
EVALUATOR MANUAL TRANSMITTAL SHEET

Distribution:

- All Child Care Evaluator Manual Holders
 All Residential Care Evaluator Manual Holders
 All Evaluator Manual Holders

Transmittal No.

14APX11

Date Issued

May 2014

Subject:

Appendix A- Chaptered Legislation
 2013 Residential Care Facilities for the Elderly
 AB 261

Reason for Change:

This document transmits the implementation plan for AB 216, legislation chaptered in 2013 affecting Residential Care Facilities for the Elderly. Statute referenced in this document are operative on January 1, 2014, unless otherwise stated.

Filing Instructions:

REMOVE:

INSERT: 14APX11 AB 261 Chaptered Legislation for the Residential Care Facilities for the Elderly.

Approved:*Original signed by Lori Starnes**05/23/14***LORI STARNES Chief**

Date

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 Community Care Licensing Division

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EDMUND G. BROWN JR.
GOVERNOR

May 23, 2014

TO: ALL RESIDENTIAL CARE FACILITY FOR THE ELDERLY LICENSEES

Original signed by Pamela Dickfoss

FROM: PAMELA DICKFOSS

Deputy Director

Community Care Licensing Division

SUBJECT: **REVISED IMPLEMENTATION PLAN: ASSEMBLY BILL 261 (CHESBRO), CHAPTER 290 STATUTES OF 2013**

This memo is intended to alert all Residential Care Facility for the Elderly licensees of a change to the above stated implementation plan. The changes to this implementation plan center on the retroactive application of this law.

Assembly Bill 261 added Section 1569.652 to and amended Section 1569.884 of the Health and Safety Code related to residential care facilities for the elderly. Specifically, this law clarified 1) the conditions related to the termination of an admission agreement and 2) the charging of fees upon the death of a resident.

The updated implementation plan provides detailed instructions on how licensees can best comply with this new law until regulations are developed. The plan is posted on the Community Care Licensing Division website at: <http://www.cclcd.ca.gov/PG3063.htm>

Questions may be directed to Wendy Nelson, Policy Development Bureau Chief,
at (916) 654-2105.



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ACTION REQUIRED

Issued May 2014

Assembly Bill 261 (Chesbro), Chapter 290, Statutes of 2013

Affects: Residential Care Facilities for the Elderly

Subject: Residential Care Facilities for the Elderly: fees and charges

Summary: Assembly Bill 261 adds Section 1569.652 to and amends Section 1569.884 of the Health and Safety Code related to residential care facilities for the elderly.

This law provides clarification on the termination of an admission agreement and the charging of fees upon the death of a resident. Specifically, this bill:

- (1) prohibits the facility from requiring advance notice to terminate an admission agreement upon the death of a resident and prevents fees from accruing once all personal property belonging to the deceased resident has been removed;
- (2) prohibits the licensee from impeding the removal of a deceased resident's personal property, during reasonable hours, by an individual or individuals authorized by the resident or the resident's responsible person, as identified in the admission agreement or attachment, or by a court-appointed executor or administrator of the decedent's estate, if applicable;
- (3) requires a facility licensee to refund fees paid in advance covering the time after the resident's personal property has been removed from the facility to the individual, individuals, or entity contractually responsible for the fees or, if the deceased resident paid the fees, to the resident's estate, within 15 days after the deceased resident's personal property is removed; and,
- (4) requires the licensee, if fees are assessed while the resident's belongings remain in the living unit after the resident is deceased, to provide the deceased resident's responsible person, or other individual or individuals as identified in the admission agreement or attachment, written notice of the facility's policies regarding contract termination upon death and refunds within three days of becoming aware of the resident's death.

Implementation: This law is effective January 1, 2014 and applies to all admission agreements executed prior to, on, or after January 1, 2014. This implementation plan supersedes and rescinds the prior implementation plan for this bill which was issued in January 2014.

