

ACTION REQUIRED

SB 211 (Dunn), CHAPTER 211, STATUTES OF 2003

Affects: Residential Care Facilities for the Elderly (RCFEs). Does not apply to facilities that have obtained a certificate of authority to offer continuing care contracts.

Subject: Admission Agreements

Summary: This legislation adds Health and Safety (H&S) Code Sections 1569.880 through 1569.888 to ensure that concerning-RCFE requirements for admission agreements do not violate resident's rights and to provide residents with the information necessary to make informed choices. The following description of these ~~new~~ provisions includes general information, and ~~specific~~ requirements to be included, or excluded in the agreement as specified. Many requirements overlap existing statutes or regulations in Title 22 California Code of Regulations (CCR) chapter 6. The applicability of some of ~~the~~ requirements will depend on the type of services provided by the facility.

~~H&Sealth and Safety~~ Code Section 1569.880 defines an admission agreement to include all documents the resident, or the resident's representative, must sign to be admitted to the facility. (consistent with H&S Code Section 1569.54). It may not include any written attachment containing any prohibited provision ~~prohibited from inclusion.~~

~~H&Sealth and Safety~~ Code Section 1569.881 requires that blank completesample copies of the admission agreement be immediately available to the public ~~on an immediate basis~~, subject to facility cost, and copying/mailling time ~~to copy, and/or mail the document.~~ A complete copy of the agreement, or notice of its availability from the facility, must be placed in a conspicuous location accessible to public view in the facility.

The admission agreement must comply with aAdditional ~~new admission agreement~~ provisions ~~are~~ outlined below:

- Be written in clear, coherent and unambiguous language, using words with common and everyday meaning. It must be appropriately divided with each section appropriately captioned. (H&S Code Section 1569.882(b))
- Be pPrinted in black ink, 12-point type size, on plain white paper using one side of the paper. ~~(H&Sealth and Safety Code Section 1569.882(a), consistent with H&S Code Section 123222.1 requiring RCFEs to use 12-point font for information regarding residents' rights and responsibilities)~~
- ~~Write in clear, unambiguous language, using words with common and everyday meaning. Divide each section in a way that makes sense, and caption each with a title appropriate for the information contained in that section. (Health and Safety Code Section 1569.882)~~
- ~~Do not~~ include any provision(s) of unlawful waivers of facility liability for the residents' health and safety or personal property ~~of residents.~~ (H&Sealth and Safety Code Section 1569.883(a), consistent with H&S Code Section 1569.54 and CCR Section 87727.1(a)(3) regarding the residents' personal property)

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- ~~Do Not~~ include any provision that the licensee knows, or should know is deceptive or unlawful. (~~H&Sealth and Safety~~ Code Section 1569.883(b))



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- Include a comp~~rehensive~~lete description of any items and service(s) provided under a single fee, such as a monthly fee for room, board, combined with other items and services ~~is included in the agreement~~. (~~H&Sealth and Safety~~ Code Section 1569.884(a), consistent with CCR Sections 87222(a)(2) and 87568(c)(1)-(2))
- Include a comp~~rehensive~~lete description of, and the fee schedule for, all items and services not included in a single fee ~~in the agreement~~. The agreement also must indicate that the resident will receive a monthly statement ~~itemizing~~detailing all separate charges ~~incurred by the resident~~. (~~H&Sealth and Safety~~ Code Section 1569.884(b), consistent with CCR Section 87568(c)(3))
- Authorize any ~~Outline any~~ separate charge(s) for any additional item or service ~~in the agreement~~. If additional services are available for purchase through the facility that were not available at the time the agreement was signed, a list of these services and charges must be provided to the resident or the resident's representative, who must sign and date a statement acknowledging the acceptance or refusal to purchase them. (~~Health an&d Safety~~ Code Section 1569.884(c), consistent with CCR Section 87568(d))
- Include a statement acknowledging the acceptance or refusal to purchase the additional services., signed and dated by the resident, or the resident's representative and attached to the agreement. (Health and Safety Code Section 1569.884)
- Explain the use of any third-party services within the facility ~~that are as it related~~de to the resident's service plan, including, but not limited to, ancillary, health, and medical services, how they~~se services~~ may be arranged, accessed, and monitored, along with any restrictions on third-party services, and who is financially responsible for the ~~third-party~~ services. (~~H&Sealth and Safety~~ Code Section 1569.884(d), consistent with CCR Section 87568(d))
- Include a comp~~rehensive~~lete description of billing and payment policies and procedures. (~~H&Sealth and Safety~~ Code Section 1569.884(e), consistent with CCR Section 87568(c)(3))
- ~~List~~include the conditions under which rates may be increased, pursuant to- These must not conflict with H&S Code section 1569.655 that requires concerning the need for 60 day's written notice, and stating the amount of, and the reason(s) for, and a general description of, the increase, except when due to a change in the level of the resident's care. (Health and Safety Code Section 1569.884(f), reinforcing H&S Code Section 1569.655(a))
- Include the facility's policy concerning family visits and other communication with residents, pursuant to H&S Code Section 1569.313 that requires this information

