

REGULATION INTERPRETATIONS

AND

PROCEDURES

FOR

**RESIDENTIAL CARE FACILITIES FOR THE
CHRONICALLY ILL**

RESIDENTIAL CARE FACILITIES FOR THE CHRONICALLY ILL

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ARTICLE 3 APPLICATION PROCEDURES**87817 APPLICANT QUALIFICATIONS****87817**

(b)(1)

POLICY

The Americans with Disabilities Act, which was signed into law on July 26, 1990, gives civil rights protection to individuals with disabilities that are like those provided to individuals on the basis of race, sex, national origin and religion. It guarantees equal opportunity for individuals with disabilities in employment, public accommodations, transportation, State and local government services, and telecommunications.

Under the Americans with Disabilities Act, an individual is considered “disabled” if he/she has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment (meaning other people treat the individual as if he/she is disabled whether or not that is actually the case). The Americans with Disabilities Act also prohibits discrimination against an individual who is “associated” with an individual with a disability.

The term “public accommodations” includes adult day care facilities and other facilities that provide nonresidential care; it may also include facilities that provide care continuously for only a few days, which would be analogous to hotels that provide short-term lodging and are subject to the Americans with Disabilities Act. With respect to Residential Care Facilities that provide social services (e.g., Residential Care Facilities for the Chronically Ill), there is apparent overlap between the Federal Fair Housing Amendments Act of 1988 and the Americans with Disabilities Act: The residential aspect appears to be covered by the Fair Housing Act, while the social services aspect appears to be covered by the Americans with Disabilities Act.

Community Care Licensing Division is not responsible for enforcing the provisions of the Americans with Disabilities Act.

PROCEDURE

Because Community Care Licensing Division is not responsible for enforcing the Americans with Disabilities Act, Licensing Program Analysts should not give advice to licensees about their responsibilities under the Americans with Disabilities Act. Licensees should, however, be encouraged to contact Community Care Licensing Division under the following circumstances:

1. If licensees believe that our regulations are an impediment to fulfilling their obligations under the Americans with Disabilities Act.
 - a. If licensees are asked to make a “reasonable accommodation” under the Americans with Disabilities Act or the Fair Housing Act. (This will give Community Care Licensing Division the opportunity to provide input before the parties negotiate a settlement that might not be considered appropriate by Community Care Licensing Division or the State Fire Marshal. Involving Community Care Licensing Division early in the process will enable Community Care Licensing Division to effectively raise such issues as the intent of the regulations.)

87817 **APPLICANT QUALIFICATION** (Continued)**87817**

(b)(1)

PROCEDURE (Continued)

- b. In addition, the designated Associate Governmental Program Analyst in each Region will serve as the clearinghouse for residential care issues related to the Americans with Disabilities Act. The District Offices can still raise questions with the Advocacy and Policy Branch, but the District Offices should in all cases make the designated Associate Governmental Program Analyst in their Region aware of Americans with Disabilities Act issues. The expectation is that the designated Associate Governmental Program Analysts will identify regional and/or statewide issues that may be presented to **Central** Operations Branch in issue-memo format. The Advocacy and Policy Branch will assume responsibility for requesting legal opinions as necessary.

Individuals who wish to file a complaint under the Americans with Disabilities Act, or who wish to obtain further information, should be advised to contact the following agencies:

- The first step would be to contact the local office of the State Department of Fair Employment and Housing. The State Department of Fair Employment and Housing has a wealth of information and will coordinate with federal agencies as appropriate.
- For additional information, individuals should contact:

U.S. Department of Justice
Civil Rights Division
Office on the Americans
with Disabilities Act
P.O. Box 66118
Washington, D.C. 20035-6118
1-800-514-0301
1-800-514-0383 TT/TDD
Internet: <http://www.usdoj.gov/CRT/ADA/ADAHOM1.htm>

- Because the Fair Housing Act and the Americans with Disabilities Act have apparent overlap, individuals may also wish to contact:

U.S. Department of
Housing and Urban Development
Region IX--San Francisco
Phillip Burton Federal Bldg.
and U.S. Courthouse
450 Golden Gate Ave.
P.O. Box 36003
San Francisco, CA 94102-3448
(415) 436-6550

Or call Housing and Urban Development's toll-free complaint
hotline: **1-800-3473739; TDD 1-415-436-6594**

87818 APPLICATION FOR LICENSE

87818

(a) POLICY

This is to clarify the issue of management companies utilized by applicants/licensees to operate and manage facilities, and whether these companies should be added to the license identifying them as co-licensees.

If an applicant/licensee agrees to allow a management company to assume responsibility and control over any aspect of care and supervision in the operation or management of the facility, the management company must appear on the license as a co-licensee.

PROCEDURE

When it has been determined that a co-licensee situation exists, each of the entities would be required to meet all applicable requirements that an individual/licensee must meet to obtain a license.

The relationship between an applicant/licensee and management company is not to be considered a partnership and **Regional Office** staff should not require that they demonstrate this legal relationship. The management company is normally an independent contractor. A copy of the contract between the licensee/applicant and management company must be submitted with the application for licensure.

87819 CRIMINAL RECORD CLEARANCE

87819

(b)(4)

Registered nurses, licensed vocational nurses, podiatrists, physical and occupational therapists, and similar visiting medical professionals who only provide medical services do not need background checks. However, if the medical professional is a licensee of a residential care facility for the chronically ill, an employee of a residential care facility for the chronically ill, or provides assistance to residents with dressing, grooming, bathing, or personal hygiene or provides care and supervision of residents, then a background check must be completed for that individual.

87819.1 CRIMINAL RECORD EXEMPTION

87819.1

(a)(1-4) and (b)(1) POLICY

Individuals with non-exemptible, felony, or violent misdemeanor convictions must be immediately removed from a licensed facility. Individuals with non-exemptible convictions are not eligible for an exemption. Persons with felony or violent misdemeanor convictions may request an exemption, but must remain out of the facility pending an exemption decision. Individuals may also be excluded from a licensed facility if an exemption is denied or if a previously granted exemption is rescinded. The notification process and Confirmation of Removal form discussed below are applicable in all of these circumstances.

87819.1 CRIMINAL RECORD EXEMPTION (Continued)**87819.1**

The Licensing Agency will contact the licensee by telephone and advise that the individual must be removed from the facility. If the cause for removal is a conviction that can be exempted, the individual and the licensee of the facility with which they are associated, are sent a letter informing them that an exemption must be obtained before the individual can return to the licensed facility. For all removals, the licensee is sent a Confirmation of Removal form by the Licensing Agency. The licensee must complete the Confirmation of Removal form and return the form to the appropriate Regional Office by the date indicated on the notice. The Confirmation of Removal form confirms in writing that the person ordered removed from the facility is, in fact, removed.

The above notification process is completed by the Caregiver Background Check Bureau, which processes criminal record information and requests for exemptions for all State licensed residential care facilities. The Caregiver Background Check Bureau will send the Regional Office a copy of the notification letter which will include a copy of the Confirmation of Removal form for tracking and follow up purposes. Caregiver Background Check Bureau will attempt telephone contact the same day the letter is initiated (dated).

(a)(1-4) and (b)(1)

PROCEDURE

When a person has been ordered out of the facility, the Regional Office must have a tracking system in place to ensure that the Confirmation of Removal form is received at the Regional Office by the date indicated on the notice.

