

Manual of Policies and Procedures
COMMUNITY CARE LICENSING DIVISION

**RESIDENTIAL CARE
FACILITIES
FOR THE ELDERLY
(RCFE)**

**Title 22
Division 6
Chapter 8**



**STATE OF CALIFORNIA
HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES**

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This Users' Manual is issued as an operational tool.

This Manual contains:

- a) Regulations adopted by the Department of Social Services (DSS) for the governance of its agents, licensees, and/or beneficiaries.
- b) Regulations adopted by other State Departments affecting DSS programs.
- c) Statutes from appropriate Codes which govern DSS programs.
- d) Court decisions; and
- e) Operational standards by which DSS staff will evaluate performance within DSS programs.

Regulations of DSS are printed in gothic type as is this sentence.

Handbook material, which includes reprinted statutory material, other department's regulations and examples, is separated from the regulations by double lines and the phrases "**HANDBOOK BEGINS HERE**", "**HANDBOOK CONTINUES**", and "**HANDBOOK ENDS HERE**" in bold print. Please note that both other departments' regulations and statutes are mandatory, not optional.

In addition, please note that as a result of the change to a new computer system revised language in this manual letter and subsequent community care licensing changes will now be identified by a line in the left margin.

Questions relative to this Users' Manual should be directed to your usual program policy office.

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Article 1. Definitions and Forms**87100 GENERAL****87100**

The provisions of Chapter 1, Division 6, shall not apply to the provisions of Chapter 8, Residential Care Facilities for the Elderly (RCFE).

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Section 1569.2, Health and Safety Code.

87101 DEFINITIONS**87101**

- (a) (1) "Administrator" means the individual designated by the licensee to act in behalf of the licensee in the overall management of the facility. The licensee, if an individual, and the administrator may be one and the same person.
- (2) "Admission Agreement" includes all documents that a resident or resident's representative must sign at the time of, or as a condition of, admission.

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Health and Safety Code section 1569.880 provides:

- (a) For purposes of this section, an "admission agreement" includes all documents that a resident or his or her representative must sign at the time of, or as a condition of, admission to a residential care facility for the elderly licensed under this chapter.
- (b) The admission agreement shall not include any written attachment containing any provision that is prohibited from being included in the admission agreement.

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- (3) "Adult" means a person who is eighteen (18) years of age or older.
- (4) "Adult protective services agency" means a county welfare department, as defined in Welfare and Institutions Code section 15610.13.

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Welfare and Institutions Code section 15610.13 provides:

"Adult protective services agency" means a county welfare department, except persons who do not work directly with elders or dependent adults as part of their official duties, including members of support staff and maintenance staff."

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87101 DEFINITIONS (Continued)

87101

- (5) "Advance Health Care Directive" means a written instruction that relates to the provision of health care when the individual is incapacitated. Advance directives include, but are not limited to, a Durable Power of Attorney for Health Care, an Individual Health Care Instruction, a Request to Forego Resuscitative Measures, or a Do Not Resuscitate Form. In an advance directive, a person states choices for medical treatment and/or designates who should make treatment choices if the person creating the advance directive should lose decision-making capacity.
- (6) "Allowable Health Condition" means any health condition that the licensee is allowed to care for either in accordance with a specific regulation, or with an exception approved by the licensing agency. This includes restricted health conditions as specified in Section 87612, Restricted Health Conditions.
- (7) "Ambulatory Person" means a person who is capable of demonstrating the mental competence and physical ability to leave a building without assistance of any other person or without the use of any mechanical aid in case of an emergency.
- (8) "Automated External Defibrillator" (AED) means a light-weight, portable device used to administer an electric shock through the chest wall to the heart. Built-in computers assess the patient's heart rhythm, determine whether defibrillation (electrical shock) is needed and then administer the shock. Audible and/or visual prompts guide the user through the process.
- (9) "Applicant" means any individual, firm, partnership, association, corporation, county, city, public agency or other government entity that has made application for a residential care facility for the elderly license, administrator certificate, or special permit.
- (10) "Appropriately Skilled Professional" means an individual that has training and is licensed to perform the necessary medical procedures prescribed by a physician. This includes but is not limited to the following: Registered Nurse (RN), Licensed Vocational Nurse (LVN), Physical Therapist (PT), Occupational Therapist (OT) and Respiratory Therapist (RT). These professionals may include, but are not limited to, those persons employed by a home health agency, the resident, or facilities and who are currently licensed in California.
- (b) (1) "Basic Rate" means the SSI/SSP established rate, which does not include that amount allocated for the recipient's personal and incidental needs.
- (2) "Basic Services," as defined in Health and Safety Code section 1569.312, means those services required to be provided by the facility in order to obtain and maintain a license and include, in such combinations as may meet the needs of the residents and be applicable to the type of facility to be operated, the following: safe and healthful living accommodations; personal assistance and care; observation and supervision; planned activities; food service; and arrangements for obtaining incidental medical and dental care.

87101 DEFINITIONS (Continued)

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Health and Safety Code section 1569.312 provides:

Every facility required to be licensed under this chapter shall provide at least the following basic services:

- (a) Care and supervision as defined in Section 1569.2.
- (b) Assistance with instrumental activities of daily living in the combinations which meet the needs of residents.
- (c) Helping residents gain access to appropriate supportive services, as defined, in the community.
- (d) Being aware of the resident's general whereabouts, although the resident may travel independently in the community.
- (e) Monitoring the activities of the residents while they are under the supervision of the facility to ensure their general health, safety, and well-being.
- (f) Encouraging the residents to maintain and develop their maximum functional ability through participation in planned activities.

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- (c) (1) "California Clearance" means an individual has no felony or misdemeanor convictions reported by the California Department of Justice. However, the individual may have been arrested with no criminal conviction, convicted of a minor traffic offense or adjudicated as a juvenile.
- (2) "Capacity" means that maximum number of persons authorized to be provided services at any one time in any licensed facility.

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87101 **DEFINITIONS** (Continued)**87101**

- (3) "Care and Supervision" means those activities which if provided shall require the facility to be licensed. It involves assistance as needed with activities of daily living and the assumption of varying degrees of responsibility for the safety and well-being of residents. "Care and Supervision" shall include, but not be limited to, any one or more of the following activities provided by a person or facility to meet the needs of the residents:
- (A) Assistance in dressing, grooming, bathing and other personal hygiene;
 - (B) Assistance with taking medication, as specified in Section 87465, Incidental Medical and Dental Care Services;
 - (C) Central storing and distribution of medications, as specified in Section 87465, Incidental Medical and Dental Care Services;
 - (D) Arrangement of and assistance with medical and dental care. This may include transportation, as specified in Section 87465, Incidental Medical and Dental Care Services;
 - (E) Maintenance of house rules for the protection of residents;
 - (F) Supervision of resident schedules and activities;
 - (G) Maintenance and supervision of resident monies or property;
 - (H) Monitoring food intake or special diets.
- (4) "Certificate holder" means a person who has a current administrator's certificate issued by the Department regardless of whether the person is employed as an administrator in a residential care facility for the elderly.
- (5) "Certified administrator" means an administrator who has been issued a residential care facility for the elderly administrator certificate by the Department and whose certificate is current.
- (6) "Classroom Hour" means fifty (50) to sixty (60) minutes of classroom instruction within a 60-minute period. No credit is given for meal breaks.
- (7) "Classroom setting" means a setting, conducive to learning and free from distractions, for which the primary purpose is education, instruction, training, or conference. Participants must be able to simultaneously interact with each other as well as with the instructor.
- (8) "Close friend" means a person who is attached to another by feelings of personal regard as indicated by both parties involved.

87101 DEFINITIONS (Continued)**87101**

- (9) "Co-locate" means that a vendor applicant is approved for more than one program type, i.e., ARF, RCFE, GH, and has received approval to teach specific continuing education courses at the same time and at the same location. Co-location is allowed for Continuing Education Training Program vendors only.
- (10) "Community Care Facility" means any facility, place or building providing nonmedical care and supervision, as defined in Section 87101(c)(3).
- (11) "Complete request" means the vendor applicant has submitted, and the Department has received, all required information and materials necessary to approve or deny the request for certification program and/or course approval.
- (12) "Conservator" means a person appointed by the Superior Court pursuant to Probate Code section 1800 et. seq. or Welfare and Institutions Code section 5350, to care for the person, or estate, or person and estate, of an adult.
- (13) "Consultant" means a person professionally qualified by training and experience to provide expert information on a particular subject.
- (14) "Continuing Care Contract" is defined in Health and Safety Code section 1771(c)(8).

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Health and Safety Code section 1771(c)(8) provides:

"Continuing care contract' means a contract that includes a continuing care promise made, in exchange for an entrance fee, the payment of periodic charges, or both types of payments. A continuing care contract may consist of one agreement or a series of agreements and other writings incorporated by reference."

