see Regulation Section 87106). (See Reference Material Section 1-0050 for Civil Penalty Procedures; and Reference Material Section 1-1010 for Administrative Action Options.)

Before terminating a provisional license, the licensing agency will (1) conduct a review to determine whether all licensing requirements have been met and (2) deny or approve the application for a license.

**87163 DENIAL OF LICENSE APPLICATION****87163****(a) POLICY**

**NOTE:** The following is a list of some common conditions that may necessitate the denial of an application:

1. Failure to meet regulations for securing fire, health and sanitation clearances.
2. A history of criminal conviction with insufficient evidence of rehabilitation. (See **California Code of Regulations, Title 22**, Section 87355.)
3. A proposed physical plant that does not meet requirements.
4. Failure to follow through with the application process.

**87163 DENIAL OF LICENSE APPLICATION (Continued)****87163****(a) POLICY (Continued)**

When it is determined that an application will be denied, the applicant is not to be given the option to withdraw the application prior to the denial action. In this circumstance, the licensing agency will not consent to a request to withdraw an application. If the licensing agency accepts a withdrawal of the application in writing, the licensing agency cannot proceed with any administrative action on the case. The decision and order resulting from an administrative hearing serve to officially document and record the denial. Health and Safety Code Section 1569.15(e) provides that the applicant must disclose previous disciplinary actions taken against him/her. Health and Safety Code Section 1569.16 provides for certain Community Care Licensing Division actions based on past revocations if the individual applies again for a license. It is important, therefore, to record the denial actions for future reference. This process does not apply when an applicant withdraws his/her application and the licensing agency, at the time of the withdrawal action, has no grounds for a license denial action. (See California Code of Regulations, Title 22, Section 87159 and Regulation Interpretations and Procedures for Residential Care Facilities for the Elderly Section 87159.)

A Residential Care Facility for the Elderly applicant who has previously held a Residential Care Facility for the Elderly license that was revoked as a result of abandoning a Residential Care Facility for the Elderly and residents in care shall be excluded from licensure without the right to petition for reinstatement. All petitions for reinstatement by licensees who abandoned residents shall be denied without review and the denial letter shall refer to Health and Safety Code Section 1569.50(d).

**(g) PROCEDURE**

Review all applications that appear headed for denial with the licensing supervisor. All denial actions must be fully documented and substantiated. The importance of this cannot be overemphasized. Upon compiling the necessary documentation and consultation, a Notification of Initial Application Denial (LIC 192) over the Regional Manager's signature will advise the applicant in writing that the application is denied and inform him/her of the specific regulations that were not met. The licensing agency will send all denial letters by certified mail. A copy of the denial letter is sent to the Program Administrator. The denial letter further informs the applicant that the denial can be appealed in writing within 15 days.

In the event the applicant appeals the denial, the Program Administrator will acknowledge receipt of the letter and advise the applicant that an administrative hearing will be scheduled. A copy of the acknowledgment letter is then sent to the Regional Office, where a Statement of Facts will be prepared. The Statewide Program Office will initiate the steps necessary for an administrative hearing to review the denial action. The analyst may be required to testify during this hearing. The documentation previously gathered will be used to show why the denial action was justified. If the applicant does not file an appeal, the denial is complete and no further action is needed other than verifying that the facility is not in operation. For more information about the application denial process and the documentation requirements for denials, see the Administrative Actions sections in Reference Material, Enforcement Actions, Sections 1-1000 through 1-1197.