If the Confirmation of Removal form is received by the date indicated on the notice, the Regional Office will file the Confirmation of Removal form in the public section of the facility file; no site visit is required unless determined necessary (see C. below.)

If the Confirmation of Removal form is not received by the date indicated on the notice, the Licensing Program Analyst will telephone the licensee or designated person in charge of the facility within two (2) business days to verify that the person has been removed from the facility.

The following procedures are to be followed depending on the information received from the telephone call:

A. If the licensee or designated person in charge of the facility states that the person has been removed but they failed to return the Confirmation of Removal form to the Regional Office, the Licensing Program Analyst will:

1. Inform the licensee or designee that a citation for failure to return the Confirmation of Removal form will be issued by mail, unless a site visit is made to issue the citation (see C. below). The citation will be issued on the LIC 809 Facility Evaluation Report.

87819.1 CRIMINAL RECORD EXEMPTION (Continued)**87819.1**

2. Require the licensee or designee, as a plan of correction, to fax or deliver the Confirmation of Removal form to the Regional Office by the close of the next business day.

The Confirmation of Removal forms are available to the public at the Department's website at: www.cclld.ca.gov. Internet access is available at most public libraries. The Licensing Program Analyst will inform the licensee or designee of the correct Confirmation of Removal form to complete if the licensee indicates that they no longer have the form. (Note: if the licensee returns the wrong Confirmation of Removal form, it is acceptable as long as the identifying information on the form is completed for both the individual removed and the licensee.)

- [LIC 300A Confirmation of Removal form - Exemption Needed](#)
- [LIC 300B Confirmation of Removal form - Exemption Denied](#)
- [LIC 300C Confirmation of Removal form - Exemption Rescinded](#)
- [LIC 300D Confirmation of Removal form - Non-Exemptible Conviction](#)
- [LIC 300E Confirmation of Removal form – Counties](#)

3. Advise the licensee or designee that failure to fax or otherwise deliver to the Regional Office the Confirmation of Removal form by the plan of correction date (the close of the next business day) will result in the assessment of civil penalties of \$50 per day until corrected.
4. Mail the LIC 809 (via regular mail) with the citation to the licensee and designee within one (1) business day of the plan of correction due date.
5. The Licensing Program Analyst will know by the time the LIC 809 is mailed whether the plan of correction has been completed. If the licensee complies with the plan of correction to return the form, the violation is cleared and no civil penalties shall be issued. If the plan of correction has not been completed, follow Evaluator Manual Reference Material, Enforcement Section 1-0060 Civil Penalties Assessed for Failure to meet Plan of Correction Date and Residential Care Facilities for the Chronically Ill Regulation Section 87854 for civil penalty procedures. (A visit must be made to assess civil penalties.)

The following is sample language to use for the citation:

Citation with Plan of Correction Completed and Deficiency Cleared

“The following violation of the California Code of Regulations, Title 22, Division 12, deficiency is hereby cited: Section 87819.1(b) Criminal Record Exemption.

87819.1 CRIMINAL RECORD EXEMPTION (Continued)
87819.1

The licensee failed to return the Confirmation of Removal form to the Regional Office by the due date indicated on the form. This presents an immediate threat to the health and safety of residents in care as the Confirmation of Removal form is written documentation that the individual ordered removed is, in fact, removed from the facility.

As a plan of correction, the licensee was instructed to fax and/or deliver the Confirmation of Removal form to this Regional Office by (date). Verification was received on (date) and the deficiency is cleared.

Please review this report, make any comments you wish, sign, make a copy for your records, and mail the original back to the Regional Office by (date) at: (note Regional Office and mailing address.)”

Citation with Plan of Correction Not Completed (Deficiency Not Cleared)

“The following violation of the California Code of Regulations, Title 22, Division 12, deficiency is hereby cited: Section 87819.1(b) Criminal Record Exemption. The licensee failed to return the Confirmation of Removal form to the Regional Office by the due date indicated on the form. This presents an immediate threat to the health and safety of clients in care as the Confirmation of Removal form is written documentation that the individual ordered removed is, in fact, removed from the facility.

As a plan of correction, the licensee was instructed to fax and/or deliver the Confirmation of Removal form to Regional Office by (date). Verification has not been received and the deficiency is not cleared.

Please review this report, make any comments you wish, sign, make a copy for your records, and mail the original back to the Regional Office by (date) at: (note Regional Office and mailing address.)”

B. If the licensee or designee states that the individual has not been removed from the facility, the Licensing Program Analyst will:

1. Inform the licensee or designee that the individual must be removed from the facility that day and that failure to comply with the order to remove the individual is grounds for administrative action against the license.
2. Inform the licensee or designee that citations for failure to remove the individual and failure to return the Confirmation of Removal form will be issued by mail, unless a site visit is made to issue the citation (see C. below).
3. Follow steps A. 2. – 5. above. Add a citation for violation of Section 87819.1(a) for failure to remove the individual when ordered to by the Licensing Agency.

87819.1 CRIMINAL RECORD EXEMPTION (Continued)
87819.1

- C. The Licensing Agency always reserves the right to make a visit to a facility to determine if an individual has been removed from the facility. If at any time the Licensing Program Analyst has reason to believe that the individual is still working or residing in the facility, the analyst must consult with the Local Unit Manager to determine if and when an on-site visit is necessary to investigate the situation. If it is determined that the individual is still working or residing in the facility during the visit, then the Licensing Program Analyst will:**
- 1. Inform the licensee or designee that the individual must be removed from the facility that day, and failure to comply with the order to remove the individual is grounds for administrative action against the license.**
 - 2. Issue a citation for violation of Section 87819.1(a) for failure to remove the individual.**
 - 3. Consult with the Local Unit Manager to initiate the appropriate administrative action (revocation and/or temporary suspension order).**

87836 APPLICATION/ANNUAL FEES

87836

The following are procedures pursuant to the Health & Safety Code Section 1568.05.

This process is intended to give an overview of the entire fee collection process. The District Office is responsible for the District Office Procedures only.

MAILING OF LICENSING INFORMATION SYSTEM GENERATED ANNUAL LICENSE FEE NOTICE

The *Annual License Fee Notice* is automatically generated by the Licensing Information System the first Wednesday of every month and centrally mailed out from the California Department of Social Services mailroom to the licensee's address four months prior to the facility's license anniversary date.

A licensee who fails to pay the full annual fee by the facility's anniversary date subjects the license to revocation. In the event the facility continues to operate after the license is revoked, it is operating an unlicensed facility and is subject to unlicensed facility penalties pursuant to Health & Safety Code 1568.0821. The District Office staff are to follow the Regulation Section for Unlicensed Facility Penalties and Evaluator Manual Section I-0640. If a licensee is involved with the sale and transfer of the property and business, the annual fee does not have to be paid provided the parties involved in the transfer fully comply with the requirements of Health and Safety Code 1568.08(e) and the new application fee has been paid. This is the only circumstance that relieves the licensee from paying the statutory mandated annual fee when due.

Notice advises the licensee to:

- Send the fee payment in the form of a check or money order to the Central Office Cashiering, MS 14-67, P.O. Box 944243, in Sacramento, CA 94244-2430, due 30 days prior to the facility's anniversary date; or
- Indicate on the *No Longer in Business Notification* located on the reverse side of the fee notice if the facility is no longer in operation as a residential care facility for persons with chronic life-threatening illness and return it to the District Office.

