
EVALUATOR MANUAL TRANSMITTAL SHEET

<u>Distribution:</u> <input type="checkbox"/> All Child Care Evaluator Manual Holders <input checked="" type="checkbox"/> All Residential Care Evaluator Manual Holders <input type="checkbox"/> All Evaluator Manual Holders	<u>Transmittal No.</u> 13APX03
	<u>Date Issued</u> February, 2013

Subject:

Appendix A – Chaptered Legislation
 2012 Residential Care Facilities for the Elderly

Reason for Change:

This document transmits the implementation plans for legislation chaptered in 2012 affecting Residential Care Facilities for the Elderly. Statutes referenced in this document are operative on January 1, 2013 unless otherwise noted.

Filing Instructions:

REMOVE: 13APX-02 2012 Chaptered Legislation for Residential Care Facilities for the Elderly.

INSERT: 13APX03 2012 Chaptered Legislation for Residential Care Facilities for the Elderly.

Approved:

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2/26/2013

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SUMMARY AND IMPLEMENTATION PLANS 2012 CHAPTERED LEGISLATION

RESIDENTIAL CARE FACILITIES FOR THE ELDERLY

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Unless otherwise noted, all new legislation becomes effective on January 1, 2013. When conducting licensing visits, 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

SB 135 (Hernandez), Chapter 673, Statutes of 2012

Affects: Residential Care Facilities for the Elderly

Subject: Hospice Facilities

Summary: The bill amends Sections 1250, 1250.1, 1266, 1599, 1599.1, 1599.4, 1746, 1795, 128755, and 129725 of, and adds Article 10.6 (commencing with Section 1339.40) to Chapter 2 of Division 2 to the Health and Safety Code, relating to hospice care.

This bill adds a new licensing category for Department of Public Health, licensed hospice facilities, and in part, prohibits any Residential Care Facility for the Elderly, licensed under the California Department of Social Services, Community Care Licensing Division from representing itself as a hospice facility, either through name, advertisement or solicitation.

Implementation: If a Residential Care Facility for the Elderly licensee is advertising or promoting a Residential Care Facility for the Elderly as a hospice facility by using the term hospice facility specifically, the Licensing Program Analyst shall cite the facility using California Code of Regulations, Title 22, Division 6, Chapter 8, section 87207, False Claims. This section reads as follows: "No licensee, officer or employee of a licensee shall make or disseminate any false or misleading statement regarding the facility or any of the services provided by the facility." However, the licensee continues to be permitted to advertise and promote hospice care/services and the Department's Hospice Waiver approvals shall continue to be printed on RCFE licenses.

For legislative information related to this new law:

http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0101-0150/sb_135_bill_20120927_chaptered.html

ACTION REQUIRED

SB 345 (Wolk), Chapter 649, Statutes of 2102

Affects: Any Adult Residential Care Facility, Adult Day Program or Residential Care Facility for the Elderly.

Subject: Office of State Long-Term Care Ombudsman, Long-Term Care Ombudsman Program Independence and Improvement Act of 2012.

Summary: This bill amends Sections 9701, 9710.5, 9712, 9713, 9714, 9714.5, 9716, 9717, 9719, 9722, 9724, 9726, and 9726.1 of, and adds Sections 9712.5 and 9716.11 to, and repeals Section 9720 of, the Welfare and Institutions Code, relating to public social services. This bill aligns Welfare and Institutions Code Sections related to the Office of the State Long Term Care Ombudsman and its roles and responsibilities corresponding to federal law, the Older Americans Act, Title VII, Chapter 2, Sections 711/712.

In part, this bill:

- Allows the representatives of the Office of the State Long-Term Care Ombudsman the right to enter the above identified facilities and to unescorted, unhindered movement within them for the purposes of identifying, hearing, investigating, and resolving complaints, observing and monitoring conditions of residents and facilities, speaking confidentially with residents, and providing services to assist residents in protecting their health, safety, welfare, and rights. Entry shall be provided at any time deemed necessary and reasonable by the Office of the State Ombudsman to effectively carry out this chapter. [Welfare and Institutions Code section 9722 (a)].
- Requires the above identified facility licensees, upon request by a representative of the Office of the State Long-Term Care Ombudsman, to provide a roster, census, or other list of the names and room numbers or room locations of all current residents or patients residing in the facility. [Welfare and Institutions Code section 9722 (d)].