LICENSEES

For admission agreements executed prior to January 1, 2014 that contain language that is in violation of this new law:

Licensees shall prepare a written addendum to the admission agreement. This addendum shall notify the resident of the following:

- there has been a change to the admission agreement;
- advance notice is no longer required to terminate an admission agreement upon the death of a resident; and,
- fees will no longer accrue once all personal property of a deceased resident has been removed from the living unit.

The addendum must be signed and dated by the licensee and provided to the resident to attach to his/her original admission agreement. The addendum becomes effective upon receipt by the resident. The licensee shall attach a copy of the addendum to the resident's signed admission agreement and retain these documents in the resident's facility record.

For admission agreements executed on or after January 1, 2014:

- Licensees shall ensure that facility admission agreements meet the requirements of this new law.

LICENSING PROGRAM ANALYSTS

Until regulations are developed, and policies and procedures are updated, the following protocols should be utilized.

Admission Agreement Reviews

Applications

The Licensing Program Analyst shall ensure that a licensee's plan of operation, including the admission agreement, complies with this law. No application for licensure shall be approved if it is non-compliant with this law. The Licensing Program Analyst should carefully review admission agreement sections related to refunds and termination of the agreement.

Inspections

For admission agreements executed prior to January 1, 2014:

The Licensing Program Analyst should review and ensure admission agreements executed prior to January 1, 2014, are in compliance with this law and if not, the above referenced “addendum” is attached to the original admission agreement.

For admission agreements executed on or after January 1, 2014:

The Licensing Program Analyst should review and ensure that an admission agreement does not require advance notice to terminate upon the death of a resident, and that it prevents fees from accruing once all personal property belonging to the deceased resident has been removed from the living unit.

Complaints

Admission Agreements

On a case by case basis and in consultation with a Licensing Program Manager the Licensing Program Analyst shall evaluate an allegation that a licensee has violated the law related to the terms of an admission agreement executed prior to, on, or after January 1, 2014, specific to:

- requiring advance notice for terminating an admission agreement upon the death of a resident; and/or,
- continuing to charge fees after all personal property belonging to the deceased resident is removed from the living unit.

If the allegation is substantiated, the Licensing Program Analyst shall cite:

- Health and Safety Code section 1569.652(a).

Removal of Property

If a Licensing Program Analyst receives an allegation related to removal of property, he/she should determine if a licensee impeded the removal of a deceased resident’s property, during reasonable hours, by an individual or individuals authorized by the resident or the resident’s responsible person, as identified in the admission agreement or attachment, or by a court-appointed executor or administrator of the decedent’s estate, if applicable.

If the allegation is substantiated, the Licensing Program Analyst shall cite:

- Health and Safety Code section 1569.652(b).

Refunds

If a Licensing Program Analyst receives an allegation related to refunds, he/she should determine if licensee failed to refund fees paid in advance covering the time

after the resident's personal property has been removed from the facility to the individual, individuals, or entity contractually responsible for the fees or, if the deceased resident paid the fees, to the resident's estate, within 15 days after the deceased resident's personal property is removed.

If the allegation is substantiated, the Licensing Program Analyst shall cite:

- Health and Safety Code section 1569.652(c).

Notification: Fees

If a Licensing Program Analyst receives an allegation related to notification of fees, he/she should determine if fees are assessed while the deceased resident's belongings remain in the living unit. If fees are assessed, determine if the licensee failed to provide the deceased resident's responsible person, or other individual or individuals as identified in the admission agreement or attachment, written notice regarding the facility's policies regarding contract termination upon death and refunds within three days of becoming aware of the resident's death.

If the allegation is substantiated, the Licensing Program Analyst shall cite:

- Health and Safety Code section 1569.652(d).

For legislative information related to this new law: http://leginfo.ca.gov/pub/13-14/bill/asm/ab_0251-0300/ab_261_bill_20130909_chaptered.pdf