

Manual of Policies and Procedures
COMMUNITY CARE LICENSING DIVISION

**ADULT RESIDENTIAL
FACILITIES**

**Title 22
Division 6
Chapter 6**



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

Regulations of CDSS 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 department's regulations and statutes are mandatory, not optional.

In addition, please note that as a result of the changes to a new computer system revised language in this manual letter and subsequent community care licensing manual letters 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. GENERAL REQUIREMENTS AND DEFINITIONS**85000 GENERAL**

(a) Adult Residential Facilities, as defined in Section 80001(a)(5), shall be governed by the provisions specified in this chapter and in Chapter 1, General Requirements. In addition, Subchapter 1 of this chapter shall apply when a licensee utilizes or reasonably foresees that he or she will utilize a manual restraint or seclusion.

(1) Section 85102 shall apply to all Adult Residential Facilities.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1530 and 1531, Health and Safety Code.

85001 DEFINITIONS

In addition to Section 80001, the following shall apply.

(a) (1) "Adult protective services agency" means a county welfare department, as defined in Welfare and Institutions Code Section 15610.13.

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(A) Welfare and Institutions Code Section 15610.13 defines "adult protective services agency" to mean 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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(2) "Advance Health Care Directive" means a written instruction that relates to the provision of health care when the individual is incapacitated. An Advance Health Care Directive includes, but is not limited to, a Power of Attorney for Health Care; an Individual Health Care Instruction; a Request to Forego Resuscitative Measures; or a Do-Not-Resuscitate form. In this written instruction, 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.

(3) "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.

85001 DEFINITIONS (Continued)

- (4) “Appropriately Skilled Professional” means an individual that has training and is licensed to perform the necessary medical procedures prescribed by a physician. This term 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 adult residential facilities.
- (b) (Reserved)
- (c) (1) “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 an adult residential facility.
- (2) "Certified administrator" means a person who has been issued an Administrator Certification by the Department and whose certification is current.
- (3) "Classroom Hour" means fifty (50) to sixty (60) minutes of classroom instruction within a 60-minute period. No credit is given for meal breaks.
- (4) "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.
- (5) "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.
- (6) “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.
- (7) “Continuing Education Training Program Vendor” means a vendor approved by the Department to provide Continuing Education training courses to adult residential facility administrators and certificate holders to qualify them for renewal of their adult residential facility administrator certificate.
- (8) "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.

85001 DEFINITIONS (Continued)

- (d) (1) “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 client or, in certain instances, a client’s Health Care Surrogate Decision Maker, and by a physician, alert pre-hospital emergency medical services personnel to the client’s wish to forego resuscitative measures in the event of the client’s cardiac or respiratory arrest.
- (e) (Reserved)
- (f) (1) “Facility Hospice Care Waiver” means a waiver, as required by Health and Safety Code section 1507.3, from the limitation on acceptance or retention of clients who have been diagnosed as terminally ill, if that person has obtained the services of a hospice agency certified in accordance with federal Medicare conditions of participation and licensure as defined. This waiver granted by the Department will permit the licensee to accept or retain a designated maximum number of terminally ill clients who are receiving services from a Hospice Agency. The waiver will apply only to those existing or prospective clients who are receiving hospice care in compliance with a Hospice Care Plan meeting the requirements of Section 85075.1.
- (g) (Reserved)
- (h) (1) “Health Care Provider” means that person or persons described in Probate Code Section 4621.

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Section 4621 of the Probate Code states:

“‘Health Care Provider’ means 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.”

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- (2) “Health Care Surrogate Decision Maker” means an individual who participates in health care decision-making on behalf of an incapacitated client. This individual may be formally appointed (e.g., by the client in an Advance Health Care Directive or by a court in a conservatorship proceeding) or be recognized by virtue of a relationship with the client (e.g., the client’s next of kin). The licensee or any staff member of the facility shall not be appointed by any client to be a Health Care Surrogate Decision Maker.

85001 DEFINITIONS (Continued)

- (3) "Hospice or Hospice Agency" means an entity that provides hospice services to terminally ill persons. This entity is Medicare certified and holds either a Hospice license or a Home Health Agency license from the California Department of Health Services. The definition includes any organization(s), appropriately skilled professional(s), or other professional person(s) or entity(ies) that are subcontracted by the hospice to provide services to the client. The hospice agency providing services in an Adult Residential Facility shall not subcontract with the licensee or any facility staff for the provision of services.
- (4) "Hospice Care Plan" means the hospice's written plan of care for a terminally ill client. The hospice shall retain overall responsibility for the development and maintenance of the plan and quality of hospice services delivered.
- (i) (1) "Initial Certification Training Program Vendor" means a vendor approved by the Department to provide the initial thirty-five (35) hour certification training program to persons who do not possess a valid adult residential facility administrator certification.
- (j) (Reserved)
- (k) (Reserved)
- (l) (1) "Licensed Mental Health Professional" means a licensed clinical psychologist; a psychiatrist; a licensed clinical social worker; or a licensed marriage, family and child counselor.
- (m) (Reserved)
- (n) (1) "Needs and Services Plan" means a written plan that identifies the specific needs of an individual client, including those items specified in Sections 80068.2 and 85068.2, and delineates those services necessary to meet the client's identified needs.
- (o) (Reserved)
- (p) (Reserved)
- (q) (Reserved)

85001 DEFINITIONS (Continued)

(r) (Reserved)

(s) (Reserved)

(t) (1) "Terminally Ill Client" means a client who has a prognosis by his/her attending physician that the client's life expectancy is six months or less if his/her illness or condition runs its normal course.

(u) (Reserved)

(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 and/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 and/or a Continuing Education Training Program.