Implementation: If a Licensing Program Analyst receives a complaint related to a violation of Welfare and Institutions Code sections 9722 (a) or (d), the Licensing Program Analyst shall follow standard complaint investigation procedures. In addition, the Licensing Program Analyst shall:

- Apply the appropriate law or regulation if a violation has been substantiated. For example; if an administrator/licensee, upon request by a representative of the Office of the State Long-Term Care Ombudsman, refuses to provide a roster*, census, or list of resident names and room numbers or locations of all residents occupying the facility, then the Licensing Program Analyst should cite: Administrator - Qualifications and Duties, Title 22 Division 6, Chapter 8 of the California Code of Regulations, Section 87405(a). The finding may read: Administrator failed to comply with Welfare and Institutions Code, section 9722(d) which requires licensees of Residential Care Facilities for the Elderly, Adult Residential Facilities and Adult Day Programs to provide, upon request of the Long-Term Care Ombudsman, a

roster, census, or list of resident names and room numbers or locations of all residents occupying the facility to the Long-Term Care Ombudsman. *Note: the term “roster” does not include the Register of Residents as identified in Title 22, Division 6 Chapter 8, section 87508 of the California Code of Regulations.

- As part of the plan of correction process, advise the licensee of their responsibility to comply with all laws related to operation of the facility. This advisory shall be documented in the plan of correction section of the LIC 9099.
- Consult with a Licensing Program Manager prior to issuing any complaint findings.
- Submit copies of LIC 9099s, specific to the above identified violations, to the Adult and Senior Care Program Headquarter office as soon as possible.

Note: Notwithstanding the above implementation instructions, Licensing Program Analysts shall continue to only accept complaints that violate the provisions of Health and Safety Code section 1569 et seq. and Title 22, Division 6, Chapter 8 of the California Code of Regulations.

For legislative information related to this new law:

http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0301-0350/sb_345_bill_20120927_chaptered.html

ACTION REQUIRED

AB 2066 (Monning), Chapter 643, Statutes of 2012

Affects: Residential Care Facilities for the Elderly

Subject: Residential Care Facilities for the Elderly: Revocation of Licenses

Summary: This bill amends Health and Safety Code Sections 1569.525 and 1569.682 relating to revocation of licenses.

The purpose of AB 2066 is to provide additional health and safety protections for residents in Residential Care Facilities for the Elderly (facility), and to minimize transfer trauma in the event that the California Department of Social Services (Department) determines it necessary to revoke a facility license. This bill also adds clean up language related to AB 313 (Monning) Chapter 365, Statutes of 2011. AB 313 created inappropriate requirements regarding Residential Care Facility for the Elderly license revocation, making it difficult for CDSS to implement its provisions.

Health and Safety Code Section 1569.525

AB 2066 requires the Department to contact any local agency that has placement or advocacy responsibility for residents of a facility after a decision is made to temporarily suspend or to initiate revocation of the license of the facility. This bill also requires the Department to work with these agencies to locate alternative placement sites and contact relatives responsible for facility residents.

Upon an order to revoke a license, except an order to revoke a license following the temporary suspension of a license pursuant to Health and Safety Code section 1569.50, AB 2066 requires the following:

- (e)(1) The licensee shall provide a 60-day written notice of license revocation, stating that the revocation may lead to closure of the facility, to the resident and the resident's responsible person within 24 hours of receipt of the Department's order of revocation;
- (2) The Department shall allow the licensee to secure the services of a person who is not an immediate family member of the licensee or an entity that is not owned by the licensee to manage the day-to-day operations of the facility for a period of at least 60 days, provided all of the following conditions are met:
 - (A) Within 72 hours of the licensee's receipt of the Department's order of revocation, a proposal is submitted to the Department that includes:
 - (i) A completed "Application for a Residential Care Facility for the Elderly License" form (LIC 200), signed and dated by both the licensee and the person or entity described above;
 - (ii) A copy of an executed agreement between the licensee and the person or entity described in (e)(2) above that delineates the roles and

responsibilities of each party and specifies that the person or entity shall have full authority necessary to operate the facility, in compliance with all applicable laws and regulations, without interference from the licensee.