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to be stated on either the client information form or the admission agreement. (H&S Code Section 1569.884(g), reinforcing H&S Code Section 1569.313 and restating CCR Section 87568(c)(9))

- State ~~Outline~~ the facility's policies concerning refunds. (H&S ~~Health and Safety~~ Code Section 1569.884(h), consistent with H&S Code Section 1569.655(b) concerning preadmission fees, and restating CCR section 87568(c)(5))

3



- State the conditions under which the agreement may be terminated. (~~Health & S and Safety~~ Code Section 1569.884(i), consistent with CCR Sections 87568(c)(8), (c)(10), and 87568(h))
- Ensure that when referring to a resident's obligation to observe facility rules, those rules must be concerning resident responsibilities are reasonable, with a facility and a procedure for suggesting rule changes. (~~H&S ~~Health and Safety~~~~ Code Section 1569.885(a), consistent with CCR Section 87568(c)(7))
- Specify that a copy of the facility grievance procedure for resolution of a resident's complaint(s) ~~shall be~~ is available to the resident or the resident's representative. (~~H&S ~~Health and Safety~~~~ Code Section 1569.885(b))
- Inform ~~the~~ residents of ~~their~~his/her right to contact the State Department of Social Services, the long-term care ombudsman, or both, regarding grievances against the facility. (~~H&S ~~Health and Safety~~~~ Code Section 1569.885(c), consistent with H&S Code Section 1569.35(a))
- Include as an attachment a copy of any applicable resident's rights specified by law or regulation. (~~H&S~~ Code Section 1569.885(d), consistent with CCR Section 87572(b) and CDSS form admission agreement LIC 604A)
- ~~Not include any ground for involuntary transfer or eviction unless those grounds are specified under state law or regulation.~~
- ~~List the justifications for eviction permissible under state law or regulation, exactly as worded in the applicable law or regulation, except. Some flexibility in wording is acceptable, but only to the extent of avoiding confusion. See Title 22, Division 6, Chapter 8, Section 87569 of the RCFE regulations entitled "Eviction Procedures" for exact wording. (Health and Safety Code Section 1569.886)~~
- Include an explanation of the in-resident's right to notice prior to any involuntary transfer, discharge, or eviction, the resident's process to appeal the decision, and a description of the relocation assistance offered by the facility. (~~Health and S & S~~ Code Section 1569.886, consistent with H&S Code Section 1569.54 and ~~)~~CCR Sections 87568(c)(8), (c)(10) and (h))

H&S Code Section 1569.887 requires that the agreement shall be

- Signed and dated by the resident or resident's representative acknowledging the contents;
- Retained in the resident's file, with all subsequent modifications;
- Copied and provided to the resident or resident's representative; and

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- Reviewed by the licensing agency at the time of the compliance visit and in response to a complaint involving the admission agreement. (H&S Code Section 1569.887, consistent with CCR Sections 87568(e)&(f), and 87570(b)(13))

Implementation:

Most provisions are self-enforcing and ~~Until regulations are developed, use~~ the statutory provisions in ~~the~~ Health and Safety Code should be used as the citing authority, along with any corresponding regulation.

The circle bulleted items may be added to any existing ~~used as a~~ checklist for reviewing the facility's admission agreement. The admission agreement currently available for optional use by licensees (LIC 604A 5/00), will be updated to reflect these and other recent changes.

4

In addition to reviewing the admission agreement in conjunction with an application to operate an RCFE, t
An addendum reflecting these amendments must be signed and dated by current and future residents. The statute states that the Department ~~must is responsible to~~ review the ~~admission~~ agreement for facilities licensed prior to January 1, 2004 -at the time of the compliance visit, and in response to a complaint involving the admission agreement.

5 ~~Once the admission agreement (LIC 604A-5/00), is updated and available, review of the admission agreement will be incorporated as part of the compliance visit.~~