(w) (Reserved)

(x) (Reserved)

(y) (Reserved)

(z) (Reserved)

NOTE: Authority cited: Sections 1530 and 1562.3(i), Health and Safety Code. Reference: Sections 1501, 1502.2, 1507, 1530, 1531, and 1562.3, Health and Safety Code, and Section 15610.13, Welfare and Institutions Code, and Sections 1800, 4605, and 4753, Probate Code.

85002 DEFINITIONS - FORMS

The following forms, which are incorporated by reference, apply to the regulations in Title 22, Division 6, Chapter 6 (Adult Residential Facilities). Additional forms applicable to Adult and other residential facilities are incorporated by reference in Section 87102.

- (a) Core of Knowledge Guideline (01/16) - ARF 35-Hour Initial Certification.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1530 and 1562.3, Health and Safety Code; and Section 15376, Government Code.

Article 2. LICENSING**85009 POSTING OF LICENSE**

- (a) In facilities with a licensed capacity of seven or more, the license shall be posted in a prominent, publicly accessible location in the facility.
- (b) In facilities with a licensed capacity of six or fewer, the license shall be retained in the facility and be available for review upon request.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

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Article 3. APPLICATION PROCEDURES**85018 APPLICATION FOR LICENSE**

- (a) In addition to Section 80018, the following shall apply.
- (b) Each applicant shall submit a financial plan of operation on forms provided or approved by the department.
 - (1) Start-up funds shall be available which shall include funds for the first three months of operation.
- (c) The licensing agency shall have the authority to require written verification of the availability of the funds required in (b)(1) above.
- (d) Each applicant shall submit the name and 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.

NOTE: Authority cited: Sections 1530 and 1562.3(i), Health and Safety Code. Reference: Sections 1501, 1528, 1531, 1562.3, and 1562.4, Health and Safety Code.

85022 PLAN OF OPERATION

- (a) In addition to Section 80022, the following shall apply.
- (b) The plan of operation shall contain written evidence of arrangements for any consultants and community resources which are to be utilized to meet regulatory requirements or requirements of the facility's plan of operation.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1528 and 1531, Health and Safety Code.

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Article 4. ADMINISTRATIVE ACTIONS (Reserved)**Article 5. ENFORCEMENT PROVISIONS****85051 SERIOUS DEFICIENCIES**

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- (a) In addition to Section 80051, the following are examples of regulations which, if not complied with, nearly always result in a serious deficiency.
- (1) Sections 85068.4(a)(1), (2), and (5) and 85075.3(d) relating to persons with communicable diseases and persons requiring inpatient health or acute psychiatric care.

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NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1530 and 1534, Health and Safety Code.

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Article 6. CONTINUING REQUIREMENTS**85060 BASIC SERVICES**

- (a) For SSI/SSP recipients who are residents, the basic services shall be provided and/or made available at the basic rate with no additional charge to the resident.
- (1) This shall not preclude the acceptance by the facility of voluntary contributions from relatives or others on behalf of an SSI/SSP recipient.

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- (A) The Social Security Administration has interpreted Federal Regulations (20 CFR 416.1102, 416.1103, and 416.1145) to mean that any contribution given directly to the facility on behalf of an SSI/SSP recipient will not count as income (i.e., will not reduce the recipient's SSI/SSP check) if the payment is used for items other than food, clothing or shelter (e.g., care and supervision).

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- (2) An extra charge to the resident shall be allowed for a private room if a double room is made available but the resident prefers a private room, provided the arrangement is documented in the admissions agreement and the charge is limited to 10% of the Board and Room portion of the SSI/SSP grant.
- (3) An extra charge to the resident shall be allowed for provision of special food services or products beyond that specified in Section 80076(a)(2) and (a)(4) when the resident wishes to purchase the services and agrees to the extra charge in the admissions agreement.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code and Section 12350, Welfare and Institutions Code.

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85061 REPORTING REQUIREMENTS

- (a) In addition to Section 80061, the following shall apply.
- (b) The licensee shall notify the Department, in writing, within thirty (30) days of a change of administrator. The notification shall include the following:
 - (1) Name, and residence and mailing addresses of the new administrator.
 - (2) Date he/she assumed his/her position.
 - (3) Description of his/her background and qualifications, including documentation of required education and administrator certification.
 - (A) A photocopy of the documentation shall be permitted.

NOTE: Authority cited: Sections 1530 and 1562.3(i), Health and Safety Code. Reference: Sections 1501, 1531, 1562.3, and 1562.4, Health and Safety Code.

85064 ADMINISTRATOR QUALIFICATIONS AND DUTIES

- (a) In addition to Section 80064, the following shall apply.
 - (b) All adult residential facilities shall have a qualified and currently certified administrator.
 - (c) The administrator shall be at least 21 years of age.
 - (d) Have a high school diploma or pass a general educational development test (GED).
 - (1) Administrators employed prior to July 1, 1996 are exempt from this requirement.
- The administrator shall be on the premises the number of hours necessary to manage and administer the facility in compliance with applicable law and regulation.
- (f) When the administrator is absent from the facility there shall be coverage by a designated substitute, who meets the qualifications of Section 80065, who shall be capable of, and responsible and accountable for, management and administration of the facility in compliance with applicable law and regulation.
 - (g) The administrator of a facility for seven to 15 clients shall have one year of work experience in residential care.
 - (h) The administrator of a facility for 16 to 49 clients shall have graduated from high school, or possess a GED, and shall have one of the following prior to employment:

85064 ADMINISTRATOR QUALIFICATIONS AND DUTIES (Continued)

- (1) Completion, with a passing grade, of 15 college or continuing education semester or equivalent quarter units, three of which shall be in nutrition, human behavior, administration, or staff relations.
 - (2) One year of work experience in residential care.
- (i) The administrator of a facility for 50 or more clients shall have graduated from high school, or possess a GED, and shall have one of the following prior to employment.
- (1) Completion, with a passing grade, of 60 college or continuing education semester or equivalent quarter units, six of which shall be in administration or staff relations.
 - (2) Three years work experience in residential care, one year of which shall have been providing direct care to clients or assisting in facility administration.
- (j) The administrator shall perform the following duties:
- (1) Where applicable, advise the licensee on the operation of the facility and advise the licensee on developments in the field of care and supervision.
 - (2) Development of an administrative plan and procedures to define lines of responsibility, workloads, and staff supervision.
 - (3) Recruitment, employment and training of qualified staff, and termination of staff.
 - (4) Provision of, or insurance of the provision of, services to the clients, required by applicable law and regulation, including those services identified in the client's individual needs and services plans.
 - (A) The licensing agency shall have authority to approve the use of a centralized service facility to provide any required services to two or more licensed facilities. Prior approval shall be obtained in writing.

