

**SUMMARY AND IMPLEMENTATION PLANS  
2003 CHAPTERED LEGISLATION**

**RESIDENTIAL CARE FACILITIES  
FOR THE ELDERLY**

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**Unless otherwise noted, all new legislation becomes effective on January 1, 2004.**

**When conducting visits, LPAs should ensure that providers are aware of any new requirements.**

## ACTION REQUIRED

### AB 1166 (BERG), CHAPTER 312, STATUTES OF 2003

**Affects:** Residential Care Facilities for the Elderly (RCFEs) and Adult Residential Facilities (ARFs)

**Subject:** Terminally Ill Persons

**Summary:** This legislation amends Sections 1507.3 and 1569.73 of the Health and Safety Code to permit facilities, with hospice waivers, to contact the hospice agency in cases of life-threatening emergencies involving the hospice client/resident.

Effective January 1, 2004, licensees and/or facility staff may contact the hospice agency in lieu of calling emergency response services if all of the following conditions are met:

1. The client/resident is receiving hospice services from a licensed hospice agency.
2. The client/resident has completed an advance [health care](#) directive, requesting to forego resuscitative measures.
3. The facility has documented that facility staff have received training from the hospice agency on the expected course of the client's/resident's illness and the symptoms of impending death.

This legislation also permits individuals already receiving hospice care services to be admitted to an ARF. This statutory change makes the Community Care Facilities Act consistent with the Residential Care Facilities for the Elderly Act.

#### **Implementation:**

This legislation is self-implementing and regulations will be amended to reflect the 9-1-1 option and the deletion of the residency requirement. In the interim, ARFs should not be cited for admitting an individual already receiving hospice care services provided the licensee has obtained a hospice care waiver.

RCFEs and ARFs have the option of contacting the hospice agency in lieu of 9-1-1 for hospice [clients/residentspatients](#) if ~~all the~~ three conditions above are met. Complaints alleging a failure to contact 9-1-1 [for a hospice client/resident](#) should be investigated using the above criteria. If all of the specified conditions are not met, cite the licensee using the appropriate Health and Safety Code Section.

## ACTION REQUIRED

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

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

**Subject:** Admission Agreements

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

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

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

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

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

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



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

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

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

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

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

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

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

**Implementation:**

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

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

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

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

## ACTION REQUIRED

### SB 540 (SOTO), CHAPTER 322, STATUTES OF 2003

**Affects:** Residential Care Facilities for the Elderly (RCFE)

**Subject:** Disclosure of Special Services for Persons with a Health Related Condition

**Summary:** This legislation adds Section 1569.628 to the Health and Safety (H&S) Code (H&SC). This section applies to licensees of an RCFE that advertises special care, programming, or environments for persons with a health related condition, except for residents requiring 24-hour, skilled nursing or intermediate care or who are bedridden, as specified in Section 1569.72. The licensee must provide to each prospective resident an accurate written narrative description of these programs and services to each resident prior to admission. The licensee must make ~~All~~ reasonable efforts must be made to communicate information in the narrative to a prospective resident, including reading the description out loud, if the individual is unable to read.