District Office Information:

- If the District Office receives an annual payment, the check must be endorsed and transferred with supporting documentation to the Central Office Cashiering on a daily basis;

87836 APPLICATION/ANNUAL FEES (Continued)

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- No action is necessary if at any time prior to the facility's anniversary date full payment of the annual license fee is received and entered by the Central Office Cashiering into the Licensing Information System.

Central Office Cashiering Information

- Central Office Cashiering will input fee payment into the Licensing Information System Cashiering screen within 48 hours after receipt;
- Central Office Cashiering will verify that transmittal document concurs with enclosed checks;
- Facility information changes made on the *Annual License Fee Notice* are forwarded to the Central Operations Branch by the Central Office Cashiering. The Central Operations Branch sends the copies on to the District Office for the Licensing Information System to be updated.

PROCEDURES**For District Office**

NOTE: The LIC 201F will no longer be used. The Annual License Fee Notice is now a back-to-back one-page letter generated by the Licensing Information System.

Should a licensee return the *Annual License Fee Notice* to the District Office with the signed *No Longer in Business Notification* indicating the facility is no longer in operation, District Office staff will enter this information into the Licensing Information System *Facility Closure* screen using Closure Code 3, "Closed-Licensee Initiated" and file the notice in the facility file. (Refer to Section 3-1600 for surrender acknowledgement instructions and follow office procedure). Note: Analyst must be informed of the closure. No additional automated notices will be produced.

Any Annual License Fee Notices, Final Notices, or Revocation Notices that are returned to the District Office that are signed and indicate a Reason for Closure on the No Longer in Business Notification, District Office staff must forward a copy of the Reason for Closure to the Technical Assistance Bureau at MS 19-56.

PROCEDURES**For California Department of Social Services Mailroom**

- On the first Thursday of every month, the California Department of Social Services mailroom personnel pick up the *Annual License Fee Notice* from the Health and Welfare Data Center for mailing out to the licensee's address by the following day.

MAILING OF LICENSING INFORMATION SYSTEM GENERATED FINAL NOTICE OF ANNUAL LICENSE FEE-UNDERPAYMENT NOTICE

If the full annual fee payment has *not* been entered into the Licensing Information System by the Central Office Cashiering by approximately the 22nd day preceding the facility's anniversary date, (this can be viewed on the *Payment History/Aggregate Menu* screen by District Office staff), or the licensee-initiated closure code has not been entered, the Licensing Information System will generate a *Final Notice of Annual License Fee-Underpayment* and a *No Longer in Business Notification*. The District Office will receive copies of the notices every Friday for filing in the facility file, as well as a *List of Facilities Issued a Final Notice for Annual Fee*. This listing identifies facilities requiring a follow-up courtesy call by the District Office.

Notice advises the licensee that:

- *Full* payment of the annual fee has not been received and the fee is required to remain licensed pursuant to Health & Safety Code 1568.05;
- If payment has already been made the licensee must provide evidence to the local District Office listed on the reverse side of the notice;
- If the facility is no longer in operation, the licensee is to sign in the area indicated on the *No Longer in Business Notification* located on the reverse side of the letter stating they are no longer providing care and supervision to clients and return it with their original license(s) to the listed District Office;
- If full payment is not received by the facility's anniversary date, revocation of their license will be initiated, pursuant to Health & Safety Code 1568.05(g) for failure to pay.

Licensee is instructed to:

- Mail the payment prior to the facility's anniversary date the in the form of a money order or cashier's check only; or
- Submit proof of payment to their local District Office if the licensee has already paid the current annual fee; or
- If the facility is no longer in operation, the licensee is to sign and return the *No Longer in Business Notification* with the original license to the listed District Office by the facility's anniversary date. (This procedure is to inform the District Office staff of the operational status of each facility only. This notice is not used for a facility relocation or change in ownership).

PROCEDURES**For District Office**

- *A List of Facilities Issued a Final Notice For Annual Fee* is printed every Friday at the District Office;
- The District Office Manager or his/her delegate calls the licensees on the *List of Facilities Issued a Final Notice for Annual Fee*. The phone calls shall be made within seven calendar days following the date the report prints to find out the status of the fee payment and facility operation;
- If the licensee states the facility is still in operation, the licensee must be informed that in order to retain their license, they must pay the full annual fee by close of business of their anniversary date or their license will be subject to revocation;
- If the licensee states that the facility is no longer in operation, the District Office must ask the licensee if they wish to surrender their license. If the licensee chooses to surrender the license, direct them to sign and return the *No Longer in Business Notification* acknowledging the surrender with their original license to the listed District Office. Upon receipt of the signed *No Longer in Business Notification* or other written notification, the license will be forfeited pursuant to Health & Safety Code 1568.061(b). District Office staff are to input closure Code 3, "Closed-Licensee-Initiated" into the Licensing Information System. Note: Analyst must be informed of the closure. (Refer to Section 3-1600 for surrender acknowledgement instructions and follow office procedure for closing file). No additional automated notices will be produced. If a written statement or the signed *No Longer in Business Notification* is not received by the facility anniversary date, the license is subject to revocation, pursuant to Health & Safety Code 1568.05(g). The facility must be identified on the Licensing Information System under Code 1 Administrative Action Pending. (Please refer to *Closing A Facility Due To Nonpayment-For District Office* procedures.)
- District Office staff must document all related telephone conversations on a Contact Sheet (LIC 185) to be placed in the facility file;
- If the District Office receives proof of payment from the licensee, the District Office must place a copy into the facility file and forward the original documentation to the Accounting Unit, MS 13-72, for entering into the Licensing Information System. The Accounting Unit will reconcile proof of payment with the Licensing Information System by posting payment information into the *Payment History/Aggregate Menu* screen. No additional automated notices will be produced. In addition, if the file has already been forwarded to legal for revocation, this information must be forwarded to legal as well.

87836 APPLICATION/ANNUAL FEES (Continued)

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PROCEDURES**For California Department of Social Services Mailroom**

- The California Department of Social Services mailroom sends these notices to the licensee's address and, if different, to the facility address.

MAILING OF LICENSING INFORMATION SYSTEM GENERATED NOTICE OF REVOCATION

This list is informational only

If the full annual fee payment has *not* been entered into the Licensing Information System by the Central Office Cashiering by approximately the 8th day preceding the facility's anniversary date, (this also can be viewed on the *Payment History/Aggregate Menu* screen by the District Office staff) or the licensee-initiated closure code has not been entered into the Licensing Information System, The Licensing Information System will generate a *Notice of Revocation* and a second *No Longer in Business Notification*. The District Office will receive copies of the notices for filing into the facility file, as well as, a *List of Open Facilities Issued a Notice of Forfeiture/Revocation Letter for Annual Fee*. This listing is also printed at the Regional Office for information use only.

Notice advises the licensee that:

- Their license to operate a residential care facility for persons with chronic life-threatening illness will be subject to revocation pursuant to Health & Safety Code 1568.05(g), on the facility anniversary date due to non-payment of the annual license fee;
- If the license is revoked, the licensee will be required to resubmit a new licensing application and fee to become re-licensed;
- If the licensee continues to operate while the facility's license is revoked, they will be in violation of Health & Safety Code 1568.03(a) and will be subject to penalty assessment for operating without a valid license pursuant to Health & Safety Code Section 1568.0821.