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- (15) "Continuing Education Training Program Vendor" means a vendor approved by the Department to provide continuing education training courses to residential care facility for the elderly administrators and certificate holders to qualify them for renewal of their residential care facility for the elderly administrator certificate.

87101 **DEFINITIONS** (Continued)**87101**

- (16) "Control of Property" means the right to enter, occupy, and maintain the operation of the facility property within regulatory requirements. Evidence of control of property shall include, but is not limited to, the following:
- (A) A Grant Deed showing ownership; or
 - (B) The Lease Agreement or Rental Agreement; or
 - (C) A court order or similar document which shows the authority to control the property pending outcome of probate proceeding or estate settlement.
- (17) "Conviction" means:
- (A) A criminal conviction in California; or
 - (B) Any criminal conviction of another state, federal, military or other jurisdiction, which if committed or attempted in California, would have been punishable as a crime in California.
- (18) "Course" means either, (1) a quarter- or semester-long structured sequence of classroom instruction covering a specific subject, or (2) a one-time seminar, workshop, or lecture of varying duration.
- (19) "Criminal Record Clearance" means an individual has a California clearance and a FBI clearance.
- (d) (1) "Day" means calendar day unless otherwise specified.
- (2) "Deficiency" means any failure to comply with any provision of the Residential Care Facilities Act for the Elderly and regulations adopted by the Department pursuant to the Act.
- (3) "Delayed Egress Device" means a special egress-control device of the time delay type as specified in Health and Safety Code section 1569.699(a).

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Health and Safety Code section 1569.699(a) provides:

"When approved by the person responsible for enforcement as described in Section 13146, exit doors in facilities classified as Group R, Division 2 facilities under the California Building Standards Code, licensed as residential care facilities for the elderly, and housing clients with Alzheimer's disease or dementia, may be equipped with approved listed special egress-control devices of the time-delay type, provided the building is protected throughout by an approved automatic sprinkler system and an approved automatic smoke-detection system. The devices shall conform to all of the following requirements:

- (1) Automatic deactivation of the egress-control device upon activation of either the sprinkler system or the detection system.
- (2) Automatic deactivation of the egress-control device upon loss of electrical power to any one of the following: The egress-control device; the smoke-detection system; exit illumination as required by Section 1012 of the California Building Code.
- (3) Be capable of being deactivated by a signal from a switch located in an approved location.
- (4) Initiate an irreversible process that will deactivate the egress-control device whenever a manual force of not more than 15 pounds (66.72N) is applied for two seconds to the panic bar or other door-latching hardware. The egress-control device shall deactivate within an approved time period not to exceed a total of 15 seconds, except that the person responsible for enforcement as described in Section 13146 may approve a delay not to exceed 30 seconds in residential care facilities for the elderly serving patients with Alzheimer's disease. The time delay established for each egress-control device shall not be field adjustable.
- (5) Actuation of the panic bar or other door-latching hardware shall activate an audible signal at the door.
- (6) The unlatching shall not require more than one operation.

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- (7) A sign shall be provided on the door located above and within 12 inches (305mm) of the panic bar or other door-latching hardware reading:

KEEP PUSHING, THIS DOOR WILL OPEN IN ____ SECONDS, ALARM WILL SOUND.

Sign letters shall be at least one inch (25mm) in height and shall have a stroke of not less than 1/8 inch (3.3mm).

- (8) Regardless of the means of deactivation, relocking of the egress-control device shall be by manual means only at the door."

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- (4) "Dementia" means the loss of intellectual function (such as thinking, remembering, reasoning, exercising judgment and making decisions) and other cognitive functions, sufficient to interfere with an individual's ability to perform activities of daily living or to carry out social or occupational activities. Dementia is not a disease itself, but rather a group of symptoms that may accompany certain conditions or diseases, including Alzheimer's Disease. Symptoms may include changes in personality, mood, and/or behavior. Dementia is irreversible when caused by disease or injury, but may be reversible when caused by depression, drugs, alcohol, or hormone/vitamin imbalances.
- (5) "Department" is defined in Health and Safety Code section 1569.2(c).

HANDBOOK BEGINS HERE

Health and Safety Code section 1569.2(c) provides:

"'Department' means the State Department of Social Services."

HANDBOOK ENDS HERE

- (6) "Dietitian" means a person who is eligible for registration by the American Dietetic Association.
- (7) "Direct care staff" means the licensee, or those individuals employed by the licensee, who provide direct care to the residents, including, but not limited to, assistance with activities of daily living.
- (8) "Director" is defined in Health and Safety Code section 1569.2(d).

87101 DEFINITIONS (Continued)

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Health and Safety Code section 1569.2(d) provides:

"Director' means the Director of the State Department of Social Services."

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- (9) "Do-Not-Resuscitate (DNR) Form" means the pre-hospital do-not-resuscitate forms developed by the California Emergency Medical Services Authority and by other local emergency medical services agencies. These forms, when properly completed by a resident or (in certain instances) a resident's Health Care Surrogate Decision Maker, and by a physician, alert pre-hospital emergency medical services personnel to the resident's wish to forego resuscitative measures in the event of the resident's cardiac or respiratory arrest.
- (10) "Documentation" means written supportive information including but not limited to the Licensing Report (Form LIC 809).
- (e) (1) "Egress Alert Device" means a wrist band or other device which may be worn by a resident or carried on a resident's person, which triggers a visual or auditory alarm when the resident leaves the facility building or grounds.
- (2) "Elderly Person" means, for purposes of admission into a residential care facility for the elderly, a person who is sixty (60) years of age or older.
- (3) "Emergency Approval to Operate" (EAO) means a temporary approval to operate a facility for no more than 60 days pending the issuance or denial of a license by the licensing agency.
- (4) "Evaluator" means any person who is a duly authorized officer, employee or agent of the Department including any officer, employee or agent of a county or other public agency authorized by contract to license community care facilities.
- (5) "Evidence of Licensee's Death" shall include, but is not limited to, a copy of the death certificate, obituary notice, certification of death from the decedent's mortuary, or a letter from the attending physician or coroner's office verifying the death of the licensee.
- (6) "Exception" means a variance to a specific regulation based on the unique needs or circumstances of a specific resident or staff person. Requests for exceptions are made to the licensing agency by an applicant or licensee. They may be granted for a particular facility, resident or staff person, but cannot be transferred or applied to other individuals.

87101 **DEFINITIONS** (Continued) **87101**

- (7) "Existing Facility" means any facility operating under a valid license on the date of application for a new license.
- (f) (1) "Facility Hospice Care Waiver" means a waiver from the limitation on retention of residents who require more care and supervision than other residents and residents who are bedridden other than for a temporary illness. The Hospice Care Waiver granted by the Department will permit the retention in a facility of a designated maximum number of terminally ill residents who are receiving hospice services from a hospice agency. The Facility Hospice Care Waiver will apply only to those residents who are receiving hospice care in compliance with a hospice care plan meeting the requirements of Section 87633, Hospice Care for Terminally Ill Residents.
- (2) "Federal Bureau of Investigation (FBI) Clearance" means an individual has no felony or misdemeanor convictions reported by the FBI. The individual may also have been arrested with no criminal conviction, convicted of a minor traffic offense or adjudicated as a juvenile.
- (g) (1) "Guardian" means a person appointed by the Superior Court pursuant to Probate Code section 1500 et seq. to care for the person, or person and estate, of a child.
- (h) (1) "Healing wounds" include cuts, stage one and two dermal ulcers as diagnosed by a physician, and incisions that are being treated by an appropriate skilled professional with the affected area returning to its normal state. They may involve breaking or laceration of the skin and usually damage to the underlying tissues.
- (2) "Health Care Provider" means those persons described in Probate Code section 4621: "an individual licensed, certified, or otherwise authorized or permitted by the law of this state to provide health care in the ordinary course of business or practice of a profession."
- (3) "Health Care Surrogate Decision Maker" means an individual who participates in health care decision making on behalf of an incapacitated resident. Health care surrogate decision maker may be formally appointed (e.g., by the resident in a Durable Power of Attorney for Health Care or by a court in a conservatorship proceeding) or, in the absence of a formal appointment, may be recognized by virtue of a relationship with the resident (e.g., the resident's next of kin). The licensee or any staff member of the facility shall not be appointed health care surrogate decision maker.
- (4) "Health Condition Relocation Order" means written notice by the Department to a licensee requiring the relocation of a resident from a residential care facility for the elderly because the resident has a health condition which cannot be cared for within the limits of the license, requires inpatient care in a health facility or has a prohibited health condition as specified in Section 87615, Prohibited Health Conditions.