#### IMPLEMENTATION:

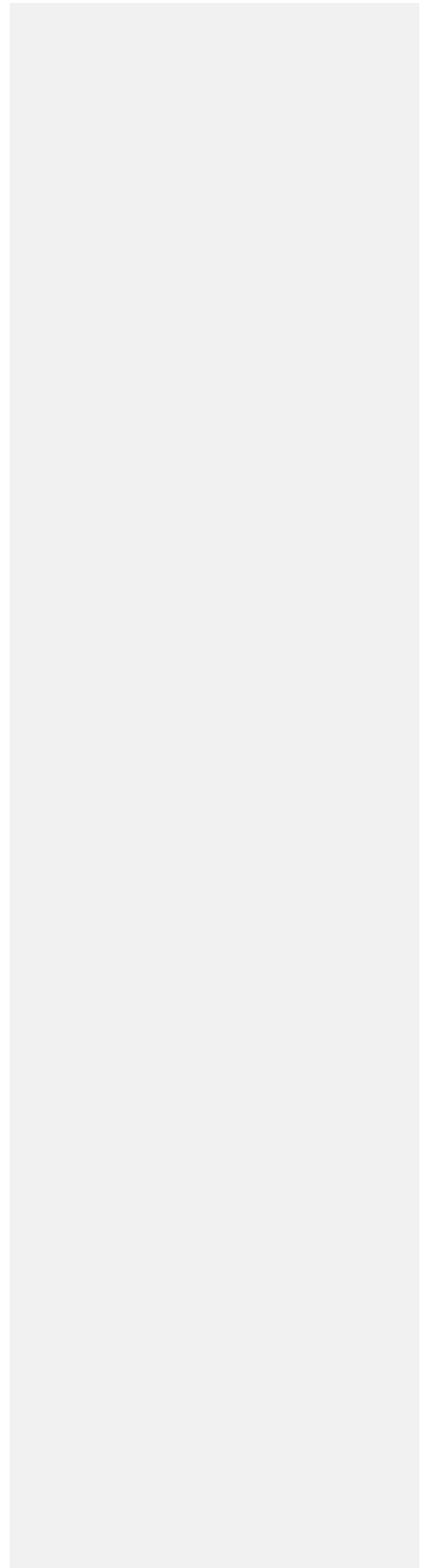
This statute is ~~self-sufficiently clear to implementing~~ although ~~until~~ regulations may be ~~are~~ developed. During the next facility visit, notify the administrator of the new disclosure requirements and reference the notification on the licensing report.

#### Disclosure Requirements:

Facilities that advertise or promote special care, programming, or environments for persons with a health related condition must maintain advertising material on file at the facility. In addition, licensees must maintain documentation showing that the written narrative summary is provided to any individual requesting information about the services being advertised. The LPA must review this advertising material to ensure that it is consistent with the facility's plan of operation submitted to the licensing agency pursuant to CCR section 87222(a)(2), and that ~~these facilities is are~~ able to provide the promoted services under their plan of operation and within the confines of the facility license. H&S Code Section 1569.72, ~~referenced in the legislation~~, does not allow ~~these~~ facilities to offer care and/or services beyond that allowed in regulations (CCR Article 8 (Incidental Medical Services), commencing with Section 87700-).



~~These facilities must provide to each prospective resident an accurate written narrative description of the special programs and services prior to admission. The licensee must also make a reasonable effort to communicate information in the narrative description to a person who is unable to read it him/herself, including, but not limited to, reading the description out loud.~~



## ACTION REQUIRED

### SB 577 (KUEHL), CHAPTER 878, STATUTES OF 2003

**Affects:** Child Care Facilities, ~~also affects~~ Community Care Facilities, Residential Care Facilities for the Chronically Ill, and Residential Care Facilities for the Elderly

**Subject:** Protection and Advocacy (P&A) Agency ~~(P&A)~~

**Summary:** This legislation amends Section 1798.24b of the Civil Code, and Sections 4514.3, 4900, 4901, 4902, 4903, 4905, and 5328.06 of, and adds Section 4906 to, the Welfare and Institutions (W&I) Code, expanding the non-profit P&A agency's authority and rights to access ~~to any facilities~~, disabled clients/residents and their records.

The expansion is a result of the amended definition of "disability" updating the federal reference to developmental disabilities, adding the federal reference to mental illness, and adding a reference to the federal Americans with Disabilities Act (ADA) and to the California Fair Employment and Housing Act. (W&I Code Section 4900(d) and (j))

Consistent with existing law, Effective January 1, 2004, if the P&A agency deems there is an imminent risk of harm to a client, the client's and/or facility records must be made available to them within 24-hours of the initial request. For investigations where the P&A agency has deemed there is not an imminent risk of harm, records must be made available within three days of the initial request.