Licensee is instructed to:

- Mail the payment prior to the facility's anniversary date in the form of a money order or cashier's check only; or
- Send in the *No Longer in Business Notification* with the original license to the listed District Office.

87836 APPLICATION/ANNUAL FEES (Continued)

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PROCEDURES**For District Office**

- *A Listing of Facilities Issued a Notice of Forfeiture/Revocation For Annual Fee* is printed every Friday at both regional and District Offices;
- If the District Office receives the *No Longer in Business Notification* by the facility's anniversary date, the District Office must input Closure Code 3, into the *Facility Menu* of the Licensing Information System, "Closed Licensee-Initiated." (Refer to Section 3-1600 for surrender acknowledgement instructions and follow office procedure for closing file). Note: Analyst must be informed of closure.

PROCEDURES**California Department of Social Services Mailroom**

- The California Department of Social Services mailroom sends these notices to the licensee's address and, if different, to the facility address.

REFERRAL OF RESIDENTIAL CARE FACILITIES FOR THE CHRONICALLY ILL TO LEGAL DUE TO NONPAYMENT - FOR DISTRICT OFFICES

(A Statement of Facts is required for legal action to be taken for nonpayment of the annual fee for residential care facilities for the chronically ill.)

If the full annual fee payment has *not* been entered into the *Payment History/Aggregate Menu* screen of the Licensing Information System or the licensee-initiated closure code into the *Facility Closure* screen by approximately the eleventh day following a facility's anniversary date, the facility will appear on a Licensing Information System generated *Referral List of Residential Care Facilities for the Chronically Ill to Legal for Revocation of License* list. This listing informs the District Office of the facilities that are currently open on the Licensing Information System that need to be sent to Legal for revocation due to nonpayment of their annual license fee. Any activity on the account, once it has been sent to legal for revocation, must be routed through the legal division. The Statement of Facts form is required to be submitted with the file when the case is being referred to legal to take revocation action. This listing prints each Monday evening at the District Office and every month on the second Monday at the Regional Offices.

DISTRICT OFFICE STAFF MUST RESEARCH EACH FACILITY TO VERIFY THE ACCURACY OF THE FACILITY'S NON-PAYMENT STATUS, PRIOR TO CARRYING OUT REFERRAL ACTION.

87836 APPLICATION/ANNUAL FEES (Continued)

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PROCEDURES**For District Office**

1. District Office staff must include the following information in the Comment area on the Statement of Facts as they apply prior to sending to legal:
 - a. Date of Annual License Fee Notice was sent to licensee;
 - b. Date of Final Notice-Underpayment of Annual License Fee Notice;
 - c. Date Notice of Revocation was sent to licensee;
 - d. Date of Dishonored Check Notice;
 - e. Partial payment information;
 - f. All information received from the licensee, such as;
 - Date Good Faith Dispute claim received by the Department;
 - Date partial payment received;
 - Stop payment date issued on a check by the licensee;
 - Date Department contacted licensee inquiring reason for stop payment (see District Office procedures for Dishonored Check Notice);
 - Date Department contacted licensee in an effort to resolve any Good Faith Dispute claim asserted by the licensee.
 - Other fees currently outstanding (i.e., civil penalties).
 - Copy of LIC 185 and all other supporting documentation must accompany the facility file and Statement of Facts when referring to legal through the Regional Office;
- District Office staff must identify the listed facilities in the Licensing Information System by entering Code 1 Administrative Action Pending screen on the Licensing Information System;
- Facilities must be referred to legal within ten days from receipt of the report, or after an attempt to resolve any asserted Good Faith Dispute claim have failed.

REFERRAL OF RESIDENTIAL CARE FACILITIES FOR THE CHRONICALLY ILL TO LEGAL DUE TO NONPAYMENT - FOR REGIONAL OFFICES

The Referral of residential care facilities for the chronically ill to Legal Due To Nonpayment listing also prints every second Monday of each month at the Regional Offices. This list captures facilities remaining open on the Licensing Information System from 11 to 30 days past their facility's anniversary date and in increments of 30 days thereafter. The Regional Office report and District Office report are the same report and can be referenced by the report run date. Any activity on the account, once it has been forwarded to legal for revocation, must be routed through the legal division.

87836 APPLICATION/ANNUAL FEES (Continued)

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Mailing of the Licensing Information System produced Dishonored Check Notice

If the check processed for the annual fee is dishonored due to insufficient funds, stale date or closed account, the Accounting Unit will enter returned check information into the *Payment History/Aggregate Menu* screen of the Licensing Information System. This will immediately generate a *Dishonored Check Notice* to the licensee. The Accounting Unit is responsible for mailing the notice certified mail to the licensee. A facility file copy is printed at the District Office. If the check is returned by the bank due to insufficient funds, stale date or closed account, the District Office will receive a copy of the *Dishonored Check Notice*.

If the check is returned due to stop payment, the District Office will receive a copy of the *Dishonored Check Notice* and a faxed copy of the stop payment check from the Accounting Unit. See District Office procedures below for further instructions.

The Dishonored Check Notice advises the licensee that:

- The check for payment of the annual license fee was returned by the bank because of insufficient funds;
- The licensee has 30 days to submit payment in the Total Due amount listed on the letter unless evidence is provided an error was made by the financial institution;
- The license will be subject to revocation if payment or appropriate documentation has not been provided to the Accounting Unit by the facility's anniversary date;
- If the check was dishonored due to stop payment, the licensee must provide the Department with a Good Faith Dispute in the manner provided in Civil Code 1719 within 30 days from the date of the letter;
- Continued operation after the revocation of the license will result in civil penalty assessment, pursuant to Health & Safety Code 1568.0821.

The licensee is instructed to:

- Mail payment in the form of a cashier's check or money order only. A business or personal check is no longer accepted per Health & Safety Code 1568.05(f); or
- If the licensee wants to dispute this claim, they must submit documentation to the Accounting Unit from their financial institution to support their claim, otherwise payment for the Total Due amount is necessary; or

87836 APPLICATION/ANNUAL FEES (Continued)

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- If the check was dishonored due to a stop payment, and if the licensee is asserting a Good Faith Dispute claim pursuant to Civil Code Section 1719, they must provide the Accounting Unit with a written statement of reasons for the stop payment; or
- If payment has already been resubmitted, return the *Dishonored Check Notice* with the check number and date of remittance to the Accounting Unit.