- (B) The person or entity shall be currently licensed and in substantial compliance to operate a facility that is of comparable size or greater and has comparable programming to the facility. The following definitions apply to this requirement:
 - (i) “Comparable programming” includes but is not limited to dementia care, hospice care, and care for residents with exempted prohibited health conditions.
 - (ii) “Comparable size” means a facility capacity of 1 to 15 residents, 16 to 49 residents, or 50 or more residents.
 - (C) The person or entity shall not be subject to an application fee.
 - (D) If the Department denies a proposal to secure the services of the person or entity, the denial shall not be deemed a denial of a license application subject to the right to a hearing and other procedural rights.
- (3)(A) Notwithstanding Section 1569.651 or any other provision of law, a resident who transfers from the facility during the 60-day period described in (e)(1), is entitled to a refund of paid preadmission fees in excess of five hundred dollars (\$500) according to the following:
- (i) A 100-percent refund if preadmission fees were paid within six months of the notice of closure required by paragraph (e)(1).
 - (ii) A 75-percent refund if preadmission fees were paid more than six months, but not more than 12 months, before the notice of closure required by paragraph (e)(1).
 - (iii) A 50-percent refund if preadmission fees were paid more than 12 months, but not more than 18 months, before the notice of closure required by paragraph (e)(1).
 - (iv) A 25-percent refund if preadmission fees were paid more than 18 months, but not more than 25 months, before the notice of closure required by paragraph (e)(1).
- (B) No preadmission fee refund is required if preadmission fees were paid 25 months or more before the notice of closure required by paragraph (e)(1).
 - (C) The preadmission fee refund required by this paragraph shall be paid within 15 days of issuing the notice of closure required by paragraph (e)(1). In lieu of the refund, the resident may request that the licensee provide a credit toward the resident’s monthly fee obligation in an amount equal to the preadmission fee refund due.

- (4) If a resident transfers from the facility during the 60-day period described in (e)(1), and the resident gives notice at least five days before leaving the facility, the licensee shall refund to the resident or his or her legal representative a proportional per diem amount of any prepaid monthly fees at the time the resident leaves the facility and the unit is vacated. Otherwise the licensee shall pay the refund within seven days from the date that the resident leaves the facility and the unit is vacated.
- (5) Within 10 days after all residents who are transferring pursuant to these provisions have left the facility, the licensee that had his or her license revoked shall, based on information provided by the resident or the resident's legal representative, submit a final list of names and new locations of all residents to the Department and the local ombudsman program.
- (f) Nothing in this section shall preclude the Department from amending the effective date in the order of revocation and closing the facility prior to the end of the 60-day notice period provided for in subdivision (e), or from pursuing any other available remedies if necessary to protect the health and safety of the residents in care.

Health and Safety Code Section 1569.682

AB 2066 also requires a licensee of a facility, prior to transferring a resident to another facility or to an independent living arrangement as a result of a forfeiture of a license or a change of use of the facility, to provide each resident with a written notice no later than 60 days before the eviction that includes the address and phone number for the local long-term care ombudsman.

Implementation: These provisions have an effective date of January 1, 2013.

Local Placement or Advocacy Agencies

After a revocation order is served to the licensee, Licensing Program Analysts must contact any local agency that has placement or advocacy responsibility for residents of the facility, including the local long term care ombudsman. Licensing Program Analysts must then work with these agencies to assist them in locating alternative placement sites and contacting relatives or responsible persons for facility residents.

Resident Notifications

Within 24 hours of receipt of the Department's order of revocation, the facility licensee must provide all residents and their responsible persons with a 60-day written notice of license revocation that may lead to the closure of the facility. Licensing Program Analysts must obtain a copy of this notice, with written confirmation from the licensee that the notice was provided to all facility residents and their responsible persons. If the Department amends the effective date of the order of revocation, which closes the facility prior to the end of the 60-day notice, the licensee as a best practice should notify residents of the change of the facility closure date. The LPA must provide this notice to the same local agency(s), and advocates, including the local long term care

ombudsman and ensure that residents and responsible parties are notified of the change in closure date.

As a best practice, the licensee should notify residents if and as soon as the licensee secures the services of a person who is not an immediate family member of the licensee or an entity that is not owned by the licensee to manage the facility during time period specified.

Facility Management by Non-Immediate Family or Entity

The facility licensee may secure the services of a person that is not an immediate family member of the licensee or an entity that is not owned by the licensee to manage the day-to-day operations of the facility for at least 60 days.

If the licensee is interested in having a person or entity manage the facility following the receipt of a revocation order, the following conditions must be met:

STEP 1: Licensee submits to the applicable Regional Office a proposal [specified in (e)(2)(A)] within 72 hours of receipt of the order of revocation that includes:

- A completed “Application for a Residential Care Facility for the Elderly License” form (LIC 200), on behalf of the person or entity but signed and dated by both the licensee and the person or entity representative;
- An agreement signed by both the licensee and the person or entity representative that specifies the roles and responsibilities of each party and states that the person or entity has full authority to operate the facility in compliance with applicable laws and regulations, and without interference from the licensee. This agreement must be signed and dated by both the licensee and the person or entity representative.
- A completed “Applicant Information” form (LIC 215) on behalf of the interested person or entity representative.
- Proof that the applicant is currently licensed and operating an RCFE of comparable size (or greater) and program.. For example, if the facility that is having its licensed revoked has a hospice waiver, the applicant must also have a similar hospice waiver or experience. This requirement may be met by the applicant submitting a copy of their current license(s). It may also require submitting a copy of the approved plan of operation for program areas that are not identified on the license, such as dementia programs.
- A completed “Criminal Background Clearance Transfer Request” form (LIC 9182) for the person or entity representative.
- A completed “Designation of Facility Responsibility” form (LIC 308), signed by the current licensee.

- If applicable, a completed “Administrative Organization form (LIC 309), with required attachments (e.g., Articles of Incorporation, By-Laws or Operating Agreement, Resolution authorizing the filing of this application).
- A completed “Personnel Report” form (LIC 500).

STEP 2: According to the provisions of AB 2066, the person or entity shall not be charged an application fee. Upon receiving the completed forms and documents specified in “STEP 1,” the Licensing Program Analyst must review all applicable facility files maintained by CDSS to ensure that all facilities that the applicant is a licensee or co-licensee are in substantial compliance. The Licensing Program Analyst must also ensure that the applicant’s licensing history includes experience as a licensee or co-licensee of facilities that are comparable in size and program.

If the Licensing Program Analyst determines that there is a history of substantive non-compliance on the part of the applicant, or their associated facilities were not of comparable (or greater) size or programming, following consultation with the LPM, the proposal must be denied. If the proposal is not submitted within 72 hours of the licensee’s receipt of the order of revocation, the proposal must be denied. NOTE: The Licensing Program Analyst must process this proposal as quickly as possible so that the proposal is either approved or denied in the timeframe specified in (e)(2).

STEP 3: If the Licensing Program Analyst and Licensing Program Manager approve the proposal, they must establish the period of time that the person or entity will be approved to manage the day-to-day operations of the facility. AB 2066 specifies that the period of time that the person or entity shall manage the facility for is at least 60 days. However, in no case shall the approval continue past the effective date of the order of revocation.

STEP 4: The Licensing Program Analyst will work with the local Long-Term Care Ombudsman to monitor and/or coordinate visits to the facility to ensure that the facility is operating in accordance with all applicable statutes and regulations.

STEP 5: The Regional Office issues the facility a license, with name of person/entity listed as co-licensee and with an end date not to exceed the effective date of the order of revocation. The license must be posted in a prominent location in the licensed facility accessible to public view, as required in regulation section 87113.

Preadmission Fee Refunds

The following table summarizes the preadmission fee refund requirements outlined in AB 2066:

If Resident Transfers From Facility During 60-day Period and Preadmission Fee is in Excess of \$500:	Refund to be Paid or Credited to Resident Within 15 Days of Closure Notice
If preadmission fees were paid within six months of closure notice...	100% of Preadmission Fee
If preadmission fees were paid six to 12 months before closure notice...	75% of Preadmission Fee
If preadmission fees were paid 12 to 18 months before closure notice...	50% of Preadmission Fee
If preadmission fees were paid 18 to 25 months before closure notice...	25% of Preadmission Fee
If preadmission fees were paid 25 months or more before closure notice...	No Refund Required

If a Licensing Program Analyst receives an allegation of preadmission fees not being refunded to a resident or to multiple residents (either via incident report or complaint), and this information is substantiated, the Licensing Program Analyst must cite the facility pursuant to Health and Safety Code section 1569.525(e)(3)(A), and the licensee must indicate in the plan of correction how the refund or credit will be issued to the resident(s). In lieu of the refund, the resident may request that the licensee provide a credit toward the resident's monthly fee(s) in the amount equal to the refund.

If a resident transfers from the facility during the 60-day period described in (e)(4), and the resident gives notice at least five days before leaving the facility, the licensee must issue a refund to the resident or his or her legal representative for any prepaid monthly fees. If a Licensing Program Analyst receives an allegation of prepaid monthly fees not being refunded to a resident or to multiple residents (either via incident report or complaint), and this information is substantiated, the Licensing Program Analyst must cite the facility pursuant to Health and Safety Code section 1569.525(e)(4), and the licensee must indicate in the plan of correction how the refund will be issued to the resident(s).

Note: After the license has been officially revoked, the department does not have the authority to pursue any action for the recovery of un-refunded resident fees from the licensee. As such, upon revocation the department will not take any action relative to the recovery of resident fees. Residents and/or their responsible parties should be informed that one remedy available to recover such fees would be to pursue a claim against the former licensee in civil court.

Department Options for Revocation, Facility Closure, Other Remedies

AB 2066 includes language that allows the Department to amend the effective date of the order of revocation and closing the facility prior to the end of the 60-day notice period provided for in subdivision (e), if necessary. AB 2066 also allows the Department to pursue any other available remedies, if necessary, to protect the health and safety of the residents in care. These allowances are exercised only through coordination and permission by the Program Office and the Legal Division.

Eviction Notices

In order to comply with Health and Safety Code Section 1569.682, the Licensing Program Analyst shall promptly review all licensee submitted eviction notices to ensure that the eviction notice includes the address and phone number for the local long-term care ombudsman.

For legislative information related to this new law:

http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_2051-2100/ab_2066_bill_20120927_chaptered.html

ACTION REQUIRED

AB 2343 (Torres), Chapter 256, Statutes of 2012

Affects: All Community Care Facilities (CCF), Residential Care Facilities for the Elderly (RCFE), Residential Care Facilities for the Chronically Ill (RCF-CI) and all Child Care Facilities (CCF).

Subject: AB 2343 Criminal History Information.

Summary: AB 2343 amends Sections 11105 and 11105.2 of the Penal Code, relating to criminal history information.

AB 2343 authorizes the Department of Justice (DOJ) to provide subsequent conviction information to CCLD. Previously DOJ provided this information without authority. DOJ ceased this practice in March of 2011.

In addition, this bill requires that CCLD provide an individual a copy of their entire criminal history record if the record is the basis for an adverse employment, licensing or certification decision.

Implementation: These provisions will be effective January 1, 2013. CBCB will revise its processes, the Evaluator Manual and the letters sent to individuals to include this information.

INFORMATION ONLY - NO ACTION REQUIRED

AB 1228 (Alquist), Chapter 671, Statutes of 2012

Affects: California Department of Public Health licensed Small House Skilled Nursing Facilities

Subject: Small house skilled nursing facilities.

Summary: This bill amends Section 1250 of, and adds and repeals Article 7.2 (commencing with Section 1323.5) of Chapter 2 of Division 2 of, the Health and Safety Code, relating to small house skilled nursing facilities.

This bill would establish the Small House Skilled Nursing Facilities Pilot Program within the Department of Public Health for the purposes of providing skilled nursing care in a home-like, noninstitutional setting. The bill would require that pilot facilities, as defined, meet specified requirements and pay specified fees. The bill would require the Department of Public Health to submit a report to the Legislature on the results of the pilot program at least 24 months prior to the termination of the pilot program. The capacity of these facilities is not to exceed 24 beds.

The purpose of the pilot program is to allow the Department of Public Health to authorize the development and operation of up to 10 small house skilled nursing facilities that are licensed to provide skilled nursing care and supportive care to patients in small, homelike, residential settings that incorporate emerging patient-centered health care concepts. The long-range goal of the pilot program is to evaluate the models developed under the pilot program to determine if each model improves patient satisfaction and clinical outcomes in a cost-effective manner.

For legislative information related to this new law:

http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_1201-1250/sb_1228_bill_20120927_chaptered.html

INFORMATION ONLY - NO ACTION REQUIRED

AB 2149 (Butler), Chapter 644, Statutes of 2012

Affects: Adult Day Programs, Adult Residential Facilities, Adult Residential Facilities for Person with Special Health Care Needs, Residential Care Facilities for the Chronically Ill, Residential Care Facilities for the Elderly, Continuing Care Retirement Communities

Subject: Elder and dependent adult abuse: settlement: gag order

Summary: This bill adds Section 15657.8 to the Welfare and Institutions Code, relating to elder and dependent adults.

This bill prohibits a settlement agreement in a civil action alleging physical abuse, neglect, or financial abuse of an elder or dependent adult, entered into on or after January 1, 2013, from containing any provision that (a) prevents any party from contacting, reporting, or cooperating with the county adult protective services agency, the local law enforcement agency, the long-term care ombudsman, any other government entity, or the defendants current employer, or (b) requires a party to withdraw a complaint they have already filed. Additionally, this bill provides that any such provision is void as against public policy.

For legislative information related to this new law:

http://leginfo.ca.gov/pub/11-12/bill/asm/ab_2101-2150/ab_2149_bill_20120927_chaptered.pdf

INFORMATION ONLY – NO ACTION REQUIRED

SB 1047 (Alquist), Chapter 651, Statutes of 2012

Affects: Residential Care Facilities for the Elderly, Continuing Care Retirement Communities, Residential Care Facilities for the Chronically III

Subject: Emergency services: seniors

Summary: Authorizes a law enforcement agency to request the California Highway Patrol (CHP) activate a "Silver Alert" if a person 65 years of age or older is reported missing under unexplained or suspicious circumstances. Upon activation, the CHP shall assist the investigating law enforcement agency by issuing a be-on-the-lookout alert, an Emergency Digital Information Service message, or an electronic flyer. Radio, television, and cable and satellite systems are encouraged, but not required, to cooperate with disseminating the information contained in a Silver Alert. A Silver Alert would not activate the emergency alert system, which is only utilized for AMBER Alerts and Blue Alerts.

The Silver Alert program will remain in effect until January 1, 2016.

For legislative information related to this new law:
http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_1001-1050/sb_1047_bill_20120927_chaptered.html

INFORMATION ONLY – NO ACTION REQUIRED

SB 1329 (Simitian), Chapter 709, Statutes of 2012

Affects: Residential Care Facilities for the Elderly

Subject: Prescription drugs: collection and distribution program

Summary: Amends Sections 150200, 150201, 150202, 150204, and 150205 of, and adds Section 150202.5 to, the Health and Safety Code, relating to pharmaceuticals.

The bill allows Residential Care Facilities for the Elderly (RCFE) with sixteen (16) or more residents, and other specified entities, to donate unused medication to a prescription drug depository and distribution program providing medication to medically indigent patients free of charge. Additionally, expands which pharmacies are eligible to dispense donated medications.

Eligible medications must have been:

- Directly delivered from the dispensing pharmacy, wholesaler or manufacturer to the RCFE or other care setting,
- Centrally stored (centrally stored medication that originated from the resident is not eligible),
- Unused,
- Unopened, in tamper-evident packaging, or in modified unit dose containers that meet United States Pharmacopoeia (USP) standards,
- Not expired,
- Not eligible for a refund or credit for the resident,
- Not a controlled substance, and
- Not have been adulterated, misbranded, or stored under conditions contrary to the standards set by the USP or the product manufacturer.

California Code of Regulations, Title 22, Division 6, Chapter 8 section 87465(i) requires that prescription medications which are not taken with an RCFE resident upon termination of services, not returned to the issuing pharmacy, nor retained in the RCFE as ordered by the resident's physician and documented in the resident's record nor disposed of according to the hospice's established procedures or which are otherwise to be disposed shall be destroyed in the facility by the facility administrator and one other adult who is not a resident. However, this bill allows RCFEs with 16 or more residents to donate medications according to the above listed requirements and participate in the prescription drug depository and distribution program. Participation in this program is voluntary, and a waiver to section 87465(j) is not necessary provided all program requirements are met and documentation of transaction is maintained in the resident's record.

For legislative information related to this new law:

http://leginfo.ca.gov/pub/11-12/bill/sen/sb_1301-1350/sb_1329_bill_20120928_chaptered.pdf

INFORMATION ONLY – NO ACTION REQUIRED

SB 1436 (Lowenthal), Chapter 71, Statutes of 2012

Affects: Any facility that is licensed or certified by the Department of Social Services, Community Care Licensing Division that has acquired and is equipped with an Automated External Defibrillator.

Subject: Automated External Defibrillators (AEDs)

Summary: This bill amends and repeals Section 1797.196 of the Health and Safety Code, relating to automated external defibrillators.

This bill makes permanent the existing protections, which would otherwise sunset on January 1, 2013, that provide general immunity from civil damages in connection with the use of Automated External Defibrillators as long as specified maintenance, training, and notice requirements are met.

For legislative information related to this new law:

http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_1401-1450/sb_1436_bill_20120710_chaptered.html

**SUMMARY AND IMPLEMENTATION PLANS
2012 CHAPTERED LEGISLATION**

**ADULT COMMUNITY CARE FACILITIES AND RESIDENTIAL
CARE FACILITIES FOR THE CHRONICALLY ILL**

BILL NUMBER/AUTHOR	SUBJECT	PAGE
ACTION REQUIRED		
AB 40 / Yamada and SB 1051 / Liu	Elder and Dependent Adult Abuse – Reporting Requirements	1
AB 1472 / Committee on Budget	Committee on Budget. Developmental Services.	5
AB 2343 / Torres	Criminal History Information	7
SB 1377 / Corbett	Protection and Advocacy Agencies	8
INFORMATION ONLY – NO ACTION REQUIRED		
SB 1381 / Pavley	Mental Retardation: change of term to intellectual disability	9

Unless otherwise noted, all new legislation becomes effective on January 1, 2013. When conducting licensing visits, 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

AB 40 (Yamada), Chapter 659, Statutes of 2012 and SB 1051 (Liu), Chapter 660, Statutes of 2012

Affects: Adult Day Programs (ADPs), Adult Residential Facilities (ARFs), Adult Residential Facilities for Persons with Special Health Care Needs (ARFPSHNs), Residential Care Facilities for the Elderly (RCFEs), Social Rehabilitation Facilities (SRFs)

Note: These bills do not change the reporting requirements regarding dependent adults being served by Residential Care Facilities for the Chronically Ill. Mandated reporters for clients of this facility type would adhere only to the reporting scheme in “3” below.

Subject: Elder and Dependent Adult Abuse – Reporting Requirements

Summary: Assembly Bill (AB) 40 and Senate Bill (SB) 1051 made changes to the elder and dependent abuse reporting statute, which are effective January 1, 2013. These are double jointed bills with SB 1051 as the ruling bill. Accordingly, both bills amended sections 15630 and 15631 of the Welfare and Institutions Code, relating to elder and dependent adult abuse. In addition, AB 40 added section 15610.67 to the Welfare and Institutions Code.

Though these bills do not change the fact that a mandated reporter is responsible to report known or suspected incidents of dependent adult or elder abuse, these bills do create four separate reporting standards (depending on the facts), which mandated abuse reporters are required to follow regarding clients in long-term care facilities.

AB 40 defines the term “serious bodily injury” as an injury involving extreme physical pain, substantial risk of death, or protracted loss or impairment of function of a bodily member, organ, or of mental faculty, or requiring medical intervention, including, but not limited to, hospitalization, surgery, or physical rehabilitation.

The bills divide incidents of suspected elder and dependent adult abuse into four different reporting standards based upon the mandated reporter’s analysis of the facts. In some cases, the bills shorten the previous mandatory reporting timeframes and increase the entities that receive these reports.

For any mandated reporter who, in his or her professional capacity, or within the scope of his or her professional employment, has observed or has knowledge of an incident that reasonably appears to be abuse, or reasonably suspects abuse, the following reporting requirements shall be followed:

- 1) If the suspected or alleged abuse is physical abuse and the abuse occurred in a long-term care facility the following shall occur:
 - a) If the suspected physical abuse results in serious bodily injury:

- i) A telephone report shall be made immediately and no later than within two hours to the local law enforcement agency of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse.
 - ii) A written report shall be made to the local ombudsman, the corresponding licensing agency (ex. California Department of Social Services Community Care Licensing), and the local law enforcement agency within two hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse.
 - b) If the suspected physical abuse does not result in serious bodily injury:
 - i) A telephone report shall be made to the local law enforcement agency within 24 hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse.
 - ii) A written report shall be made to the local long-term care ombudsman, the corresponding licensing agency (ex. California Department of Social Services Community Care Licensing), and the local law enforcement agency within 24 hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse.
 - c) When the suspected physical abuse is allegedly caused by a resident with a physician's diagnosis of dementia, and there is no serious bodily injury, as reasonably determined by the mandated reporter, drawing upon his or her training or experience:
 - i) A telephone report shall be made to the local long-term care ombudsman or law enforcement agency, immediately or as soon as practicably possible.
 - ii) A written report shall be made to the local long-term care ombudsman or law enforcement agency within 24 hours.
- 2) If the suspected or alleged abuse is abuse other than physical abuse:
- a) A telephone report shall be made to local ombudsman or the local law enforcement agency immediately or as soon as practicably possible.
 - b) A written report shall be made to local ombudsman or the local law enforcement agency within two working days.
- 3) These bills did not amend the requirements for mandated reporters to report suspected abuse regarding a dependent adult or elderly client of a Residential Care Facility for the Chronically III. In accordance with Welfare and Institutions Code section 15630(b)(1)(F), for any mandated reporter who, in his or her professional capacity, or within the scope of his or her professional employment, has observed or has knowledge of an incident that reasonably appears to be abuse, or reasonably suspects abuse:
- a) A telephone report or a report through a confidential Internet reporting tool shall be made to adult protective services or law enforcement agency immediately or as soon as practicably possible.

- b) If reported by telephone, a written report shall be sent, or an Internet report shall be made through the confidential Internet reporting tool established in Welfare and Institutions Code Section 15658, shall be made to adult protective services or law enforcement agency within two working days.

As a reminder, Licensing Program Analysts are mandated reporters of suspected dependent adult and elder abuse in accordance with Welfare and Institutions Code Section 15630 and Penal Code Section 11166(a). Also, the licensee and his/her staff are mandated reporters. When a Licensing Program Analyst observes or has knowledge of abuse against an elder or a dependent adult in a long-term care facility, he/she is to complete a State of California (SOC) 341 "Report of Suspected Elder/Dependent Abuse" report if unable to immediately verify and document that an SOC 341 was already submitted for the same suspected abuse by another mandated reporter.