87101 **DEFINITIONS** (Continued)**87101**

- (5) "Home Economist" means a person who holds a baccalaureate or higher degree in home economics and who specialized in either food and nutrition or dietetics.
- (6) "Hospice or Hospice Agency" means an entity which provides hospice services to terminally ill persons, is Medicare certified for hospice, and holds either a Hospice license or a Home Health Agency license from the California Department of Public Health. Any organizations, appropriately skilled professionals, or other professional persons or entities that are subcontracted by the hospice or hospice agency for the provision of specified hospice services to the resident are included within the definition. The hospice agency providing services in an RCFE shall not subcontract with the licensee or any facility staff for the provision of services.
- (7) "Hospice Care Plan" means the hospice agency's written plan of care for a terminally ill resident. The hospice shall retain overall responsibility for the development and maintenance of the plan and quality of hospice services delivered.
- (i) (1) "Immediate Need" means a situation where prohibiting the operation of the facility would be detrimental to a resident's physical health, mental health, safety, or welfare. Examples of immediate need include but are not limited to:
- (A) A change in facility location when residents are in need of services from the same operator at the new location;
 - (B) A change of facility ownership when residents are in need of services from the new operator.
- (2) "Initial Certification Training Program Vendor" means a vendor approved by the Department to provide the initial eighty (80) hour certification training program to persons who do not possess a valid residential care facility for the elderly administrator certificate.
- (3) "Instruction" means to furnish an individual with knowledge or to teach, give orders, or direction of a process or procedure.
- (4) "Interdisciplinary Team" means a team that shall assist the Department in evaluating the need for relocating a resident of a residential care facility for the elderly when the resident has requested a review of the Department's health-condition relocation order. This team shall consist of the Department's nurse consultant and a social worker, designated by the Department, with experience in the needs of the elderly. Persons selected for an interdisciplinary team review shall not have been involved in the initial decision to issue a relocation order for the resident in question.

87101 DEFINITIONS (Continued)**87101**

- (j) (Reserved)
- (k) (Reserved)
- (l) (1) "License" is defined in Health and Safety Code section 1569.2(g).

HANDBOOK BEGINS HERE

Health and Safety Code section 1569.2(g) reads:

"License" means a basic permit to operate a residential care facility for the elderly.

HANDBOOK ENDS HERE

- (2) "Licensed Professional" means a person who is licensed in California to provide medical care or therapy. This includes physicians and surgeons, physician assistants, nurse practitioners, registered nurses, licensed vocational nurses, psychiatric technicians, physical therapists, occupational therapists and respiratory therapists, who are operating within his/her scope of practice.
 - (3) "Licensee" means the individual, firm, partnership, corporation, association or county having the authority and responsibility for the operation of a licensed facility.
 - (4) "Licensing Agency" means a state, county or other public agency authorized by the Department to assume specified licensing, approval or consultation responsibilities pursuant to Health and Safety Code section 1569.13.
- (m) (1) "Mandated Reporter" is defined in Welfare and Institutions Code Section 15630(a).

HANDBOOK BEGINS HERE

Welfare and Institutions Code Section 15630(a) provides:

Any person who has assumed full or intermittent responsibility for the care or custody of an elder or dependent adult, whether or not he or she receives compensation, including administrators, supervisors, and any licensed staff of a public or private facility that provides care or services for elder or dependent adults, or any elder or dependent adult care custodian, health practitioner, clergy member, or employee of a county adult protective services agency or a local law enforcement agency, is a mandated reporter.

HANDBOOK ENDS HERE

- (2) "Medical Professional" means an individual who is licensed or certified in California to perform the necessary medical procedures within his/her scope of practice. This includes, but is not limited to, Medical Doctor (MD), Registered Nurse (RN) and Licensed Vocational Nurse (LVN).

87101 DEFINITIONS (Continued)**87101**

- (3) "Mild cognitive impairment" (MCI) refers to people whose cognitive abilities are in a "conditional state" between normal aging and dementia. Normal age-related memory changes can include forgetting a person's name or the location of an object, however, individuals with MCI have difficulty with short-term memory loss. MCI is a state in which at least one cognitive function, usually short-term memory, is impaired to an extent that is greater than would be anticipated in the normal aging process. MCI is characterized by short-term memory problems, but no other symptoms of dementia (e.g., problems with language, judgment, changes in personality or behavior) that affect a person's daily functioning. Individuals with MCI may experience some difficulty with intellectually demanding activities, but lack the degree of cognitive and functional impairment required to meet diagnostic criteria for dementia.
- (n) (1) "New Facility" means any facility applying for an initial license whether newly constructed or previously existing for some other purpose.
- (2) "Nonambulatory Person" means a person who is unable to leave a building unassisted under emergency conditions. It includes, but is not limited to, those persons who depend upon mechanical aids such as crutches, walkers, and wheelchairs. It also includes persons who are unable, or likely to be unable, to respond physically or mentally to an oral instruction relating to fire danger and, unassisted, take appropriate action relating to such danger.
- (3) "Non-Compliance Conference" means a meeting initiated by the Department that takes place between the licensing agency and the licensee to afford the licensee an opportunity to correct licensing violations other than those that pose an immediate danger to residents and that may result in a corrective plan of action. Its purpose is to review the existing deficiencies and to impress upon the licensee the seriousness of the situation prior to the agency requesting administrative action to revoke the license. The Department may initiate administrative action without a non-compliance conference.
- (4) "Nonrecurring Lump-Sum Assessment" is defined in Health and Safety Code Section 1569.655(b).

87101 DEFINITIONS (Continued)

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Health and Safety Code section 1569.655(b) provides in relevant part:

"...For purposes of this subdivision, 'nonrecurring lump-sum assessments' mean rate increases due to unavoidable and unexpected costs that financially obligate the licensee..."

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- (5) "Nutritionist" means a person holding a master's degree in food and nutrition, dietetics, or public health nutrition, or who is employed by a county health department in the latter capacity.
- (o) (Reserved)
- (p) (1) "Physician" means a person licensed as a physician and surgeon by the California Board of Medical Examiners or by the California Board of Osteopathic Examiners.
- (2) "Placement Agency" as defined in Health and Safety Code section 1569.47(a), means any county welfare department, county social services department, county mental health department, county public guardian, general acute care hospital discharge planner or coordinator, state-funded program or private agency providing placement or referral services, and regional center for persons with developmental disabilities which is engaged in finding homes or other places for the placement of elderly persons for temporary or permanent care.
- (3) "Preadmission Fee" is defined in Health and Safety Code section 1569.651(e) as an application fee, processing fee, admission fee, entrance fee, community fee or other fee, however designated, that is requested or accepted by a licensee of a residential care facility for the elderly prior to admission.

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- (4) "PRN Medication" (pro re nata) means any nonprescription or prescription medication which is to be taken as needed.
- (5) "Provision" or "Provide." Whenever any regulation specifies that provision be made for or that there be provided any service, personnel or other requirement, it means that if the resident is not capable of doing so himself, the licensee shall do so directly or present evidence satisfactory to the licensing agency of the particular arrangement by which another provider in the community will do so.
- (6) "Provisional License" means a temporary, nonrenewable license, issued for a period not to exceed twelve months which is issued in accordance with the criteria specified in Section 87162, Provisional License.
- (q) (Reserved)
- (r) (1) "Rehabilitation" means the effort to reestablish good character since the date of the last conviction, including, but not limited to, education, counseling or therapy, training, stable employment, restitution, remorse, changes in lifestyle, or community service.
- (2) "Relative" means spouse, parent, stepparent, son, daughter, brother, sister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin or any such person denoted by the prefix "grand" or "great", or the spouse of any of the persons specified in this definition, even if the marriage has been terminated by death or dissolution.
- (3) "Representative" means an individual who has authority to act on behalf of the resident; including but not limited to, a conservator, guardian, person authorized as agent in the resident's valid advance health care directive, the resident's spouse, registered domestic partner, or family member, a person designated by the resident, or other surrogate decisionmaker designated consistent with statutory and case law.
- (4) "Request to Forego Resuscitative Measures" is defined in Probate Code section 4780.

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Probate Code section 4780 provides:

"(a) As used in this part:

(1) 'Request to forego resuscitative measures' means a written document, signed by

(A) an individual, or a legally recognized surrogate health care decisionmaker, and

(B) a physician that directs a health care provider to forego resuscitative measures for the individual.

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87101 DEFINITIONS (Continued)

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(2) 'Request to forego resuscitative measures' includes a prehospital 'do not resuscitate' form as developed by the Emergency Medical Services Authority or other substantially similar form.

(b) A request to forego resuscitative measures may also be evidenced by a medallion engraved with the words 'do not resuscitate' or the letters 'DNR', a patient identification number, and a 24-hour toll-free telephone number, issued by a person pursuant to an agreement with the Emergency Medical Services Authority."

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(5) "Residential Care Facility for the Elderly" means a housing arrangement chosen voluntarily by the resident, the resident's guardian, conservator or other responsible person; where 75 percent of the residents are sixty years of age or older and where varying levels of care and supervision are provided, as agreed to at time of admission or as determined necessary at subsequent times of reappraisal. Any younger residents must have needs compatible with other residents.

(6) "Responsible Person" means "Representative," as defined in Section 87101(r)(3), for purposes of these regulations and applicable statutes.

(7) "Room and Board" means a living arrangement where care and supervision is neither provided nor available.

(s) (1) "Serious Bodily Injury" is defined in Welfare and Institutions Code Section 15610.67.

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Welfare and Institutions Code Section 15610.67 provides:

"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.

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(2) "Serious Deficiency" means any deficiency that presents an immediate or substantial threat to the physical health, mental health, or safety of the residents or clients of a community care facility.

(3) "Shall" means mandatory. "May" means permissive.

87101 DEFINITIONS (Continued)**87101**

- (4) "Significant Other" means a person, including a person of the same gender, with whom a resident was sharing a partnership prior to his/her placement in a Residential Care Facility for the Elderly (RCFE). The partnership involves two adults who have chosen to share one another's lives in an intimate and committed relationship of mutual caring.
- (5) "Simplified Exemption" means an exemption granted on the Department's own motion, as authorized in Health and Safety Code section 1569.17(c)(4), if the individual's criminal history meets specific criteria established by Department regulation.
- (6) "Singular-Plural." Whenever in these regulations the singular is used, it can include the plural.
- (7) "Social Worker" means a person who has a graduate degree from an accredited school of social work or who has equivalent qualifications as determined by the Department.
- (8) "SSI/SSP" means the Supplemental Security Income/State Supplemental Program.
- (9) Standard Precautions. See "Universal Precautions."
- (10) "Substantial Compliance" means the absence of any deficiencies which would threaten the physical health, mental health, safety or welfare of the residents. Such deficiencies include, but are not limited to, those deficiencies referred to in Section 87758, Serious Deficiencies - Examples, and the presence of any uncorrected serious deficiencies for which civil penalties could be assessed.
- (11) "Supervision" means to oversee or direct the work of an individual or subordinate but does not necessarily require the immediate presence of the supervisor.
- (t) (1) "Terminally Ill Resident" means that the resident has a prognosis by his/her attending physician that the resident's life expectancy is six months or less if his/her illness or condition runs its normal course.
- (2) "Transfer Trauma" means the consequences of the stress and emotional shock caused by an abrupt, involuntary relocation of a resident from one facility to another.
- (u) (1) "Universal Precautions" means an approach to infection control that treats all human blood and body fluids as if they are infectious. Generally, universal precautions consist of regular hand washing after coming into contact with another person's body fluids (mucous, saliva, urine, etc.) and includes use of gloves when handling blood or body fluids that contain blood. Specifically, universal precautions consist of the following four basic infection control guidelines:
- (A) Hand washing - Staff should wash their hands in the following situations, but not limited to these situations:
1. After assisting with incontinent care or wiping a resident's nose.

87101 **DEFINITIONS** (Continued)**87101**

2. Before preparing or eating food.
3. After using the toilet.
4. Before and after treating or bandaging a cut.
5. After wiping down surfaces, cleaning spills, or any other housekeeping.
6. After being in contact with any body fluids from another person, even if they wore gloves during contact with body fluids.

(B) **Gloves**

1. Use gloves only one time, for one incident or resident.
 - (i) Air dry the hands or dry the hands on a single-use paper towel prior to putting on a new pair of gloves.
 - (ii) Dispose of used gloves immediately after use.
2. Staff should always wear gloves in the following situations, but not limited to these situations:
 - (i) When they come into contact with blood or body fluids.
 - (ii) When they have cuts or scratches on their hands.
 - (iii) When administering first aid for a cut, a bleeding wound, or a bloody nose.

(C) **Cleaning with a disinfectant - Staff should clean with a disinfectant:**

1. On all surfaces and in the resident's room and on an "as needed" basis on any surface that has come into contact with blood.
2. Such as a basic bleach solution, made fresh daily by mixing 1/4 cup household liquid chlorine bleach in one gallon of tap water, or one tablespoon bleach in one quart of water.

(D) **Proper disposal of infectious materials - Staff should dispose of infectious materials by placing them in a plastic trash bag, tying the bag with a secure tie, and disposing of it out of reach of residents and children.**

87101 DEFINITIONS (Continued)**87101**

- (2) "Unlicensed Residential Facility for the Elderly" means a facility as defined in Health and Safety Code section 1569.44.

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Health and Safety Code section 1569.44(a) provides:

"(a) A facility shall be deemed to be an 'unlicensed residential care facility for the elderly' and 'maintained and operated to provide residential care' if it is unlicensed and not exempt from licensure, and any one of the following conditions is satisfied:

- (1) The facility is providing care and supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.
- (2) The facility is held out as, or represented as, providing care and supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.
- (3) The facility accepts or retains residents who demonstrate the need for care and supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.
- (4) The facility represents itself as a licensed residential facility for the elderly."

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- (A) A facility which is "providing care and supervision" as defined in section 87101(c)(3) includes, but is not limited to, one in which an individual has been placed by a placement agency or family members.
- (B) A facility which is "held out as or represented as providing care and supervision" includes, but is not limited to:
- (1) A facility whose license has been revoked or denied, but the individual continues to provide care for the same or different clients with similar needs.
 - (2) A facility where change of ownership has occurred and the same clients are retained.

87101 **DEFINITIONS** (Continued)**87101**

- (3) A licensed facility that moves to a new location.
- (4) A facility which advertises as providing care and supervision.
- (C) A facility which "accepts or retains residents who demonstrate the need for care and supervision" includes, but is not limited to:
 - (1) A facility with residents requiring care and supervision, even though the facility is providing board and room only, or board only, or room only.
 - (2) A facility where it is apparent that care and supervision are being provided by virtue of the client's needs being met.
- (v) (1) "Vendor" means a Department-approved institution, association, individual(s), or other entity that assumes full responsibility or control over a Department-approved Initial Certification Training Program or a Continuing Education Training Program.
- (2) "Vendor applicant" means any institution, association, individual(s), or other entity that submits a request for approval of an Initial Certification Training Program or a Continuing Education Training Program.
- (3) "Voluntary" means resulting from free will.
- (w) (1) "Waiver" means a variance to a specific regulation based on a facility-wide need or circumstance which is not typically tied to a specific resident or staff person. Requests for waivers are made to the licensing agency, in advance, by an applicant or licensee.
- (x) (Reserved)
- (y) (Reserved)
- (z) (Reserved)

NOTE: Authority cited: Sections 1569.23, 1569.30, 1569.616 and 1569.698, Health and Safety Code. Reference: 42 CFR 418.3; Sections 1569.1, 1569.2, 1569.5, 1569.10, 1569.145, 1569.15, 1569.153, 1569.157, 1569.158, 1569.17, 1569.19, 1569.191, 1569.193, 1569.20, 1569.21, 1569.23, 1569.31, 1569.312, 1569.33, 1569.38, 1569.44, 1569.47, 1569.54, 1569.616, 1569.626, 1569.651, 1569.655, 1569.699, 1569.73, 1569.74, 1569.82, 1569.880, 1771 and 1797.196, Health and Safety Code; Sections 5350, 15610.13 and 15610.67, Welfare and Institutions Code; Sections 1500, 1800 and 4780, Probate Code.

87102 DESCRIPTIONS OF FORMS**87102**

The following forms, which are incorporated by reference, apply to the regulations in Title 22, Division 6, Chapters 5 (Group Homes), 6 (Adult Residential Facilities) and 8 (Residential Care Facilities for the Elderly), except for PUB 325 and the RCFE Core of Knowledge which only apply to Chapter 8.

- (a) LIC 9139 (01/16) - Renewal of Continuing Education Course Approval, Administrator Certification Program.
- (b) LIC 9140 (01/16) - Request for Course Approval, Administrator Certification Program.
- (c) LIC 9140A (01/16) - Request to Add or Replace Instructor, Administrator Certification Program.
- (d) LIC 9141 (01/16) - Vendor Application/Renewal, Administrator Certification Program.
- (e) LIC 9142A (01/16) – Roster of Participants - for Vendor Use Only, Administrator Certification Program.
- (f) LIC 9142B (01/16) – Roster of Participants – for Exam Proctoring Only, Administrator Certification Program.
- (g) LIC 9163 (3/11) – Request for Live Scan Service – Community Care Licensing.
- (h) LIC 508 (7/15) Criminal Record Statement.
- (i) LIC 9214 (01/16) – Application for Administrator Certification, Administrator Certification Program.
- (j) PUB 325 (3/12) - Your Right To Make Decisions About Medical Treatment.
- (k) Core of Knowledge Training Standard (01/16) - RCFE 80-Hour Initial Certification.

NOTE: Authority cited: Sections 1530, 1569.616(i)(1) and 1569.30, Health and Safety Code. Reference: Sections 1522.41, 1562.3 and 1569.616, Health and Safety Code.

Article 2. License**87105 LICENSE REQUIRED****87105**

- (a) Pursuant to Health and Safety Code, Section 1569.10, any individual or legal entity providing or intending to provide care and supervision to the elderly in a residential facility shall obtain a current valid license pursuant to the provisions of this chapter. This shall not require an adult residential facility to relocate a resident who becomes 60, nor to change licensing category, provided that the resident's needs remain compatible with those of other residents, and the licensing agency has approved an exception request.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.10, 1569.44 and 1569.45, Health and Safety Code.

87106 OPERATION WITHOUT A LICENSE**87106**

- (a) An unlicensed facility as defined in Section 87101(u)(2) is in violation of section 1569.10, 1569.44, and/or 1569.45 of the Health and Safety Code unless the facility is exempted from licensure under Section 87107(a).
- (b) If the facility is alleged to be in violation of section 1569.10 and/or 1569.44 and/or 1569.45 of the Health and Safety Code, the licensing agency shall conduct a site visit and/or evaluation of the facility pursuant to Health and Safety Code section 1569.35.

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Health and Safety Code section 1569.35(c) provides in part:

"Upon receipt of a complaint, other than a complaint alleging denial of a statutory right of access to a residential care facility for the elderly, the department shall make a preliminary review and, unless the department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, it shall make an onsite inspection within 10 days after receiving the complaint.... In either event, the complainant shall be promptly informed of the department's proposed course of action."

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- (c) If the facility is operating without a license, the licensing agency shall issue a Notice of Operation in Violation of Law, and shall refer the case for criminal prosecution and/or civil proceedings.
- (d) The licensing agency shall issue an immediate civil penalty pursuant to Section 87768, Unlicensed Facility Penalties and Health and Safety Code section 1569.485.

87106 OPERATION WITHOUT A LICENSE (Continued)**87106**

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Health and Safety Code sections 1569.485(a) and (b) provides in part:

"(a) Notwithstanding any other provision of this chapter, any person who violates section 1569.10 or 1569.44, or both, shall be assessed by the department an immediate civil penalty in the amount of one hundred dollars (\$100) per resident each day of violation....

(b) The civil penalty... shall be doubled if an unlicensed facility is operated and the operator refuses to seek licensure or the operator seeks licensure and the licensure application is denied and the operator continues to operate the unlicensed facility...."

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- (e) Sections 87106(c) and (d) shall be applied in any combination deemed appropriate by the licensing agency.
- (f) The licensing agency shall notify the appropriate local or state Ombudsman, placement, or adult protective service agency if either of the following conditions exist:
- (1) There is an immediate threat to the residents' health and safety.
 - (2) The facility does not submit an application for licensure within 15 calendar days of being served a Notice of Operation in Violation of Law.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.10, 1569.19, 1569.335, 1569.35, 1569.40, 1569.405, 1569.41, 1569.42, 1569.43, 1569.44, 1569.45, 1569.47, 1569.485 and 1569.495, Health and Safety Code.

87107 EXEMPTION FROM LICENSURE**87107**

- (a) The following shall be allowed to operate without being licensed as a residential care facility for the elderly:
- (1) Any health facility, as defined by Health and Safety Code section 1250.
 - (2) Any clinic, as defined by Health and Safety Code section 1202.

87107 EXEMPTION FROM LICENSURE (Continued)**87107**

- (3) Any facility conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend on prayer or spiritual means for healing in the practice of the religion of such church or denomination. Such facilities shall be limited to those facilities or portions thereof which substitute prayer for medical/nursing services which would otherwise be provided for or required by residents in a health facility, as defined by section 1200 or 1250 of the Health and Safety Code.
- (4) Any house, institution, hotel or other similar place that supplies board and room only, or room only, or board only, if no element of care and/or supervision, as defined by this chapter, is provided, made available, or contractually promised, such as in a life care agreement or program agreement with a facility. However, this shall not preclude care and/or supervision provided for brief and irregular periods of time for reasons such as temporary illnesses or emergencies provided that such is determined to be minor and temporary and does not require twenty-four (24) hours supervision of the resident(s).
- (5) Recovery houses or other similar facilities providing group living arrangements for persons recovering from alcoholism or drug addiction where the facility provides no care and supervision.
- (6) Any alcoholism recovery facility as defined by Health and Safety Code section 11834.02(a) relating to alcohol programs.

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Health and Safety Code section 11834.02(a) provides:

An "alcoholism or drug abuse recovery or treatment facility' or 'facility' means any premises, place, or building that provides 24-hour residential nonmedical to adults who are recovering from problems related to alcohol, drug, or alcohol and drug misuse or abuse, and who need alcohol, drug or alcohol and drug recovery treatment or detoxification services."

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- (7) Any care and supervision of persons by a family member. For purposes of this section "family member" means any spouse, by marriage or otherwise, child or stepchild, by natural birth or by adoption, parent, brother, sister, half-brother, half-sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or any person denoted by the prefix "grand" or "great", or the spouse of any of these persons, even if the marriage has been terminated by death or dissolution.

87107 EXEMPTION FROM LICENSURE (Continued)**87107**

- (8) Any arrangement for the care and supervision of a person or persons from only one family by a close friend who is not a licensee or current employee of a Residential Care Facility for the Elderly or of an Adult Residential Facility, and whose friendship pre-existed a provider/recipient relationship, and all of the following conditions are met:
- (A) The care and supervision is provided in a home or residence chosen by the recipient, regardless of who owns the home or residence.
 - (B) The arrangement is not of a business nature, in that the provider does not represent himself or herself as being in the business of provision of care, and any compensation that may be paid to the provider is only for the value of the services rendered.
 - (C) The arrangement occurs and continues only as long as the needs for care and supervision of the recipient are being adequately met.
- (9) Any housing project for elderly or disabled individuals that meets federal requirements as specified in Health and Safety Code section 1569.145(g).

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Health and Safety Code section 1569.145(g) provides:

"Any housing for elderly or disabled persons, or both, that is approved and operated pursuant to Section 202 of Public Law 86-372 (12 U.S.C.A. Sec. 1701q), or Section 811 of Public Law 101-625 (42 U.S.C.A. Sec 8013), or whose mortgage is insured pursuant to Section 236 of Public Law 90-448 (12 U.S.C.A. Sec. 1715z), or that receives mortgage assistance pursuant to Section 221d(3) of Public Law 87-70 (12 U.S.C.A. Sec.17151), where supportive services are made available to residents at their option, as long as the project owner or operator does not contract for or provide the supportive services. The project owner or operator may coordinate, or help residents gain access to, the supportive services, either directly, or through a service coordinator."

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- (10) Any similar facility as determined by the Director.

NOTE: Authority cited: Sections 1569.145 and 1569.30, Health and Safety Code. Reference: Sections 1505, 1569.145 and 11834.02, Health and Safety Code; and Grimes v. CDSS (1999) 70 Cal.App.4th 1065.

87108 INTEGRAL FACILITIES**87108**

- (a) Upon written application, the licensing agency may issue a single license to integral facilities conducting multiple, related programs which would otherwise require separate licenses provided all of the following requirements are met:
- (1) Separate buildings or portions of the facility shall be integral components of a single program.
 - (2) All components of the program shall be managed by the same licensee.
 - (3) All components of the program shall be conducted at a single site.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Section 1569.30, Health and Safety Code.

87109 TRANSFERABILITY OF LICENSE**87109**

- (a) The license shall not be transferable.
- (b) The licensee shall notify the licensing agency and all residents receiving services, or their responsible persons, in writing as soon as possible and in all cases at least sixty (60) days prior to the effective date that any change in ownership of the facility occurs as required by Health and Safety Code section 1569.191(a)(1).
- (c) In all other instances, including a change in licensee, type of license, or location of the facility, the licensee shall notify the licensing agency and all residents receiving services, or their responsible persons, in writing as soon as possible and in all cases at least thirty (30) days prior to the effective date of that change.
- (d) In the case of change of ownership or licensee a new application for license shall be submitted by the prospective new licensee.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.11 and 1569.191, Health and Safety Code.

87111 CONTINUATION OF LICENSE UNDER EMERGENCY CONDITIONS OR SALE OF PROPERTY 87111

- (a) The licensing agency may consent to a change of location and continuation of the existing license of any facility for a reasonable period of time when the change is requested because of the accidental destruction of the licensed premises or similar emergency conditions, so long as the new location or place of performance conforms to building, fire and life safety standards.
- (b) In the event of a licensee's death, an adult who has control of the property, and had been designated by the licensee as the party responsible to continue operation of the facility upon a licensee's death shall:
- (1) notify the Department by the next working day of the licensee's death;
 - (2) inform the Department within 5 working days if the designee decides not to apply for licensure.
 - (A) If the designee decides not to apply, the Department will help the designee develop and implement a relocation plan for facility residents.
- (c) The Department may permit a designee to continue operation of a previously licensed facility, and grant an Emergency Approval to Operate (EAO) to a facility for up to 60 days pending issuance or denial of a license, provided the following requirements of Health and Safety Code section 1569.193 are met:
- (1) The designee notifies the Department during the next working day following the death of the licensee, that he/she will continue to operate the facility.
 - (2) A notarized designation of the adult, authorized by the licensee, to continue operation of the facility in the event of the licensee's death, was filed by the licensee with the Department.
 - (A) The notarized statement was signed by the designee, and indicated acceptance of the designation.
 - (B) The notarized statement contains, or is accompanied by a declaration under penalty of perjury, regarding any criminal convictions of the designee.
 - (3) The designee is able to operate the facility to the satisfaction of the Department.
 - (4) The designee files an application for licensure, and provides a copy of the licensee's death certificate, obituary notice, certification of death from the decedent's mortuary, or a letter from the attending physician or coroner's office verifying the death of the licensee, within 20 calendar days of the licensee's death.

**87111 CONTINUATION OF LICENSE UNDER EMERGENCY
CONDITIONS OR SALE OF PROPERTY (Continued)****87111**

- (5) The applicant who is issued an EAO shall perform all the duties, functions, and responsibilities required of a licensee.
 - (A) Failure to comply with licensing laws and regulations under Section 87111(b) as determined by the licensing agency, shall result in the denial of the application for license. This denial shall also constitute termination of the EAO.
 - (B) The licensing agency shall provide written notification of the denial and this notice shall be effective immediately upon receipt.
- (d) The Department shall determine, within 60 days, after receipt of the completed application, whether a license will be issued.
- (e) Following receipt of a completed application, the designee shall not be considered to be operating an unlicensed facility while the Department decides whether to grant the license.
- (f) In the event of the sale and transfer of property and business, the applicant (buyer) shall be issued an EAO if the applicant (buyer) complies with Health and Safety Code section 1569.191.

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Health and Safety Code, section 1569.191 provides in part:

“(a) Notwithstanding section 1569.19, in the event of a sale of a licensed facility where the sale will result in a new license being issued, the sale and transfer of property and business shall be subject to both of the following:

- (1) The licensee shall provide written notice to the department and to each resident or his or her legal representative of the licensee's intent to sell the facility at least 30 days prior to the transfer of property or business, or at the time that a bona fide offer is made, whichever period is longer.
- (2) The licensee shall, prior to entering into an admission agreement, inform all residents, or their legal representatives, admitted to the facility after notification to the department, of the licensee's intent to sell the property or business.

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(b) Except as provided in subdivision (e), the property and business shall not be transferred until the buyer qualifies for a license or provisional license within the appropriate provisions of this chapter.

(1) The seller shall notify, in writing, a prospective buyer of the necessity to obtain a license, as required by this chapter, if the buyer's intent is to continue operating the facility as a residential care facility for the elderly. The seller shall send a copy of this written notice to the licensing agency.

(2) The prospective buyer shall submit an application for a license, as specified in section 1569.15, within five days of the acceptance of the offer by the seller.

(c) No sale of the facility shall be permitted until 30 days have elapsed from the date upon which notice has been provided pursuant to paragraphs (1) and (2) of subdivision (a).

(d) The department shall give priority to applications for licensure which are submitted pursuant to this section in order to ensure timely transfer of the property and business. The department shall make a decision within 60 days after a complete application is submitted on whether to issue a license pursuant to section 1569.15.

(e) If the parties involved in the transfer of the property and business fully comply with this section then the transfer may be completed and the buyer shall not be considered to be operating an unlicensed facility while the department makes final determination on the application for licensure...."

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(g) "A bona-fide offer", as specified in Health and Safety Code section 1569.191(a)(1), shall mean a proposal by the buyer to purchase the facility with definite terms in writing communicated to the seller and accompanied by a cash deposit.

NOTE: Authority cited: Sections 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.15, 1569.191 and 1569.193, Health and Safety Code.

87112 CONDITIONS FOR FORFEITURE OF A LICENSE**87112**

- (a) Conditions for forfeiture of a residential care facility for the elderly license shall be as specified in Health and Safety Code section 1569.19.

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Health and Safety Code section 1569.19 provides in part:

"A license shall be forfeited by operation of law prior to its expiration date when one of the following occurs:

- (a) The licensee sells or otherwise transfers the facility or facility property, except when change of ownership applies to transferring of stock when the facility is owned by a corporation, and when the transfer of stock does not constitute a majority change in ownership. The sale of a facility shall be subject to the requirements of this chapter.
- (b) The licensee surrenders the license to the department.
- (c) The licensee moves the facility from one location to another. The department shall develop regulations to ensure that the facilities are not charged a full licensing fee and do not have to complete the entire application process when applying for a license for the new location.
- (d) The licensee is convicted of an offense specified in Section 220, 243.4, or 264.1, or paragraph (1) of Section 273a, Section 273d, 288, or 289 of the Penal Code, or is convicted of another crime specified in subdivision (c) of Section 667.5 of the Penal Code.
- (e) The licensee dies. When a licensee dies, the continued operation shall be subject to the requirements of Section 1569.193.
- (f) The licensee abandons the facility."

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- (1) "Licensee abandons the facility" shall mean either of the following:
- (A) The licensee informs the licensing agency that the licensee no longer accepts responsibility for the facility, or
 - (B) The licensing agency is unable to determine the licensee's whereabouts after the following:
 - 1. The licensing agency requests information of the licensee's whereabouts from the facility's staff if any staff can be contacted; and

87112 **CONDITIONS FOR FORFEITURE OF A LICENSE (Continued)** **87112**

2. The licensing agency has made at least one (1) phone call per day, to the licensee's last telephone number of record, for five (5) consecutive workdays with no response; and
3. The licensing agency has sent a certified letter, requesting the licensee to contact the licensing agency, to the licensee's last mailing address of record with no response within seven (7) calendar days.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Section 1569.19, Health and Safety Code.

87113 **POSTING OF LICENSE** **87113**

The license shall be posted in a prominent location in the licensed facility accessible to public view.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Section 1569.45, Health and Safety Code.

87114 **APPLICANT OR LICENSEE MAILING ADDRESS** **87114**

The applicant or licensee shall file his/her mailing address, in writing, with the licensing agency and shall notify the agency, in writing, of any change within 10 calendar days.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.15, 1569.20, 1569.22 and 1569.51, Health and Safety Code.

87118 **NONDISCRIMINATION** **87118**

- (a) Any adult shall be permitted to apply for a license regardless of age, sex, race, religion, color, political affiliation, national origin, disability, marital status, actual or perceived sexual orientation, or ancestry.
- (b) All licensed facilities shall receive persons on a nondiscriminatory basis according equal treatment and services without regard to race, color, religion, national origin, actual or perceived sexual orientation or ancestry.

87118 NONDISCRIMINATION (Continued)**87118**

- (c) An exception shall be made in the case of any bona fide nonprofit religious, fraternal or charitable organization which can demonstrate to the satisfaction of the Department or the licensing agency that its primary or substantial purpose is not to evade this section.
- (1) It may establish reception policies limiting or giving preference to its own members or adherents, provided, however, such membership is nondiscriminatory and such policies shall not be construed as a violation of this section.
 - (2) Any reception of nonmembers or nonadherents shall be subject to the requirements of this section.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Section 1569.31, Health and Safety Code; Section 51, Civil Code.

Article 3. Application Procedures**87155 APPLICATION FOR LICENSE****87155**

- (a) Any individual, firm, partnership, association, corporation or governmental entity desiring to obtain a license shall file with the licensing agency an application on forms furnished by the licensing agency. The licensee shall cooperate with the licensing agency in providing verification and/or documentation as requested by the licensing agency. The application and supporting documents shall contain the following:
- (1) Name or proposed name and address of facility.
 - (2) Name and address of the applicant and documentation verifying completion by the applicant of certification requirements as specified in Section 87406, Administrator Certification Requirements.
 - (A) This section shall apply to all applications for license, unless the applicant has a current license for another residential care facility for the elderly which was initially licensed prior to July 1, 1989 or has successfully completed an approved certification program within the prior five years.
 - (B) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or person serving in a like capacity or the designated administrator of the facility shall meet the requirements of this section.
 - (3) If the applicant is a partnership, the name, signature and principal business address of each partner.
 - (4) If the applicant is a corporation or association, the name, title and principal business address of each officer, executive director, and member of the governing board. The application shall be signed by the chief executive officer or authorized representative. In addition, a copy of the Articles of Incorporation, Constitution and By-laws, and the name and address of each person owning more than 10 percent of stock in the corporation shall be provided.
 - (5) If the applicant is a corporation, each member of the board of directors, executive director, and any officer shall list the name of all facilities which they have been licensed to operate, employed by or a member of the board of the directors, executive director or an officer.
 - (6) Procedures as required pursuant to section 1569.175 of the Health and Safety Code.

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Health and Safety Code section 1569.175 provides:

"(a) In addition to any other requirements of this chapter, any residential care facility for the elderly providing residential care for six or fewer persons at which the owner does not reside shall provide a procedure approved by the licensing agency for immediate response to incidents and complaints. This procedure shall include a method of assuring that the owner, licensee, or person designated by the owner or licensee is notified of the incident, that the owner, licensee, or person designated by the owner or licensee has personally investigated the matter, and that the person making the complaint or reporting the incident has received a response of action taken or a reason why no action needs to be taken.

(b) In order to assure the opportunity for complaints to be made directly to the owner, licensee, or person designated by the owner or licensee, and to provide the opportunity for the owner, licensee, or person designated by the owner or licensee to meet residents and learn of problems in the neighborhood, any facility with a nonresident owner shall establish a fixed time on a weekly basis when the owner, licensee, or person designated by the owner or licensee will be present.

(c) Facilities with nonresident owners shall establish procedures to comply with the requirements of this section on or before July 1, 1987."

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- (7) Name and address of owner of facility premises if applicant is leasing or renting.
- (8) The category of facility to be operated.
- (9) Maximum number to be served.
- (10) The name, residence and mailing addresses of the facility administrator, a description of the administrator's background and qualifications, and documentation verifying the required education and administrator certification.
- (11) Copy of the current organizational chart showing type and number of positions and line of authority. However, facilities for less than sixteen persons may furnish, in lieu of an organization chart, a list of positions and the periods of time that persons in these positions will be providing services at the facility.

87155 APPLICATION FOR LICENSE (Continued)**87155**

- (12) Evidence pursuant to Health and Safety Code, section 1520(b).

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Health and Safety Code section 1520(b) provides:

"(b) Evidence satisfactory to the department that the applicant is of reputable and responsible character. ... If the applicant is a firm, association, organization, partnership, business trust, corporation or company, like evidence shall be submitted as to the members or shareholders thereof, and the person who will be in charge of the community care facility for which application for issuance of license or special permit is made."

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- (13) A financial plan of operation on forms provided or approved by the Department. Start-up funds shall be sufficient to meet a minimum of three (3) months operating costs. In addition:
- (A) Where construction is anticipated to meet the requirements for a license, sufficient financing for the construction shall be available.
 - (B) The scope of the applicant's services shall be such that an adequate quality of service will be permitted from available funds. The licensing agency shall have the right to verify the availability of these funds.
- (14) When there is a change of licensee, the required documentation shall include the information specified in Section 87217(k).
- (15) Information concerning insurance carried by the applicant relating to the operation of the facility.
- (16) A plan of operation as specified in Section 87208, Plan of Operation.
- (17) The fee for processing the application for the requested capacity as specified in Section 87156, Licensing Fees.
- (18) Name, address and telephone number of the city or county fire department, the district providing fire protection services, or the State Fire Marshal's Office having jurisdiction in the area where the facility is located.
- (19) Such other information as may be required by the licensing agency for the proper administration and enforcement of the licensing law and regulations.
- (b) An application shall be filed with the licensing agency which serves the area in which the facility is located.

87155 APPLICATION FOR LICENSE (Continued)**87155**

NOTE: Authority cited: Sections 1569.23, 1569.30 and 1569.616, Health and Safety Code. Reference: Sections 1569.1, 1569.2, 1569.10, 1569.15, 1569.151, 1569.1515, 1569.16, 1569.17, 1569.185, 1569.19, 1569.20, 1569.21, 1569.22, 1569.23, 1569.24, 1569.312, 1569.45, 1569.60, 1569.616 and 1569.62, Health and Safety Code.

87156 LICENSING FEES**87156**

- (a) An applicant or licensee shall be charged fees as specified in Health and Safety Code section 1569.185.

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Health and Safety Code section 1569.185 provides:

- (a)(1) An application fee adjusted by facility and capacity shall be charged by the department for the issuance of a license to operate a residential care facility for the elderly. After initial licensure, a fee shall be charged by the department annually on each anniversary of the effective date of the license. The fees are for the purpose of financing activities specified in this chapter. Fees shall be assessed as follows, subject to paragraph (2):

Capacity	Fee Schedule	
	Initial Application	Annual
1-3	\$ 495.60	\$ 495.60
4-6	\$ 990.00	\$ 495.60
7-15	\$ 1,486.80	\$ 742.80
16-30	\$ 1,980.00	\$ 990.00
31-49	\$ 2,476.80	\$1,238.40
50-74	\$ 2,972.40	\$1,448.00
75-100	\$ 3,469.20	\$1,734.00
101-150	\$ 3,964.80	\$1,982.40
151-200	\$ 4,622.40	\$2,311.20
201-250	\$ 5,280.00	\$2,640.00
251-300	\$ 5,940.00	\$2,970.00
301-350	\$ 6,600.00	\$3,300.00
351-400	\$ 7,260.00	\$3,630.00
401-500	\$ 8,580.00	\$4,290.00
501-600	\$ 9,900.00	\$4,950.00
601-700	\$11,220.00	\$5,610.00
701+	\$13,200.00	\$6,600.00

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(2) (A) The Legislature finds that all revenues generated by fees for licenses computed under this section and used for the purposes for which they were imposed are not subject to Article XIII B of the California Constitution.

(B) The department, at least every five years, shall analyze initial application fees and annual fees issued by it to ensure the appropriate fee amounts are charged. The department shall recommend to the Legislature that fees established by the Legislature be adjusted as necessary to ensure that the amounts are appropriate.

(b)(1) In addition to fees set forth in subdivision (a), the department shall charge the following fees:

(A) A fee that represents 50 percent of an established application fee when an existing licensee moves the facility to a new physical address.

(B) A fee that represents 50 percent of the established application fee when a corporate licensee changes who has the authority to select a majority of the board of directors.

(C) A fee of twenty-five dollars (\$25) when an existing licensee seeks to either increase or decrease the licensed capacity of the facility.

(D) An orientation fee of fifty dollars (\$50) for attendance by any individual at a department-sponsored orientation session.

(E) A probation monitoring fee equal to the current annual fee, in addition to the current annual fee for that category and capacity for each year a license has been placed on probation as a result of a stipulation or decision and order pursuant to the administrative adjudication procedures of the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

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(F) A late fee that represents an additional 50 percent of the established current annual fee when any licensee fails to pay the current annual licensing fee on or before the due date as indicated by postmark on the payment.

(G) A fee to cover any costs incurred by the department for processing payments including, but not limited to, bounced check charges, charges for credit and debit transactions, and postage due charges.

(H) A plan of correction fee of two hundred dollars (\$200) when any licensee does not implement a plan of correction on or prior to the date specified in the plan.

(2) No local jurisdiction shall impose any business license, fee, or tax for the privilege of operating a facility licensed under this chapter which serves six or fewer persons.

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(c) (1) The revenues collected from licensing fees pursuant to this section shall be utilized by the department for the purpose of ensuring the health and safety of all individuals provided care or supervision by licensees and to support the activities of the licensing programs, including, but not limited to, monitoring facilities for compliance with licensing laws and regulations pursuant to this chapter, and other administrative activities in support of the licensing program, when appropriated for these purposes. The revenues collected shall be used in addition to any other funds appropriated in the annual Budget Act in support of the licensing program. The department shall adjust the fees collected pursuant to this section to ensure that they do not exceed the costs described in this paragraph.

(2) The department shall not utilize any portion of these revenues sooner than 30 days after notification in writing of the purpose and use, as approved by the Department of Finance, to the Chairperson of the Joint Legislative Budget Committee, and the chairpersons of the committee in each house that considers appropriations for each fiscal year. The department shall submit a budget change proposal to justify any positions or any other related support costs on an ongoing basis.

(d) A residential care facility for the elderly may use a bona fide business check to pay the license fee required under this section.

(e) The failure of an applicant for licensure or a licensee to pay all applicable and accrued fees and civil penalties shall constitute grounds for denial or forfeiture of a license.

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- (b) The annual fee shall be according to existing licensed capacity unless the licensee requests a lower or higher capacity.
- (c) An additional fee shall be charged when the licensee requests an increase or decrease in capacity as specified in Health and Safety Code section 1569.185(b)(1)(C).
- (d) When a licensee moves a facility from one location to another, the relocation fee shall be as specified in Health and Safety Code section 1569.185(b)(1)(A).

87156 LICENSING FEES (Continued)**87156**

- (1) To qualify for the relocation fee the following shall apply:
 - (A) The licensee shall have notified the licensing agency before actually relocating the facility.
 - (B) The categorical type of facility shall remain the same when relocating the facility.
 - (C) The fee shall be by requested capacity at the new location.
- (e) The fees shall be nonrefundable.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.185 and 1569.19, Health and Safety Code.

87157 APPLICATION REVIEW**87157**

- (a) No initial license shall be issued until the licensing agency has completed the following:
 - (1) A review which includes an on-site survey of the proposed premises and a determination of the qualifications of the applicant.
 - (2) A determination that the applicant has secured a fire clearance from the State Fire Marshal.
 - (3) A determination that the applicant and facility comply with the provisions of Chapter 3 (commencing with section 1569) of Division 2 of the Health and Safety Code, and the regulations in this chapter.
- (b) The licensing agency shall cease review of any application as specified in Health and Safety Code section 1569.16.

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Health and Safety Code section 1569.16 provides in part:

"(a)(1) If an application for a license indicates, or the department determines during the application review process, that the applicant previously was issued a license... and the prior license was revoked within the preceding two years, the department shall cease any further review of the application until two years shall have elapsed from the date of revocation. ...

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87157 APPLICATION REVIEW (Continued)**87157****HANDBOOK CONTINUES**

(b) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant had previously applied for a license under any of the chapters listed in subdivision (a) and the application was denied within the last year, the department shall, except as provided in section 1569.22, cease further review of the application until one year has elapsed from the date of the denial letter. In those circumstances where denials are appealed and upheld at an administrative hearing, review of the application shall cease for one year from the date of the decision and order being rendered by the department. The cessation of review shall not constitute a denial of the application...."

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- (1) "Application was denied within the last year" as specified in Health and Safety Code section 1569.16(b) shall include initial applications.
- (2) If cessation of review occurs, the application shall be returned to the applicant. It shall be the responsibility of the applicant to request resumption of review as specified in Health and Safety Code section 1569.16.
- (3) The application fee shall be non-refundable as specified in Section 87156(e).

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.15, 1569.16, 1569.17, 1569.20 and 1569.205, Health and Safety Code.

87158 CAPACITY**87158**

- (a) A license shall be issued for a specific capacity which shall be the maximum number of residents which can be provided care at any given time. The capacity shall be exclusive of any members of the licensee's own family who reside at the facility. However, the licensing agency shall consider the presence of other family members or other persons who reside in the facility in determining capacity in order to ensure and promote proper living arrangements for both the licensee's family and the residents and to ensure the provision of adequate care and supervision for the residents.
- (b) The number of persons that the facility is licensed to admit shall be determined on the basis of the application review by the licensing agency which shall consider:
 - (1) Physical energy and skills of the licensee as it relates to their ability to meet the needs of the residents.

87158 CAPACITY (Continued) 87158

- (2) Any other household members who may reside at the facility and their individual needs.
- (3) Physical features of the facility, such as available living space, which are necessary in order to comply with regulations.
- (4) Number of available staff to meet the care needs of the residents.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2, 1569.31 and 1569.312, Health and Safety Code.

87159 WITHDRAWAL OF APPLICATION 87159

- (a) The applicant may withdraw an application. However, unless the licensing agency consents in writing to such withdrawal, the Department or licensing agency shall not be deprived of its authority to institute or continue a proceeding against the applicant for the denial of the license upon any ground provided by law or to enter an order denying the license upon any such ground.
- (b) The fee for processing the application shall be forfeited.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.185, 1569.20, 1569.22, 1569.50, 1569.51 and 1569.52, Health and Safety Code.

87161 RESUBMISSION OF APPLICATION 87161

- (a) A new application shall be made whenever there is any change in conditions or limitations described on the current license, including, but not limited to:
 - (1) Any change in the location of the facility.
 - (2) Any change in the licensee.
 - (3) Failure to complete a new application within the required time limit.
 - (4) Any increase in capacity.
 - (A) Minor capacity increases may be granted following an evaluation by the licensing agency without the need for resubmission of an application.

87161 RESUBMISSION OF APPLICATION (Continued)**87161**

- (5) A corporate organizational change, including, but not limited to, change in structure, sale or transfer of the majority of stock, separating from a parent company, or merger with another company. The licensee shall notify the licensing agency of such organizational change within forty-eight (48) hours.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.3, 1569.10, 1569.11, 1569.15 and 1569.19, Health and Safety Code.

87162 PROVISIONAL LICENSE**87162**

- (a) The licensing agency may issue a provisional license to an applicant who has submitted a completed application for an initial license if the licensing agency determines that there are no life safety risks, that the facility is in substantial compliance, as defined in Section 87101(s)(6), with applicable law and regulations, and an immediate need for licensure exists as defined in Section 87101(i)(3).
- (1) A provisional license shall not be issued as specified in Health and Safety Code section 1569.1515(b).

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Health and Safety Code section 1569.1515(b) provides:

"(b) The department shall not issue a provisional license or license to any corporate applicant that has a member of the board of directors, the executive director, or an officer who is not eligible for licensure pursuant to sections 1569.16 and 1569.59."

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- (b) The capacity of a provisional license shall be limited to the number of residents for whom immediate need has been established, or the capacity established for the specific facility, whichever is less.
- (c) A provisional license shall not be renewable and shall terminate on the date specified on the license, or upon denial of the application, whichever is earlier.
- (1) A provisional license may be issued for a maximum of six (6) months when the licensing agency determines that full compliance with licensing regulations will be achieved within that time period.

87162 PROVISIONAL LICENSE (Continued)**87162**

- (2) A provisional license may be issued for a maximum of twelve (12) months when the licensing agency determines, at the time of application, that more than six (6) months is required to achieve full compliance with licensing regulations due to circumstances beyond the control of the applicant.
- (d) If, during the provisional licensing period, the licensing agency discovers deficiencies which threaten the physical health, mental health, safety or welfare of the residents, the Department may exercise its discretion to institute administrative action or civil proceedings or to refer for criminal prosecution.
- (e) If the licensing agency determines after its review, specified in Section 87157, Application Review, that the licensee does not meet the licensing requirements, the application shall be denied, as specified in Section 87163, Denial of License Application.
- (f) If the licensing agency denied the application for an initial license, the applicant may appeal the denial, as provided in Section 87163, Denial of License Application. Until the Director adopts a decision on the denial action, the facility shall be unlicensed.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.15, 1569.1515, 1569.17, 1569.20, 1569.21, 1569.22, 1569.23 and 1569.24, Health and Safety Code.

87163 DENIAL OF LICENSE APPLICATION**87163**

- (a) Except as specified in Section 87162(a), which provides that the applicant may be issued a provisional license based upon substantial compliance and immediate need, the licensing agency shall deny an application for an initial license if it is determined that the applicant is not in compliance with applicable law and regulations.
- (b) The licensing agency shall have the authority to deny an application for an initial license if the applicant has failed to pay any civil penalty assessments pursuant to Section 87768, Unlicensed Facility Penalties, and in accordance with a final judgment issued by a court of competent jurisdiction, unless payment arrangements acceptable to the licensing agency have been made.
- (c) The licensing agency shall have the authority to deny an initial application if the applicant does not comply with Sections 87155(a)(2) and (9), and Health and Safety Code sections 1569.1515(b) and 1569.50.

87163 DENIAL OF LICENSE APPLICATION (Continued)

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Health and Safety Code section 1569.1515(b) provides:

"(b) The department shall not issue a provisional license or license to any corporate applicant that has a member of the board of directors, the executive director, or an officer who is not eligible for licensure pursuant to Sections 1569.16 and 1569.59."

Health and Safety Code section 1569.50(a) provides:

"(a) The department may deny an application for a license or may suspend or revoke any license issued under this chapter upon any of the following grounds and in the manner provided in this chapter:

(1) Violation by the licensee of this chapter or of the rules and regulations adopted under this chapter.

(2) Aiding, abetting, or permitting the violation of this chapter or of the rules and regulations adopted under this chapter.

(3) 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.

(4) The conviction of a licensee, or other person mentioned in Section 1569.17 at any time before or during licensure, of a crime as defined in Section 1569.17.

(5) Engaging in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services for the care of clients."

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- (d) If the application for an initial license is denied, the application processing fee shall be forfeited.
- (e) If the application for an initial license is denied, the licensing agency shall send a written notice of denial by certified mail. The notification shall inform the applicant of the denial; set forth the reasons for the denial; and advise the applicant of the right to appeal.