District Office Procedures:

- *If the District Office receives a copy of the Dishonored Check Notice only, District Office staff are to file the notice in the facility file. No additional action will be necessary provided the annual fee payment is paid prior to the due date.*
- If the District Office receives a copy of the *Dishonored Check Notice* along with a copy of the check indicating a stop payment:
 - District Office staff must investigate the reason for the stop payment by contacting the licensee within 30 days from the date of the notice.
- If the District Office is notified verbally or in writing by the licensee that they are asserting a Good Faith Dispute, and as a result a stop payment has been placed on the annual fee check, they must adhere to the following procedures to preserve the Department's rights under Civil Code 1719 to collect the annual fee:
 - District Office staff must ask the licensee what the Good Faith Dispute is about i.e. a statement of reasons for the stop payment;
 - District Office staff must consult with the consultation attorney assigned to their District Office regarding the Good Faith Dispute claim. The consultative attorney will recommend the appropriate course of action, i.e., to either go forward with forfeiture/revocation or keep the case on hold to try to work out the dispute, etc.;
 - District Office staff must document all communication on a contact sheet (form LIC 185) and keep in the public section of the facility file;
- If the District Office receives the *List of Facilities Issued a Final Notice For Annual Fee* and it includes the facility issued a *Dishonored Check Notice*:
 - District Office staff must check the list of the Licensing Information System for facility billing status and follow the procedures listed under *Mailing of Licensing Information System Generated Final Notice of Annual License Fee-Underpayment*;

87836 APPLICATION/ANNUAL FEES (Continued)**87836**

If the District Office receives the *List of Facilities Issued A Forfeiture/Revocation Letter for Annual Fee* and it includes the facility issued a *Dishonored Check Notice*:

- District Office staff must check the list or the Licensing Information System for facility billing status and follow the procedures listed under *Mailing of Licensing Information System generated Notice of Revocation*;
- If the District Office receives the *Referral List of residential care facilities for the chronically ill To Legal for Nonpayment* and it includes the facility issued the *Dishonored Check Notice*:
 - District Office staff must check the list or the Licensing Information System for facility billing status and follow procedures listed under *Referral of Residential care facilities for the chronically ill to Legal Due To Nonpayment for the District Office*.

87865 PERSONNEL REQUIREMENTS**87865****(g) POLICY**

The requirement for all direct care staff to be given on-the-job-training in resident care and supervision includes training specific to the needs of residents with health conditions specified in Section 87890 (Allowable Conditions), **if the facility has such residents.**

In addition to direct care staff [as defined in 87801(d)(6)], this training requirement includes the licensee and the administrator.

1. Training may be provided by any professional defined in 87801(a)(6) with expertise in the area of concern.
2. Training for handling diabetic residents may also be provided by a pharmacist, an individual from the American Diabetes Association, an individual from the American Red Cross, and hospital or medical trainers.
3. Training for facility staff dealing with diabetic residents should at least include the following: A basic description of diabetes and insulin; interaction of diet and activity in controlling diabetes; signs and symptoms of too much or too little insulin and emergency procedures; where to buy diabetes supplies; storage and labeling of insulin; special care of diabetics (food and fluids, cleanliness, foot care, slow healing, decreased vision).

(h)(1) POLICY

The determination of whether health care providers, who provide care or medical services in a residential care facilities for the chronically ill need to follow the Community Care Licensing Division's regulations pertaining to health screening and TB testing depends on who has hired him/her.

87865 PERSONNEL REQUIREMENTS (Continued)**87865****(h)(1) POLICY (Continued)****1. HEALTH CARE PROVIDERS WHO MUST COMPLY WITH COMMUNITY CARE LICENSING DIVISION'S REGULATIONS ON HEALTH SCREENING AND TB TESTING:**

Health care providers and others providing care in a residential care facilities for the chronically ill, who are employed directly by the licensee or resident (or his/her guardian or conservator), must comply with residential care facilities for the chronically ill regulations concerning health screening and TB testing. These are persons who are not being sent into the residential care facilities for the chronically ill by the Home Health Agency, Hospice Agency, or hospital.

These individuals (i.e., personal care assistants brought from the resident's home, Certified Nursing Assistants, Home Health Aides, nursing staff, diet counselors, therapists, etc.) are considered the same as other facility staff, and must follow the same residential care facilities for the chronically ill regulations that pertain to all other facility staff. This holds true regardless of whether the employee is providing strictly medical procedures or supervision and resident assistance.

If a person who is required to have residential care facilities for the chronically ill's health screening and TB test works in more than one Community Care Licensing Division licensed facility, verification of the health screening and TB test should be kept on file at each Community Care Licensing Division licensed facility where the employee works. In addition, the licensee of each facility is responsible for making sure that the health screening and TB test meet the requirements specified in the appropriate Community Care Licensing Division regulation and are renewed before their expiration date.

2. HEALTH CARE PROVIDERS WHO ARE EXEMPT FROM COMMUNITY CARE LICENSING DIVISION'S REGULATIONS ON HEALTH SCREENING AND TB TESTING:

Health care providers, who are employees of an entity licensed by the Department of Health Services and who are providing care in an residential care facilities for the chronically ill by virtue of their status as an employee of that Department of Health Services licensed entity, are exempt from Community Care Licensing Division's regulations concerning health screening. They may be exempt from TB testing. (See Section 87865(h)(3) below to make a determination.) The Department of Health Services licensed entities may be Home Health Agencies, Hospice Agencies, Skilled Nursing Facilities, Intermediate Care Facilities, Acute Care Hospitals, etc. Their employees may include a: physician, nurse, Psychiatric Technician, Certified Nursing Assistant, diet counselor, therapist, etc.

87865 PERSONNEL REQUIREMENTS (Continued)**87865****(h)(1) POLICY (Continued)**

NOTE: It may be possible for a single resident to have two caregivers who have different requirements. For example:

1. The resident may have an assistant or an aide who has been employed by the resident independently, and who must meet Community Care Licensing Division's health screening and TB requirements; and
2. The resident may also have a temporary health condition for which his/her physician orders home health care. The licensee can rely on the Home Health Agency to have already made sure that its employees meet Department of Health Services' health screening and TB testing requirements; therefore, the licensee does not need to see a copy of these clearances. It would be prudent, however, for the licensee to request a copy or a fax of the license of any Department of Health Services licensed agency or facility that is sending staff into the residential care facilities for the chronically ill to provide care.

PROCEDURE

1. **HEALTH CARE PROVIDERS WHO MUST COMPLY WITH COMMUNITY CARE LICENSING DIVISION'S REGULATIONS ON HEALTH SCREENING AND TB TESTING:**

Verify that all persons who must comply with Community Care Licensing Division's screening requirements have a record of their health screening and TB test in a file at the facility where they are working and that the screening and TB test meet the requirements of the regulations.

2. **HEALTH CARE PROVIDERS WHO ARE EXEMPT FROM COMMUNITY CARE LICENSING DIVISION'S REGULATIONS ON HEALTH SCREENING AND TB TESTING:**

The licensee should have some documentation that the Department of Health Services licensed entity, from which a non-health screened person works, is actually licensed. The easiest documentation would be for the licensee to request a copy or fax of the Department of Health Services license. Verify that some documentation is in the facility file.

It is not necessary for the licensee or the Licensing Program Analyst to see verification of the actual health screening. The Department of Health Services licensee is responsible for making sure that its employees have the physical exam and TB screening required by Department of Health Services' regulations. If the residential care facilities for the chronically ill discovers that the Department of Health Services licensee fails to do so, the employees of these Department of Health Services licensed agencies or facilities may be excluded from the residential care facilities for the chronically ill for conduct inimical.

87865 PERSONNEL REQUIREMENTS (Continued)**87865****PROCEDURE (Continued)**

This is based upon Health and Safety Code Section 1568.092(a)(2), which specifies that the California Department of Social Services may prohibit a licensee from employing, or continuing the employment of, or allowing in a licensed facility, or allowing contact with residents of a licensed facility by, any employee or prospective employee who has engaged in conduct that is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility, or the people of the State of California.