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- (B) Examples of such centralized service facilities are a centralized laundry, dining room or kitchen serving two or more facilities.

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- (5) Arrangement for special provisions for the care and supervision and safety and guidance of clients with disabilities including visual or auditory deficiencies.

85064**ADMINISTRATOR QUALIFICATIONS AND DUTIES (Continued)**

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- (A) Such provisions may include additional staff, safety and emergency information printed in braille, and lights to alert the deaf to emergency sounds.

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- (6) Arrangement for the clients to attend available community programs, when clients have needs, identified in the needs and services plan, which cannot be met by the facility but can be met by community programs.
- (A) Such arrangements shall include, but not be limited to, arranging for transportation.
- (k) Within six months of becoming an administrator, the individual shall receive training on HIV and TB required by Health and Safety Code Section 1562.5. Thereafter, the administrator shall receive updated training every two years.

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Health and Safety Code Section 1562.5(a) reads in pertinent part:

"(a) The Director shall ensure that, within six months after obtaining licensure, an administrator of an adult residential facility ... shall receive four hours of training on the needs of residents who may be infected with the human immunodeficiency virus (HIV), and on basic information about tuberculosis. Administrators ... shall attend update training sessions every two years after satisfactorily completing the initial training to ensure that information received on HIV and tuberculosis remains current. The training shall consist of three hours on HIV and one hour on tuberculosis. ...

(g) In the event that an administrator or program director demonstrates to the department a significant difficulty in accessing training, the administrators and program directors of these facilities shall have the option of fulfilling these training requirements through a study course consisting of written and/or video educational materials."

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- (l) Administrators employed prior to July 1, 1996 shall be exempt from the requirements of Sections 85064(d), (h), and (i) above, provided that they have no break in employment as an adult residential facility administrator exceeding three (3) consecutive years.
- (m) In those cases where the individual is both the licensee and the administrator of an adult residential facility, the individual shall comply with all of the licensee and certified administrator requirements.

85064 ADMINISTRATOR QUALIFICATIONS AND DUTIES (Continued)

- (n) The Department may revoke the license of an adult residential facility for failure to comply with all requirements regarding certified administrators.
- (o) Unless otherwise provided, a certified administrator may administer more than one licensed adult residential facility.

NOTE: Authority cited: Sections 1530 and 1562.3(i), Health and Safety Code. Reference: Sections 1501, 1531, 1562, 1562.3, 1562.4, and 1562.5, Health and Safety Code.

85064.2 ADMINISTRATOR CERTIFICATION REQUIREMENTS

- (a) An individual shall be an adult residential facility certificate holder prior to being employed as an Administrator.
- (b) To receive his/her certificate an applicant shall:
 - (1) Successfully complete a Department approved Initial Certification Training Program as described in Section 85090(h).
 - (2) Pass a written exam developed and administered by the Department within sixty (60) days of completion of an Initial Certification Training Program and within three (3) attempts.
 - (3) Submit a completed Application for Administrator Certification form LIC 9214 to the Department's Administrator Certification section within thirty (30) days of being notified of having passed the exam. The application shall contain the following:
 - (A) The applicant's name, address, e-mail address, phone number(s), and date of birth.
 - (B) A statement of whether or not the applicant:
 - (i) Held or currently holds a license, certification or other approval as a professional in a specified field and the certificate or license number(s).
 - (ii) Held or currently holds a State-issued care facility license or was or is employed by a State-licensed care facility and the license number.
 - (iii) Was the subject of any legal, administrative or other action involving licensure, certification or other approvals as specified in Sections 85064(b)(3)(B)(i) and (ii).
 - (C) Proof that the applicant has successfully completed a Department approved Initial Certification Training Program.
 - (D) Documentation of passing the written exam.

85064.2 ADMINISTRATOR CERTIFICATION REQUIREMENTS (Continued)

- (E) A statement certifying that the information submitted is true and correct.
 - (F) A completed Criminal Record Statement (LIC 508).
 - (G) A completed Request for LiveScan Service form LIC 9163, signed and dated by the live scan vendor, to document that the applicant has submitted fingerprints to the Department of Justice at a livescan location, or a statement that the applicant has a current criminal record clearance or an exemption on file with the Department.
 - (H) A non-refundable one hundred dollar (\$100) processing fee.
- (c) The Department shall not issue a certificate until it receives notification from the Department of Justice that the applicant has a criminal record clearance or an exemption pursuant to Health and Safety Code section 1522 or is able to transfer a current criminal record clearance or an exemption pursuant to Health and Safety Code section 1522(h)(1).
- (d) No person shall cheat on, subvert, or attempt to subvert, the exam given by the Department, including, but not limited to, engaging in, soliciting, or procuring any of the following:
- (1) Any form of communication between one or more examinees and any other person, other than a proctor or exam official, while the exam is in progress.
 - (2) The taking of all or a part of the exam by a person other than the applicant.
 - (3) Possession or use at any time during the exam or while the examinee is on the exam premises of any device, material, or document that is not expressly authorized for use by examinees during the exam, including, but not limited to, notes, crib sheets, textbooks, and electronic devices.
 - (4) Failure to follow any exam instruction or rule related to exam security.
- (e) Any applicant caught willfully cheating under this section shall be deemed to have failed that exam and may be denied certification pursuant to Section 85064.4 as a result of the conduct.
- (f) It shall be unlawful for any person not certified under this Section to misrepresent himself or herself as a certified administrator. Any person willfully making any false representation as being a certified adult residential facility administrator is guilty of a misdemeanor.
- (g) Certificates issued under this Section shall be renewed every two (2) years provided the certificate holder has complied with all renewal requirements.
- (h) Certificates shall be valid for a period of two (2) years and expire on either the anniversary date of initial issuance or on the individual's birthday during the second calendar year following certification.
- (1) The certificate holder shall make an irrevocable election to have his or her recertification date for any subsequent recertification either on the date two years from the date of issuance of the certificate or on the individual's birthday during the second calendar year following certification.

85064.2 ADMINISTRATOR CERTIFICATION REQUIREMENTS (Continued)

- (i) Time deadlines specified in Section 85064.2(b)(2) and (3) above may be extended up to sixty (60) days in total for good cause as determined by the Department. Any request for extension of time shall be made in writing to the Administrator Certification Section Manager within sixty (60) days of completing the initial Certification Training Program and shall contain a statement of all facts the applicant believes constitute good cause to extend a time deadline.
 - (1) Good cause may include death of an immediate family member, required fulfillment of military service or other civic duty, or another unavoidable and verifiable event as determined by the Department. Failure of the exam shall not constitute good cause for an extension.
 - (2) Absent a good cause extension, the Department shall not process and may deem withdrawn an application that fails to meet the time deadlines specified in Sections 85064.2(b)(2) or (3).
 - (3) Any applicant who fails to meet the time deadlines specified in Sections 85064.2(b)(2) and (3) must begin the certification process described in Section 85064.2(b) anew, and complete it within the time deadlines specified in Sections 85064.2(b)(2) and (3).

NOTE: Authority cited: Sections 1530 and 1562.3(i), Health and Safety Code. Reference: Sections 1501, 1520(b), 1522, 1531, 1550, 1562, 1562.3, and 1562.4, Health and Safety Code.

85064.3 ADMINISTRATOR RECERTIFICATION REQUIREMENTS

- (a) Administrators shall complete at least forty (40) classroom hours of continuing education during each two-year certification period, including:
 - (1) At least four (4) hours of instruction in laws, regulations, policies, and procedural standards that impact adult residential facilities, including but not limited to the regulations contained in this Chapter.
 - (2) If not included in the certified administrator's Initial Certification Training Program, at least one (1) hour of instruction in cultural competency and sensitivity in issues relating to the underserved aging lesbian, gay, bisexual, and transgender community.
- (b) Continuing education hours must be sufficiently related by subject matter and logic to the Core of Knowledge, current and relevant to facility operations and care, and completed through any combination of the following:
 - (1) Courses approved for adult residential facility administrators by the Department.

85064.3 ADMINISTRATOR RECERTIFICATION REQUIREMENTS (Continued)

- (2) Certified administrators required to complete continuing education hours required by regulations of the Department of Developmental Services, and approved by the Regional Center, may have up to twenty-four (24) of the required continuing education course hours credited toward the forty (40) hour continuing education requirement.
 - (A) Community college course hours approved by the Regional Center shall be accepted by the Department for recertification.
 - (B) Any continuing education course hours in excess of twenty-four (24) hours offered by the Department of Developmental Services and approved by the Regional Center may be credited toward the forty (40) hour requirement provided the courses are not duplicative and relate to the core of knowledge as specified in Sections 85090(h)(1).
- (c) Courses approved for continuing education credit shall require the physical presence of the certificate holder in a classroom setting as defined in Section 85001(c)(4) except that up to one-half of the required forty (40) hours of continuing education necessary to renew the certificate may be satisfied through interactive online course as specified in Section 85091(i).
 - (1) The Department will not count toward the continuing education requirements more than ten (10) hours of instruction, in-class and/or online, completed in a single day.
 - (2) Home study or correspondence-type courses will not be counted toward completion of continuing education requirements as they are not interactive by design.
 - (3) Completion of an Initial Certification Training Program or component(s) thereof will not be counted toward completion of continuing education requirements as the Program is intended for new administrators.
 - (4) Any specific continuing education course may only be accepted once per renewal period toward completion of the continuing education requirements.
- (d) To apply for recertification prior to the expiration date of the certificate, the certificate holder shall submit to the Department's Administrator Certification Section, post-marked on, or up to ninety (90) days before, the certificate expiration date:
 - (1) A completed Application for Administrator Certification form LIC 9214.
 - (2) Evidence of completion of forty (40) continuing education hours as specified in Section 85064.3(a) above.
 - (3) Payment of a non-refundable one hundred dollar (\$100) processing fee.
- (e) To apply for recertification after the expiration date of the certificate, but within four (4) years of the certificate expiration date, the certificate holder shall submit to the Department's Administrator Certification Section:

85064.3 ADMINISTRATOR RECERTIFICATION REQUIREMENTS (Continued)

- (1) A completed Application for Administrator Certification form LIC 9214.
 - (2) Evidence of completion of the required continuing education hours as specified in Section 85064.3(a) above. The total number of hours required for recertification shall be determined by computing the number of continuing education hours the certificate holder would have been required to complete if he/she had remained certified. The date of computation shall be the date the application for renewal is received by the Department's Administrator Certification Section.
 - (3) Payment of a non-refundable delinquency fee equal to three times the one hundred dollar (\$100) renewal fee, or three hundred dollars (\$300).
- (f) Certificates not renewed within four (4) years of their expiration date shall not be renewed, restored, reissued or reinstated.
- (1) Holders of certificates not renewed within four (4) years of their expiration date must begin anew the certification process specified in Section 85064.2(b).
- (g) Certificate holders, as a condition of recertification, shall have a current criminal record clearance or exemption.
- (h) A non-refundable processing fee of twenty-five dollars (\$25) shall be paid for the replacement of a lost certificate.
- (i) A certificate holder shall report any change of mailing address within thirty (30) days to the Department's Administrator Certification Section.
- (j) Whenever a certified administrator assumes or relinquishes responsibility for administering an adult residential facility, he or she shall provide written notice within thirty (30) days to:
- (1) The local licensing office(s) responsible for receiving information regarding personnel changes at the licensed facilities with whom the certificate holder is or was associated, and
 - (2) The Department's Administrator Certification Section.

NOTE: Authority cited: Sections 1530 and 1562.3(i), Health and Safety Code. Reference: Sections 1522, 1522.41(h) and 1562.3, Health and Safety Code.

85064.4 ADMINISTRATOR CERTIFICATE DENIAL OR REVOCATION

- (a) The Department may deny or revoke any administrator certificate upon any of the grounds specified in Health and Safety Code section 1550 and/or on any of the following grounds:
- (1) The certificate holder or applicant procured or attempted to procure a certificate by fraud, misrepresentation, bribery, or other unlawful behavior.

85064.4 ADMINISTRATOR CERTIFICATE DENIAL OR REVOCATION (Continued)

- (2) The certificate holder or applicant knowingly made or gave a false statement or information in conjunction with the application for a certificate.
 - (3) The Department has issued an exclusion order against the certificate holder pursuant to Health and Safety Code sections 1558, 1568.092, 1569.58 or 1596.8897 after the Department issued the certificate, and:
 - (A) The certificate holder did not appeal the exclusion order, or
 - (B) After the appeal, the Department issued a decision and order that upheld the exclusion order.
 - (4) The certificate holder or applicant does not have a current criminal record clearance or exemption.
 - (5) The certificate holder fails to comply with certificate renewal requirements.
 - (A) The Department may reinstate a certificate that has been revoked for failure to comply with certification renewal requirements provided all conditions for recertification have been satisfied, including payment of all appropriate renewal and delinquency fees.
- (b) Any denial or revocation of an administrator certificate may be appealed as provided by Health and Safety Code section 1551.
- (c) Unless otherwise ordered by the Department, any application for an administrator certificate submitted after a denial or revocation action shall be processed in accordance with the provisions of Health and Safety Code 1520.3.

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Health and Safety Code section 1520.3 reads in pertinent part:

"(a)(1) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant previously was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.3 (commencing with Section 1569), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) and the prior license was revoked within the preceding

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85064.4 ADMINISTRATOR CERTIFICATE DENIAL OR REVOCATION (Continued)

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two years, the department shall cease any further review of the application until two years shall have elapsed from the date of the revocation. The cessation of review shall not constitute a denial of the application for purposes of Section 1526 or any other provision of law.

...

(a)(3) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant was excluded from a facility licensed by the department or from a certified family home pursuant to Sections 1558, 1568.092, 1569.58, or 1596.8897, the department shall cease any further review of the application unless the excluded individual has been reinstated pursuant to Section 11522 of the Government Code by the department.

(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 paragraph (1) of subdivision (a) and the application was denied within the last year, the department shall cease further review of the application as follows:

(1) In cases where the applicant petitioned for a hearing, the department shall cease further review of the application until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall cease further review of the application until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(3) The department may continue to review the application if it has determined that the reasons for the denial of the applications were due to circumstances and conditions which either have been corrected or are no longer in existence."

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NOTE: Authority cited: Sections 1530 and 1562.3(i), Health and Safety Code. Reference: Sections 1520.3, 1522, 1550, 1551, 1562.3 and 1562.4, Health and Safety Code.

85064.5 ADMINISTRATOR CERTIFICATE FORFEITURE

(a) Unless otherwise ordered by the Department, the certificate shall be considered forfeited under any of the following conditions:

(1) The Department has revoked any license held by the certificate holder after the Department issued the certificate.

85064.5 ADMINISTRATOR CERTIFICATE FORFEITURE (Continued)

- (2) The Department has issued an exclusion order against the certificate holder pursuant to Health and Safety Code sections 1558, 1568.092, 1569.58, or 1596.8897, after the Department issued the certificate, and:
- (A) The certificate holder did not appeal the exclusion order or,
 - (B) After the appeal, the Department issued a decision and order that upheld the exclusion order.
- (b) Unless otherwise ordered by the Department, any application for an administrator certificate submitted after a certificate has been forfeited shall be processed in accordance with the provisions of Health and Safety Code sections 1520.3, 1558(h) and/or 1558.1.

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Health and Safety Code section 1520.3 reads in pertinent part:

"(a)(1) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant previously was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.3 (commencing with Section 1569), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) 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 the revocation. The cessation of review shall not constitute a denial of the application for purposes of Section 1526 or any other provision of law.

...

(a)(3) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant was excluded from a facility licensed by the department or from a certified family home pursuant to Section 1558, 1568.092, 1569.58, or 1596.8897, the department shall cease any further review of the application unless the excluded individual has been reinstated pursuant to Section 11522 of the Government Code by the department.

(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 paragraph (1) of subdivision (a) and the application was denied within the last year, the department shall cease further review of the application as follows:

(1) In cases where the applicant petitioned for a hearing, the department shall cease further review of the application until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

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85064.5**ADMINISTRATOR CERTIFICATE FORFEITURE (Continued)**

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(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall cease further review of the application until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(3) The department may continue to review the application if it has determined that the reasons for the denial of the applications were due to circumstances and conditions that either have been corrected or are no longer in existence."

Health and Safety Code section 1558(h) reads in pertinent part:

"(1)(A) In cases where the excluded person appealed the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or from being a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

(B) The excluded individual may petition for reinstatement one year after the effective date of the decision and order of the department upholding the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the decision and order.

(2)(A) In cases where the department informed the excluded person of his or her right to appeal the exclusion order and the excluded person did not appeal the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

(B) The excluded individual may petition for reinstatement after one year has elapsed from the date of the notification of the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the exclusion order."

Health and Safety Code section 1558.1 reads in pertinent part:

"(a)(1) If the department determines that a person was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.2 (commencing with Section 1569), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) and the prior license was revoked within the preceding two years, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter.

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85064.5 ADMINISTRATOR CERTIFICATE FORFEITURE (Continued)

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...

(b) If the department determines that the person had previously applied for a license under any of the chapters listed in paragraph (1) of subdivision (a) and the application was denied within the last year, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter and as follows:

(1) In cases where the applicant petitioned for a hearing, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

...

(e) The department may determine not to exclude the person from, or remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter if it has determined that the reasons for the denial of the application or revocation of the facility license or certificate of approval were due to circumstances and conditions that either have been corrected or are no longer in existence."

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NOTE: Authority cited: Sections 1530 and 1562.3(i), Health and Safety Code. Reference: Sections 1520.3, 1558, 1558.1, and 1562.3, Health and Safety Code.

85065 PERSONNEL REQUIREMENTS

- (a) In addition to Section 80065, the following shall apply.
- (b) The licensee shall employ staff as necessary to ensure provision of care and supervision to meet client needs.
- (c) The licensee shall employ support staff as necessary to perform office work, cooking, house cleaning, laundering, and maintenance of buildings, equipment and grounds.
- (d) The licensee shall ensure that the following personnel requirements are met in the provision of planned activities:
 - (1) In facilities with a licensed capacity of 16 to 49 clients, one employee shall be designated by the administrator to have primary responsibility for the organization, conduct and evaluation of planned activities.
 - (A) The designated employee shall possess at least six months of experience in organizing and providing planned group activities.
 - (2) In facilities with a licensed capacity of 50 or more clients, one employee shall have full-time responsibility for the organization, conduct and evaluation of planned activities, and shall be given assistance as necessary in order to ensure that all clients participate in accordance with their interests and abilities.
 - (A) The designated employee shall possess at least one year of experience in organizing and providing planned group activities, and shall be knowledgeable in the evaluation of client needs, the supervision of other employees, and the training of volunteers.
 - (3) Participation of volunteers in planned activities shall be encouraged.
 - (A) Such volunteers shall be under the direction and supervision of the employee designated as responsible for the activity program.

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85065**PERSONNEL REQUIREMENTS (Continued)**

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- (4) Where the facility can demonstrate that its clients are self-directed to the extent that they are able to plan, organize and conduct the facility's activity program themselves, the licensing agency shall be permitted to waive these requirements.

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- (e) The licensee shall ensure that the following personnel requirements are met in the provision of food service:
- (1) Employment, training and scheduling of food service personnel shall ensure that client's food service needs are met by the facility.
- (2) In facilities with a licensed capacity of 16 or more clients an employee shall be designated to have primary responsibility for food planning, preparation and service.
- (A) The designated employee shall receive on-the-job training or shall have related experience as evidenced by safe and effective job performance.
- (3) In facilities with a licensed capacity of 50 or more clients, and which provide three meals per day, an employee shall be designated to have full-time responsibility for the operation of the food service program and shall possess either:
- (A) One year of experience in food preparation and service accommodating 50 or more persons.
- (B) Two years of experience in food preparation and service accommodating 16 to 49 persons.
- (4) If the employee designated in a facility for 50 or more clients is not a nutritionist, dietitian, or a home economist, provision shall be made for regular consultation from a person so qualified.

85065 PERSONNEL REQUIREMENTS (Continued)

- (A) Such consultation shall be during at least one meal preparation and service, on the day of the consultation, and shall include review and approval of the facility's food planning, preparation and service procedures.
 - (B) A written record of the frequency, nature and duration of the consultant's visits shall be secured from the consultant and maintained in the facility.
 - (C) The licensing agency shall have authority to require more frequent consultation than the licensee is having, when the licensing agency determines and documents the need for such additional consultation.
- (f) The licensee shall ensure that all direct services to clients requiring specialized skills are performed by personnel who are licensed or certified to perform the service.
- (1) Where no license or certification is available for a particular skill, prior approval of the licensing agency shall be obtained for the provision of the service by an unlicensed or uncertified person.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1531 and 1562, Health and Safety Code.

85065.5 DAY STAFF-CLIENT RATIO

- (a) Whenever a client who relies upon others to perform all activities of daily living is present, the following minimum staffing requirements shall be met:
- (1) For Regional Center clients, staffing shall be maintained as specified by the Regional Center but no less than one direct care staff to three such clients.
 - (2) For all other clients, there shall be a staff-client ratio of no less than one direct care staff to three such clients.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1507, 1531 and 1562, Health and Safety Code.

85065.6 NIGHT SUPERVISION

- (a) Night supervisory staff shall meet the personnel requirements specified in Section 80065, and the requirements below.
- (b) Employees providing night supervision from 10:00 p.m. to 7:00 a.m., as specified in (c) through (f) below, shall be available to assist in the care and supervision of clients in the event of an emergency, and shall have received training in the following:
 - (1) The facility's planned emergency procedures.
 - (2) First aid, as specified in Section 80075.
- (c) In facilities providing care and supervision for 15 or fewer clients, there shall be at least one person on call on the premises.
- (d) In facilities providing care and supervision for 16 to 100 clients, there shall be at least one person on duty, on the premises and awake. Another person shall be on call and capable of responding within 30 minutes.
- (e) In facilities providing care and supervision for 101 to 200 clients, at least one person shall be on call, on the premises; another qualified person shall be on duty, on the premises and awake; and another person shall be on call and capable of responding within 30 minutes.
- (f) In facilities providing care to seven or more clients who rely upon others to perform all activities of daily living, there shall be at least one person on duty, on the premises and awake.
 - (1) For every additional 14 such clients, there shall be one additional person on duty, on the premises and awake.
- (g) In facilities providing care to Regional Center clients who rely upon others to perform all activities of daily living, night supervision shall be maintained as required by the Regional Center, but no less than the staff-client ratio specified in Sections 85065.6(f) and (f)(1).
- (h) For every additional 100 clients, or fraction thereof, for whom care and supervision is being provided, there shall be one additional person on duty, on the premises and awake.
- (i) In facilities required to have a signal system, as specified in Section 85088, at least one staff person shall be responsible for responding to the signal system.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1507, and 1531, Health and Safety Code.

85066 PERSONNEL RECORDS

- (a) In addition to Section 80066, the following shall apply.
- (b) A dated employee time schedule shall be developed at least monthly, shall be displayed conveniently for employee reference and shall contain the following information for each employee:
 - (1) Name.
 - (2) Job title.
 - (3) Hours of work.
 - (4) Days off.
- (c) The licensee shall maintain documentation that the administrator has met the certification requirements specified in Section 85064.2.

NOTE: Authority cited: Sections 1530 and 1562.3(i), Health and Safety Code. Reference: Sections 1501, 1562.3, and 1562.4, Health and Safety Code.

85068 ADMISSION AGREEMENTS

- (a) In addition to Section 80068, the following shall apply.
- (b) The admission agreement must specify the following:
 - (1) Payment provisions, including the client's funding source.
 - (A) Such disclosure shall be at the client's discretion.
 - (2) General facility policies which are intended to ensure that no client, in the exercise of his/her personal rights, infringes upon the personal rights of any other client.
 - (3) The current arrangement with the client regarding the provision of food service.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1507, and 1531, Health and Safety Code.

85068.1 ADMISSION PROCEDURES

- (a) The licensee shall develop, maintain, and implement admission procedures which shall meet the requirements specified in this section.
- (b) No client may be admitted prior to a determination of the facility's ability to meet the needs of the client, which must include an appraisal of his/her individual service needs as specified in Sections 80068.2 and 85068.2.
- (c) Prior to accepting a client for care and supervision, the person responsible for admissions shall:
 - (1) Interview the prospective client, and his/her authorized representative, if any.
 - (A) The interview shall provide the prospective client with information about the facility, including the information contained in the Admission Agreement and any additional policies and procedures, house rules, and activities.
 - (2) Develop a Needs and Services Plan as specified in Sections 80068.2 and 85068.2.
- (d) The facility shall obtain the medical assessment, performed as specified in Section 80069.
- (e) If admission is agreed to, the facility shall obtain the signature of the client, or his/her authorized representative, if any, on the Admission Agreement.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1507, 1530 and 1531, Health and Safety Code.

85068.2 NEEDS AND SERVICES PLAN

- (a) Prior to admission, the licensee shall determine whether the facility's program can meet the prospective client's service needs.
- (b) If the client is to be admitted, then prior to admission, the licensee shall complete a written Needs and Services Plan, which shall include:
 - (1) The client's desires and background, obtained from the client's family or his/her authorized representative, if any, and licensed professional, where appropriate, regarding the following:
 - (A) Entrance to the facility.

85068.2 NEEDS AND SERVICES PLAN (Continued)

- (B) Specific service needs, if any.
- (C) The written medical assessment specified in Section 80069.
- (D) Mental and emotional functioning.
- (E) The written mental health intake assessment, if any, specified in Section 85069.3.
- (F) The written functional capabilities assessment specified in Section 80069.2.
- (G) The licensee shall document the results of the initial assessment of the client, conducted pursuant to Health and Safety Code section 1180.4(a) prior to or on the day of admission.
 - 1. The licensee shall document the initial assessment based on information available at the time of the assessment. This information shall be maintained and brought current thereafter as needed.
 - 2. This assessment shall include, but not be limited to, input from the following parties: the client, authorized representative if any, and, if the client chooses, a person designated by the client, including but not limited to a family member or a significant other. That designated person may be present at the time of admission in accordance with Health and Safety Code section 1180.4(a).
 - 3. This assessment shall also include, based on the information available at the time of the initial assessment, all of the following:
 - a. A client's advance directive regarding de-escalation or the use of seclusion or manual restraints. This advance directive means the client's wishes regarding techniques the licensee will use related to de-escalation or the use of restraint and seclusion.
 - i. The licensee shall be required to honor the client's advance directive unless it violates statute or regulation or it jeopardizes the health or safety of the client or another person.
 - ii. A de-escalation technique is one designed to defuse a potentially dangerous interaction between two or more individuals.
 - b. Identification of early warning signs, triggers, and precipitants that cause a person to escalate, and identification of the earliest precipitant of aggression for persons with a known or suspected history of aggressiveness, or persons who are currently aggressive.

85068.2 NEEDS AND SERVICES PLAN (Continued)

- c. Techniques, methods or tools that would help the person control his or her behavior.
- d. Preexisting medical conditions or any physical disabilities or limitations that would place the person at greater risk during restraint or seclusion.
- e. Any trauma history, including any history of sexual or physical abuse that the affected client feels is relevant.

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Health and Safety Code section 1180.4 provides in pertinent part:

- (a) A facility described in subdivision (a) of Section 1180.2 or subdivision (a) of Section 1180.3 shall conduct an initial assessment of each person prior to placement decision or upon admission to the facility, or as soon thereafter as possible. This assessment shall include input from the person and from someone whom he or she desires to be present, such as a family member, significant other, or authorized representative designated by the person, and if the desired third party can be present at the time of admission. This assessment shall also include, based on the information available at the time of initial assessment, all of the following:
 - (1) A person's advance directive regarding de-escalation or the use of seclusion or behavioral restraints.
 - (2) Identification of early warning signs, triggers, and precipitants that cause a person to escalate, and identification of the earliest precipitant of aggression for persons with a known or suspected history of aggressiveness, or persons who are currently aggressive.
 - (3) Techniques, methods, or tools that would help the person control his or her behavior.
 - (4) Preexisting medical conditions or any physical disabilities or limitations that would place the person at greater risk during restraint or seclusion.
 - (5) Any trauma history, including any history of sexual or physical abuse that the affected person feels is relevant.

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85068.2 NEEDS AND SERVICES PLAN (Continued)

- (H) The client's individual emergency intervention plan, required by Section 85168.2(a).
- (2) Facility plans for providing services to meet the individual needs identified above.
- (c) If the client has a restricted health condition specified in Section 80092, the Needs and Services Plan must include the Restricted Health Condition Care Plan specified in Section 80092.2.
- (d) The licensee shall involve the following persons in the development of the Needs and Services Plan:
 - (1) The client, or his/her authorized representative, if any.
 - (2) Any relative participating in the placement.
 - (3) The placement or referral agency, if any.
 - (4) The person responsible for facility admissions.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1180.4, 1501, 1507 and 1531, Health and Safety Code.

85068.3 MODIFICATIONS TO NEEDS AND SERVICES PLAN

- (a) The written Needs and Services Plan specified in Section 85068.2 shall be updated as frequently as necessary to ensure its accuracy, and to document significant occurrences that result in changes in the client's physical, mental and/or social functioning.
- (b) If modifications to the plan identify an individual client service need which is not being met by the general program of facility services, the following requirements shall be met:
 - (1) Consultation shall be secured from a dietitian, physician, social worker, psychologist, or other consultant as necessary to assist in determining if such needs can be met by the facility within the facility's program of services.

85068.3 MODIFICATIONS TO NEEDS AND SERVICES PLAN (Continued)

- (2) If it is determined that the client's needs can be met, the licensee in conjunction with the consultant shall develop and maintain in the facility a written Needs and Services Plan that must include the following:
 - (A) Objectives, within a time frame, that relate to the client's problems and/or needs.
 - (B) Plans for meeting the objectives.
 - (C) Identification of any individuals or agencies responsible for implementing and evaluating each part of the plan.
 - (D) Method of evaluating progress.
- (3) If it is determined that the client's needs cannot be met, the licensee shall inform the client and/or his/her authorized representative, if any, or responsible person, if there is no authorized representative, of this fact and shall request that the client relocate.
 - (A) If the client refuses to relocate, the licensee may evict the client in accordance with Section 80068.5.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1507, and 1531, Health and Safety Code.

85068.4 ACCEPTANCE AND RETENTION LIMITATIONS

- (a) The licensee shall not accept or retain the following:
 - (1) Persons with prohibited health conditions specified in Section 80091.
 - (2) Persons who require inpatient care in a health facility.
 - (3) Persons who have needs that are in conflict with the needs of other clients or the program of services offered.
 - (4) Persons who require more care and supervision than is provided by the facility.
 - (5) Any person whose primary need is acute psychiatric care due to a mental disorder.

85068.4 ACCEPTANCE AND RETENTION LIMITATIONS (Continued)

- (b) The licensee may admit or retain persons who are 60 years of age or older whose needs are compatible with those of other clients if they require the same level of care and supervision as the other clients in the facility and the licensee is able to meet their needs.
- (c) When a licensee admits or retains any person 60 years of age or older, the licensee shall ensure that all of the following information is contained in the person's file:
 - (1) Completed Functional Capabilities Assessment, required by Section 80069.2.
 - (2) Completed Needs and Services Plan, required by Section 85068.2. If one or more age-related care needs are identified by the provider or the referring source, the licensee shall ensure that the Needs and Services Plan specifies how such need(s) will be addressed.
 - (3) Documentation of a medical assessment, signed by a physician, made within the last year.
 - (4) A letter of support from the person's conservator with placement authority, if applicable.
 - (5) Letters of support, if any, from the person's placement officer, social worker, and/or mental health professional, if applicable, documenting that the Adult Residential Facility is the most appropriate setting for the person.
- (d) The licensee shall ensure that the Needs and Services Plan for each client 60 years of age or older is updated at least annually and in accordance with Section 85068.3.
- (e) The licensee shall ensure that the medical assessment for each client 60 years of age or older is updated at least annually and in accordance with the regulations addressing medical assessments in Residential Care Facilities for the Elderly (RCFE) [California Code of Regulations, Title 22, Sections 87458(b) and (c)].
- (f) The Department may require the licensee to comply with various regulations applicable to RCFEs if the Department determines that compliance with any such specific regulations is necessary to protect the health and safety of clients 60 years of age or older. Such regulations may include, but not be limited to, those pertaining to the training of staff members who assist clients with personal activities of daily living; the regular observation of clients for changes in physical, mental, emotional, and social functioning; and the notification of the client's physician and responsible person and/or authorized representative, if any, of documented changes.

85068.4 ACCEPTANCE AND RETENTION LIMITATIONS (Continued)

- (g) If acceptance or retention of an individual 60 years of age or older would result in the number of persons 60 years of age or older exceeding 50 percent of the census in facilities with a capacity of six or fewer clients, or 25 percent of the census in facilities with a capacity over six, the licensee must request an exception in order to accept or retain the individual. The exception request must be made in accordance with Section 80024. The documentation specified in Section 85068.4(c) must be submitted with the exception request.
- (h) Retention of all clients shall be in accordance with each client's Needs and Services Plan, required by Section 85068.2, and the criteria specified in Section 80092, Restricted Health Conditions.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1507, and 1531, Health and Safety Code; Joint Stipulation and Order for Settlement in the matter of *California Association of Mental Health Patients' Rights Advocates v. Cliff Allenby, et al.*, