

ACTION REQUIRED

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

This law became effective January 1, 2015.

Affects: Residential Care Facilities for the Elderly

Subject: Residential care facilities for the elderly

Summary: [Assembly Bill 2044](#) amended Sections [1569.618](#) and [1569.625](#) of the Health and Safety Code.

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

IMPLEMENTATION

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

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

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

Licensees

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

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

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

Presence of an Administrator Facility Manager, or Designated Substitute

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

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

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

Sufficient Staffing

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

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

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

Direct Care Staff Training

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

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

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

Licensing Program Analysts

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

Presence of an Administrator, Facility Manager, or Designated Substitute

Licensing Program Analysts should review the following documents for compliance:

- Staff schedules and related records at facilities to verify on-site 24 hour coverage by appropriate staff (i.e. administrator, facility manager, or designated substitute).
- Applicable personnel and staff training records at facilities to determine whether:
 - The administrator, facility manager, or designated substitute(s) providing coverage has met the requirement to be 21 years of age; and
 - The designated substitute(s) providing coverage has met knowledge, familiarity, and training requirements.

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

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

Sufficient Staffing

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

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

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

Direct Care Staff Training

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

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

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

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

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

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