(h)(3)

POLICY

Refer to Evaluator Manual Policy Section 87865(h)(1) above.

Persons who are employees of the Department of Health Services licensed entity, who are working in an residential care facilities for the chronically ill, must comply with these TB testing requirements. Because the TB testing requirements for residential care facilities for the chronically ill are so specific, some screening by Department of Health Services licensees may not meet these requirements. If the TB test required by their Department of Health Services licensee meet these requirements, they should not be required to have another test.

PROCEDURE

Look for written verification from the Department of Health Services licensee that the employee's test met the requirements of this section. If the test did not meet the Community Care Licensing Division requirements, another test must be required. [Refer to Evaluator Manual Procedure Section 87865(h)(1) above.]

87868 ADMISSION AGREEMENT**87868**

(a)

POLICY

The admission agreement shall not specify an expiration or termination date. Regulation Section 87868.1 (Resident Eviction Procedures) prescribes the grounds for terminating a resident's contract.

(c)(9)

POLICY

Attorneys for residents have questioned the legality of requiring the Durable Power of Attorney, believing that doing so denies residents equal protection under State and federal law. As a result, California Department of Social Services legal staff have determined that requiring a Durable Power of Attorney is unenforceable. Therefore, residents are not required to have one in place at their facilities.

PROCEDURE

Do not require a Durable Power of Attorney; however, when reviewing client records, if there is a Durable Power of Attorney on file, check to ensure appropriate signature are affixed.

87870 RESIDENT RECORDS**87870**

(b)(17)

Attorneys for residents have questioned the legality of requiring the Durable Power of Attorney, believing that doing so denies residents equal protection under State and federal law. As a result, California Department of Social Services legal staff have determined that requiring a Durable Power of Attorney is unenforceable. Therefore, residents are not required to have one in place at their facilities.

87870 RESIDENT RECORDS (Continued)**87870****PROCEDURE**

Do not require a Durable Power of Attorney; however, when reviewing clients records, if there is a Durable Power of Attorney on file, check to ensure that appropriate signatures are affixed.

- (c) During the process of selling or transferring property the licensee may be asked to or may have provided information about the clients/residents cared for at the facility to persons interested in taking control of the facility. A client/resident's confidentiality must be respected even during the sale and transfer of property. For example, the range of care needs of the clients/residents in general can be provided however identifying information about the individual client/resident would be violating the confidentiality of the client/resident. The party interested in buying or taking possession of the property would have a right to the confidential information if the party became the licensee or is associated with the facility as an employee. Any violation by sharing confidential information during the process of selling or transferring property must be cited by the licensing program analyst.

87872 PERSONAL RIGHTS**87872**(a)(9) **POLICY**

Refer to information on crushing medication in Evaluator Manual Section 87918(f), Medication Procedures.

(b) **POLICY**

Refer to information specifying what authorization is required in order to crush medications, in Evaluator Manual Section 87918(f), Medication Procedures.

87893 GENERAL REQUIREMENTS FOR ALLOWABLE CONDITIONS**87893**(h) **POLICY**

Refer to information on crushing medication in Evaluator Manual Section 87918(f), Medication Procedures.

87894 RESIDENT MEDICAL ASSESSMENTS**87894**(b)(4) **POLICY**

If a facility has a resident who is unable to fill his/her own syringe due to blindness, tremors, or arthritis, etc., verification of the condition should be included on the medical assessment. (See Evaluator Manual Section 87903 on diabetes, Section 87904 on injections, and Section 87915(a)(4) on being granted an exception for an registered nurse to pre-fill syringes.)

PROCEDURE

Check the residential care facilities for the chronically ill's file to make sure that a physician has provided written verification that states:

1. The resident cannot fill his/her own syringe due to blindness, tremors, arthritis, etc.;
2. The resident's need for insulin is stable (if resident is diabetic); and
3. The resident is cognitively and physically competent to inject his/her own medication.

87896 RESIDENT INDIVIDUAL SERVICES PLAN/TEAM**87896**

(a) & (a)(1)

PROCEDURE

Check to see that the Individual Services Plan coincides with the written facility plan when the licensee of a facility is requesting an exception be granted to pre-fill insulin syringes for a diabetic resident. An residential care facilities for the chronically ill has the added protection of having a Registered Nurse Case Manager, so find out his/her role when an exception is requested to pre-fill insulin syringes for a diabetic resident. (Refer to Evaluator Manual Section 87894(b)(4) above)

87903 DIABETES**87903**

(a)(2)

POLICY

If a licensee is requesting an exception to be allowed to pre-fill insulin syringes for a diabetic resident, see Evaluator Manual Section 87915(a)(4).

See Evaluator Manual Section 87904(a)(2) pertaining to drawing-up medication into a syringe for immediate injection, pre-filling syringes, and who may administer injections.

See Evaluator Manual Section 87865(g)(3) on suggested training to care for a diabetic resident.

(b)(1)

POLICY

See Evaluator Manual Section 87903(a)(2) above.

(b)(2)

POLICY**Storage of Insulin and Insulin Syringes**

1. Insulin stored at room temperature should be used within one (1) month; otherwise, it should be refrigerated.
2. Once an insulin vial has been opened, it can only be stored in the refrigerator for three months.
3. Unopened insulin stored in the refrigerator is effective through the expiration date.
4. Insulin should be kept out of direct sunlight and away from heat and cold.
5. If a facility has only one diabetic resident, who has his/her insulin syringes pre-drawn, the vial of insulin, together with the individual pre-filled insulin syringes, may be stored in the resident's room or be **centrally stored** in a separate locked box in a refrigerator or stored in a separate container in a locked drawer, cabinet, etc.
6. If there is more than one diabetic resident in a facility who has his/her insulin syringes pre-drawn, special care should be taken to ensure that medications do not get mixed up. Nurses and pharmacists, with whom the Department has consulted, have suggested that the following procedures represent best practice, but in an residential care facilities for the chronically ill the Registered Nurse Case Manager may have an equally safe alternative:

87903 DIABETES (Continued)

87903

(b)(2)

POLICY (Continued)

- a. The vial of insulin, together with the individual syringes, should be stored in a locked drawer, cabinet, closet, etc. **in the resident's own room** or be stored in the resident's own refrigerator in a locked container (See Regulation Section 87916: Self-Administered Medications);
- b. Staff or registered nurses who handle centrally locked medications should also have a key to get into the resident's locked medications; and
- c. An emergency unopened vial of insulin for each resident should always be centrally stored in the refrigerator and replaced before its expiration date. This vial of insulin can be taken to the resident's room to be locked up when the resident's current vial is empty. Then a new vial can be ordered from the pharmacy and put in central storage to replace the old bottle in case of an emergency.
- d. Insulin syringes should not be set up for more than seven days in advance.

Labeling

Each *vial* of insulin and the individual syringes made from that vial should all be stored together in a zip locked bag.

In addition to the labeling requirements for the vial of insulin found in Sections 87915(a)(5)(A) - (K) and 87919(a)(1) - (7) and (b)(1) - (6), the vial should be flagged referring an individual to a record so that the following can be noted:

1. The amount in the original vial of insulin;
2. How many syringes were made from the original container and the dates the insulin was drawn;
3. The dosage of insulin in each syringe made from the original vial of insulin;
4. The name of the person who pre-filled the syringes;
5. The name of the person who gave the syringe to the resident to inject him/herself along with:
 - a. The amount the resident injected;
 - b. The time and date the injection was given; and
 - c. The location on the body where the insulin was injected.
6. The date the emergency back up vial of insulin was taken from the refrigerator to replace the used vial in the resident's room and the name of the person who took it there;

87903 DIABETES (Continued)**87903**

7. The date the insulin was reordered and the name of the person who ordered it; and the date the new vial of insulin was received from the pharmacy and put in the refrigerator as an emergency back up and the name of the person who received it.

Each individual pre-filled insulin *syringe* should be labeled and should include the following information:

1. The name of the resident for whom the insulin was prescribed;
2. The contents in the syringe including the drug name, strength, and quantity;
3. The date the syringe was drawn up;
4. The initials of the individual who drew up the syringe; and
5. A cross-reference to the prescription number of the vial of insulin it came from, the date it was filled, and the expiration date.

The licensee is responsible for ensuring that the resident has enough insulin available to meet his/her needs, and that the resident's insulin/medication is re-ordered timely.

87904 INJECTIONS**87904****(a)(2) POLICY****Administration**

In residential care facilities for the chronically ill, any injections must be self-administered by the resident.

If the resident is unable to self-administer an injection, injections shall only be administered by the following licensed medical professionals: physicians, registered nurses, Licensed Vocation Nurses, and psychiatric technicians.

1. In settings outside of a health facility or State Developmental Center, a Psychiatric Technician can only administer subcutaneous and intramuscular injections to residents who are developmentally disabled or mentally disordered, provided the licensed Psychiatric Technician performs the procedure in accordance with a licensed physician's order.

Based upon consultation with the Board of Registered Nursing and the Board of Vocational Nurse and Psychiatric Technician Examiners, Licensing Program Analysts need to be aware of the differences between drawing medication for immediate injection and pre-filling syringes.

Pre-packaged Medication

Medications, including insulin, that are packaged in pre-measured doses in individual syringes and are available at the pharmacy are not considered to be pre-drawn. They are considered to be the originally received container.

87904 INJECTIONS (Continued)**87904****(a)(2) POLICY(Continued)****Drawing Medication for Immediate Injection**

Only the following may draw-up medication into a syringe for immediate injection:

1. The resident him/herself;
2. A Physician;
3. A registered nurse;
4. A (licensed vocational nurse, under the direction of a registered nurse or a physician;
or
5. A Psychiatric Technician, under the direction of a physician, a surgeon, a psychiatrist,
or a registered nurse.

Pre-Drawing Medication for Future Injection

Only a registered nurse can pre-fill syringes (drawing the medication up from the container received from the pharmacy) for future use by a resident in a community care facility. The physician must give a written order for a registered nurse to set up medication syringes in advance and must provide written instructions for doing this. The physician, registered nurse, and licensee should work out an arrangement pertaining to the registered nurse coming into the facility to pre-fill the syringes. The registered nurse who pre-fills the syringes should have an emergency back-up plan if he/she is unable to set up syringes and the facility runs out.

1. The pre-drawing of medication into syringes in a residential care facilities for the chronically ill will require an exception from regulations pertaining to requiring each resident's medication be stored in its originally received container. See Evaluator Manual Section 87894(b)(4) under Resident Medical Assessments on whether the facility could take care of a diabetic resident when he/she cannot fill his/her own syringe due to blindness, tremors or arthritis. (Also see Evaluator Manual Section 87915(a)(4) and Evaluator Manual Section 87903 on diabetes.)

A registered nurse, licensed vocational nurse, or Psychiatric Technician may not administer medication that has been pre-drawn by another.

PROCEDURE

Suspected violations of Section 87904(s)(2) by licensed professionals should be referred to the respective licensing board. If the licensed professional is employed by a Home Health Agency or other entity licensed by the Department of Health Services, a report should be made to the Department of Health Services Licensing and Certification District Office. Consult with a licensing supervisor prior to making this referral.

If unlicensed and/or unauthorized persons are administering injections, a notice of deficiency should be issued, citing this regulation. This is a serious deficiency.

(b)(1) POLICY

See Evaluator Manual Section 87904(a)(2) above.

87913 SMOKING**87913**

There is no statutory or regulatory provision guaranteeing residents the right to smoke in facility. There is State law (Labor Code 6404.5) which guarantees employees the right to a smoke-free working environment. Therefore, licensees cannot be cited on the basis of violating the personal rights of residents in imposing restrictions on their smoking. Licensees are required to comply with the mandates of Labor Code 6404.5 by providing their employees a smoke-free environment, or be subject to penalties by the State.

Labor Code 6404.5 applies to most places of employment (including care facilities) with a total of more than five employees. It also applies to facilities with five or fewer employees but allows smoking under certain conditions in certain locations.

87915 STORAGE OF MEDICATIONS**87915****(a)(1) POLICY**

See Evaluator Manual Section 87903(b)(2) for the locked storage of insulin syringes.

(a)(1)(A) POLICY

A diabetic resident may have his/her own key for locked storage of his/her pre-filled insulin syringes in his/her own room, but staff responsible for centrally stored medications should also have the key. (See Evaluator Manual Section 87903(b)(2) for clarification.)

(a)(1)(B) POLICY

See Evaluator Manual Section 87903(b)(2) for information on refrigerating insulin or pre-filled insulin syringes.

(a)(2) POLICY

See Evaluator Manual Section 87903(b)(2) for the labeling requirements for individual pre-filled insulin syringes.

(a)(3) PROCEDURE

Check labels to determine if someone other than the issuing pharmacist has altered the prescription container label. If the doctor changes the frequency or amount of the dosage, the facility should have a system of flagging or noting the change without altering the label. The following procedure is recommended:

1. Designated facility staff affix a colored label somewhere on the container but not covering the original label; this refers the person passing the medications to a notebook, card file, cardex or other record, where the new instructions have been written by facility staff following the physician's instructions to make the change. This contact may have been by telephone or in person, and should be documented in writing.

87915 STORAGE OF MEDICATIONS (Continued)**87915****(a)(3) PROCEDURE (Continued)**

2. The physician prepares a new prescription request or calls the pharmacy so that the container can be properly labeled when the prescription is refilled.
3. If pre-filled insulin syringes are made from a vial of insulin, then the individual syringes should be labeled and the vial should be flagged to refer an individual to a record on medications. (See Evaluator Manual Section 87903(b)(2) on pre-filling insulin syringes.)

(a)(4) POLICY

Insulin and other injectable medications should be kept in their original containers until the prescribed single dose is measured into a syringe for immediate injection by the resident or a licensed medical professional.

An exception may be requested to permit insulin to be prepared or “set up” in advance (filling one (1) or more syringes with the prescribed dose and storing the medication in the syringes until needed). (See Evaluator Manual Section 87904(a)(2) for information on who may draw-up insulin/medication into a syringe for immediate injection, who may give the injection, and who may pre-draw insulin syringes for future use by a resident in a residential care facilities for the chronically ill.) Note: Pre-filling is only appropriate when the resident is going to be self-injecting. If the injection is going to be performed by a licensed health professional, he/she will draw the insulin at the time of the injection.