Regional Office staff must refer all allegations of serious abuse or suspicious deaths to the Investigations Branch, as outlined in Evaluator Manual section 1-0620, Investigative Priorities.

Resources

- Suspected elder and dependent adult abuse shall be reported utilizing the SOC 341 Report of Suspected Dependent Adult/Elder Abuse form, which can be found at: <http://www.cdss.ca.gov/cdssweb/entres/forms/English/SOC341.pdf>

Implementation Plan: These reporting requirements are effective January 1, 2013, and the Community Care Licensing Division (CCLD) shall implement as follows:

**Reporting Procedures for Suspected Dependent Adult and Elder Abuse
Occurring In A Long-term Care Facility**

(Adult Residential Facility, Adult Day Program, Adult Residential Facility for Persons with Special Health Care Needs, Social Rehabilitation Facility or Residential Care Facility for the Elderly)

Note: See separate procedures for Residential Care Facilities for the Chronically Ill below.

<p>If suspected physical abuse and it results in serious bodily injury*</p> <p><i>Reference: Welfare and Institutions Code, Sec. 15630 (b)(1)(A)(i)</i></p>	<p><u>Two hours:</u> A telephone report shall be made to the local law enforcement agency immediately, and no later than within two hours of the mandated reporter observing, obtaining knowledge of, or suspecting physical abuse.</p> <p><u>Two hours:</u> A written report shall be made to the local ombudsman, the corresponding licensing agency (e.g. CDSS), <i>and</i> the local law enforcement agency within two hours of the mandated reporter observing, obtaining knowledge of, or suspecting physical abuse.</p>
<p>If suspected physical abuse and it does not result in serious bodily injury*</p> <p><i>Reference: Welfare and Institutions Code, Sec. 15630 (b)(1)(A)(ii)</i></p>	<p><u>24 hours:</u> A telephone report shall be made to the local law enforcement within 24 hours of the mandated reporter observing, obtaining knowledge of, or suspecting physical abuse.</p> <p><u>24 hours:</u> A written report shall be made to the local ombudsman, the corresponding licensing agency (e.g. CDSS), <i>and</i> the local law enforcement agency within 24 hours of the mandated reporter observing, obtaining knowledge of, or suspecting physical abuse.</p>
<p>If suspected physical abuse and it is allegedly caused by a resident with a physician's diagnosis of dementia, and there is no serious bodily injury, as reasonably determined by the mandated reporter drawing upon his or her training or experience</p> <p><i>Reference: Welfare and Institutions Code, Sec. 15630 (b)(1)(A)(iii)</i></p>	<p><u>Immediately or as soon as practically possible:</u> A telephone report shall be made to the local ombudsman <i>or</i> law enforcement agency immediately or as soon as practicably possibly.</p> <p><u>24 hours:</u> A written report shall be made to the local ombudsman <i>or</i> the local law enforcement agency within 24 hours.</p>
<p>If the suspected or alleged abuse is abuse other than physical abuse</p> <p><i>Reference: Welfare and Institutions Code, Sec. 15630 (b)(1)(C)</i></p>	<p><u>Immediately or as soon as practically possible:</u> A telephone report shall be made to the local ombudsman <i>or</i> law enforcement agency immediately or as soon as practicably possible.</p> <p><u>Two working days:</u> If the above was reported by telephone, a written report shall be sent to the local ombudsman <i>or</i> law enforcement agency within two working days.</p>
<p>If the suspected or alleged abuse occurred any place other than a long-term care facility**:</p> <p><i>Reference: Welfare and Institution Code, Sec. 15630 (b)(1)(F)</i></p>	<p><u>Immediately or as soon as practically possible:</u> A telephone report or a report through a confidential Internet reporting tool shall be made to adult protective services or law enforcement agency immediately or as soon as practicably possible</p> <p><u>Two working days:</u> If reported by telephone, a written report shall be sent, or an Internet report shall be made through the confidential Internet reporting tool established in Welfare and Institutions Code Section 15658, shall be made to adult protective services or law enforcement agency within two working days.</p>

* SEC 15610.67. "Serious bodily injury" means an injury involving extreme physical pain, substantial risk of death, or protracted loss or impairment of function of a bodily member, organ, or of mental faculty, or requiring medical intervention, including, but not limited to, hospitalization, surgery, or physical rehabilitation.

A **Residential Care Facility for the Chronically Ill must adhere to this separate provision as this facility type is not a long-term care facility (Welfare and Institution Code, Sec. 15610.47).