Consistent with existing law, In addition, the P&A agency ~~is~~ are now specifically entitled to view and copy medical records, financial records, monitoring reports, or other reports, prepared or received by a member of the staff of a facility, program or service that is providing care, treatment or services.

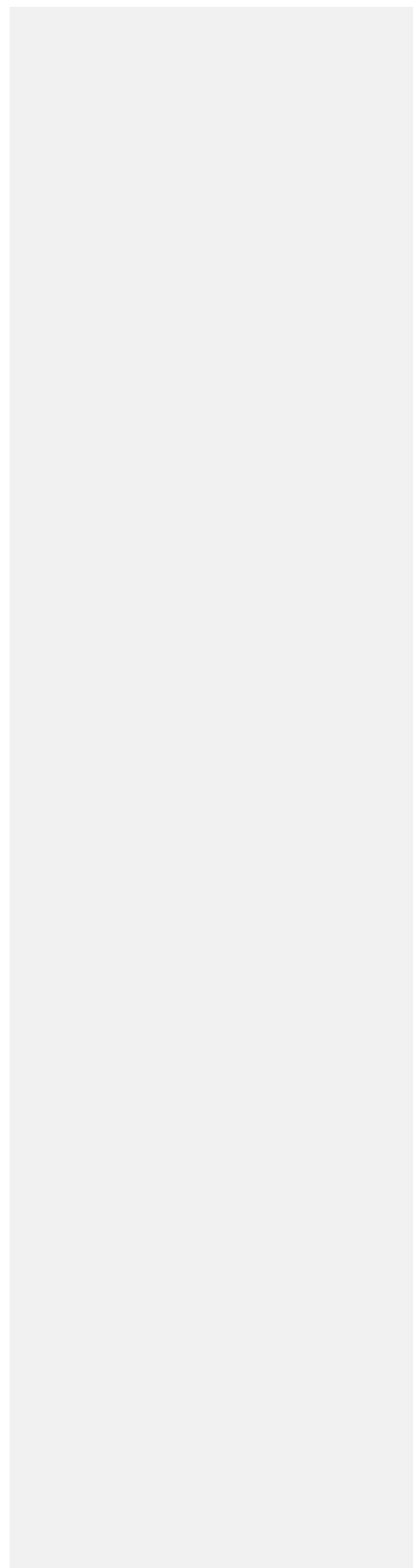
Consistent with existing law, This legislation permits the P&A agency ~~has to~~ access to records of CCL investigations, including confidential information that is not part of the public file, ~~and of~~ te death review teams.

### **IMPLEMENTATION:**

Effective January 1, 2004 and Until training is available, licensing staff will implement as follows:

- Provide P&A with requested documents within 3 business days after the agency makes a written request or, within 24 hours when the agency determines there is a probable cause to believe an immediate hazard exists or there has been a death.
- In the event there is an unusual situation where it may be difficult to produce the requested records within 24 hours, licensing staff will work with the P&A agency to attempt to get an extension.

7 Licensees that advertise special care for persons with a health related condition must maintain documentation showing that the written narrative summary is provided to any individual requesting information about the services being advertised. The LPA must verify that the written narrative description coincides with the facility's current plan of operation and is confined to what the licensee is allowed to do under his/her license. The written narrative description must also be consistent with the facility's advertisement(s) on specialized care for health related conditions.



**INFORMATION ONLY - NO ACTION REQUIRED**

**AB 414 (NAKANO), CHAPTER 305, STATUTES OF 2003**

**Affects:** Residential Care Facilities for the Elderly (RCFE)

**Subject:** Administrator Certification Training

**Summary:** This legislation amends Section 1569.616 of the Health and Safety Code, relating to continuing education.

Effective January 1, 2004, no more than one-half of the required 40 hours of continuing education may be satisfied through online courses. This legislation also specifies that the Department may approve and inspect, training programs and continuing education courses, at no charge to the Department and allows the Department to charge the vendor a fee for the review and approval.

**AB 528 (MULLIN), CHAPTER 383, STATUTES OF 2003**

**Affects:** Residential Care Facilities for the Elderly

**Subject:** Sundowning

**Summary:** This legislation amends Section 1569.2 of the Health and Safety Code to add- Tthe term “sundowning” to the list of definitions. It is now defined as a condition in which persons with cognitive impairment experience recurring confusion, disorientation, and increasing levels of agitation that coincide with the onset of late afternoon and early evening.

This legislation also adds Section 1569.7 was also added to “encourage” residential care facilities for the elderly (RCFEs) that serve residents with Alzheimer’s Disease and other forms of dementia to include information on “sundowning” as part of the training for direct care staff and to include in the plan of operation a brief narrative description explaining activities available for these residentspersons.

The language of Section 1569.7 is suggestive and has no enforcement authority. Licensees are not required to provide training on “sundowning” or to include information on specific activities for individuals with “sundowning”.

***INFORMATION ONLY - NO ACTION REQUIRED***

**AB 786 (DAUCHER AND SIMITIAN), CHAPTER 346, STATUTES OF 2003**

**Affects:** Residential Care Facilities for the Elderly (RCFEs)

**Subject:** Home Assessment Pilot Project: San Mateo County

**Summary:** This legislation authorizes a pilot project in San Mateo County to test the use of a uniform, automated screening and eligibility assessment instrument—the Minimum Data Set-Home Care (MDS-HC)—by specified home- and community-based programs serving elderly and disabled persons. Licensed home health agencies would be exempt. The use of the MDS-HC would provide specific information about clients' functional needs and abilities, and make it easier to compare long-term care client data. The pilot project would end December 31, 2008; a report to the Legislature and the Long-Term Care Council would be due May 31, 2009; and the bill would sunset July 1, 2009.

**AB 1752 (Committee on Budget), CHAPTER 225, STATUTES of 2003**

**Affects:** Child Care Facilities, Community Care Facilities, Residential Care Facilities for the Chronically Ill and Residential Care Facilities for the Elderly

**Subject:** License Fee Increases, Required Annual Visits and Random Sample Visits

**Summary:** This legislation amends Sections 1523.1, 1534, 1568.05, 1569.185, 1569.33, 1596.803, 1596.871, 1597.09, 1597.55a and 1597.55b of the Health & Safety Code relating to fees and visits. The provisions are as follows:

- Increased annual license fees and eliminated aggregate fees for licensees with multiple facilities.
- Annual visits will be made to facilities when a license is on probation; when the terms of agreement in a facility compliance plan require an annual evaluation; when an accusation against a licensee is pending; and when a facility requires an annual visit as a condition of receiving federal financial participation.
- Annual visits will also be made to ten percent of the total number of licensed facilities identified using a random sample methodology.

***INFORMATION ONLY - NO ACTION REQUIRED***

**SB 970 (ORTIZ), CHAPTER 470, STATUTES OF 2003**

**Affects:** Child Care Facilities, Community Care Facilities, Residential Care Facilities for the Chronically Ill and Residential Care Facilities for the Elderly

**Subject:** Fingerprinting: Criminal Offender Records

**Summary:** This legislation adds Sections 11077.1 and 11077.2 and amends Section 11077 of the Penal Code relating to criminal offender record information. By July 1, 2004, the Attorney General must establish and implement an electronic communication network that allows the transmission of criminal offender record information requests directly to the Department of Justice (DOJ) from approved private service providers in California for purposes of employment, licensing, certification, custodial child placement or adoption.

In addition, beginning July 1, 2005, DOJ is required to accept fingerprint images and related information to process criminal offender record information requests for the above specified purposes, only if transmitted electronically from a DOJ approved entity. DOJ is also required to accept hard fingerprint cards, to process these requests based on regional unavailability of electronic transmission sites, or when DOJ processing procedures show a need. Nothing in this statute is intended to authorize any entity to access or receive criminal offender record information from DOJ.