The following guidelines, or similar safeguards, should be followed when considering an exception request:

Prior to applying for an exception:

1. The licensee should make every attempt to have a nurse educate the resident to draw-up his/her own insulin syringe.
2. If the resident cannot draw-up his/her own insulin syringe, then the licensee should attempt to have a pharmacy vendor meet with him/her and the resident to discuss the advantages of using pre-filled insulin syringes that are set up in advance, sealed in packages from the manufacturer, and available at the pharmacy.

RECOMMENDED EXCEPTION APPROVAL CONDITIONS

It is recommended that the exception approval for a registered nurse to pre-fill **insulin** syringes (draw-up insulin from the container received from the pharmacy) for future use by a patient in a community care facility should include at least the conditions specified below; although, as always, the District Office should use its own judgement depending upon the individual circumstances:

The community care facility must have a physician’s written verification on file that states:

1. The diabetic resident cannot pre-fill his/her own insulin syringe due to blindness, tremors, arthritis, etc.;

87915 STORAGE OF MEDICATIONS (Continued)**87915****(a)(4) POLICY (Continued)**

2. The resident's need for insulin is stable, and the mixture for the injection is not based on the daily glucose reading;
3. The required insulin mixture will not break down and is still effective if pre-drawn for seven days; and
4. The resident is cognitively and physically competent to self-inject.

-
1. The facility should have a written facility plan in place that should be sent in with the exception request that:
 - a. Specifies the facility will meet all of the conditions of the exception specified, and explains how the facility plans to do this for each area discussed, i.e., training, storage, labeling, record keeping, etc.;
 - b. Describes the facility's own particular situation, including the names of the diabetics, how many times the nurse will come in, the number of pre-filled syringes, and how many days the syringes will be set up in advance etc; and
 - c. Explains how the facility will handle an emergency situation, including the following: 1) no insulin is available, 2) no registered nurse is available to pre-fill the insulin syringes, and/or 3) a diabetic goes into shock.

PROCEDURE

When evaluating the storage and handling of insulin, keep in mind that pre-filled insulin syringes, that are sealed up in packages by the manufacturer and have pre-measured dosages, are available at the pharmacy. In addition, an exception may be granted for a residential care facilities for the chronically ill to allow a registered nurse to pre-fill insulin syringes in advance as long as specified conditions are met, as explained above. Check the container label(s) to be sure that the medication has not been set up in advance by someone other than a pharmacist, the manufacturer, or a registered nurse (if the facility was granted an exception by the District Office to pre-fill insulin syringes).

If a licensee is requesting an exception to pre-fill insulin syringes in advance, verify that the licensee:

1. Has first explored at least the other options specified above, thereby ensuring the exception is necessary;
2. Has a written plan for meeting the exception approval conditions (See Evaluator Manual Section 87865(g)(3) pertaining to training);
3. Has described his/her own particular situation in his/her facility and each diabetic resident's needs;
4. Has a plan for emergency situations; and

87915 STORAGE OF MEDICATIONS (Continued)**87915****PROCEDURE (Continued)**

5. Has stated in his/her plan that only a registered nurse will pre-fill **insulin** syringes for no more than seven days in advance for a diabetic resident who cannot fill up his/her own syringes, and the resident's need for insulin is stable, and the resident is cognitively and physically competent to self-inject.

Restate the licensee's plan back to him/her as conditions of the exception and the licensee then has to comply with everything he/she told the Community Care Licensing Division he/she would do. The licensee should make sure the plan meets the health and safety requirements, is good for the resident, and is logical.

(a)(5)(A) - (K) POLICY

See Evaluator Manual Section 87903(b)(2) for the labeling requirements when a facility is granted an exception to pre-fill insulin syringes for a diabetic resident.

87918 MEDICATIONS PROCEDURES**87918****(a) POLICY**

If a facility was granted an exception from Regulation Section 87915(a)(4) and is allowed to pre-fill insulin syringes for a diabetic resident, syringes may be pre-filled seven days in advance. (See Evaluator Manual Section 87903(b)(2).)

(e) POLICY

Refer to information on crushing medication in Evaluator Manual Section 87918(f), Medication Procedures.

(f) POLICY

No exception is necessary in order to crush a resident's medication to enhance swallowing or taste.

Conditions under which a resident's medication may be crushed:

1. To enhance swallowing or taste, but never to disguise or "slip" it to a resident without his/her knowledge.

87918 MEDICATION PROCEDURES (Continued)**87918**

2. If the resident is unable to take the medication, not if the resident is unwilling to take it. Residents have a personal right to refuse medication, except for minors and other clients for whom a guardian, conservator, or other legal authority has been appointed who has authority over medical decisions. See Sections 87872(a)(9) and (b), Section 87893(h), and Section 87918(e) in the residential care facilities for the chronically ill regulations.

If medication is to be crushed, the following written documentation must be put into the resident's file:

1. A physician's order that indicates the need for a specified medication to be crushed and grants permission to crush it. The order must include:
 - a. The dosage amount; and
 - b. Instructions indicating when and how often the medication will be given.
2. The facility administrator's verification of a consultation with a pharmacist or treating physician, which was provided either orally or in writing by that pharmacist/physician. The following information must be included in that written documentation:
 - a. The name of the pharmacist/treating physician, name of business, and date of conversation;
 - b. A statement that the medication can be safely crushed without losing potency;
 - c. Identification of foods and liquids that can be mixed with the medication; and
 - d. Instructions for crushing and mixing the medication.
3. A consent form that gives authorization for medication(s) to be crushed, signed by one of the following:
 - a. The resident, if he/she is not conserved; or
 - b. The resident who has a conservator, but whose conservator does not have authority over the resident's medical decisions; or
 - c. The conservator of a resident, who does have authority over the resident's medical decisions.

87918 MEDICATION PROCEDURES (Continued)**87918****PROCEDURE**

Review the resident's file for the following written documentation: (See Evaluator Manual Section 87918(f) above for the specific information required for each item below.)

1. A physician's order that allows medication to be crushed and specifies what medication can be crushed;
2. The facility administrator's verification of a consultation with a pharmacist or treating physician, which was provided either orally or in writing by that pharmacist or physician; and
3. A consent form that gives authorization for medication(s) to be crushed.

87919 MEDICATION DOCUMENTATION**87919****(a) POLICY**

If a facility is granted an exception to allow a registered nurse to pre-fill insulin syringes for a diabetic resident, additional record keeping may be required as a condition of the exception.

(b) PROCEDURE

See the exception to determine if there are any additional requirements.

87923 FIRST AID REQUIREMENTS**87923****(a) POLICY**

CPR training does not substitute for the first aid training required by this regulation.

If licensees or facility employees are currently certified as Standard First Aid Instructors, they may train other facility staff. Certification as an instructor must be provided by the American Red Cross or other authorized agency.

Facility employees who are licensed medical professionals do not have to complete first aid training. They shall not provide training to other employees unless they are also certified as Standard First Aid instructors. Licensed medical professionals include; physicians, registered nurses and licensed vocational nurses, and psychiatric technicians. They do not include Home Health Aides or Certified Nursing Assistants.

Facility employees shall not provide training to other employees unless they are also certified as Standard First Aid Instructors.

Staff such as cooks, gardeners, and janitors are not be required to complete first aid training unless they also serve in the capacity of direct care staff or, at various intervals, are called upon to provide direct care and supervision of residents.

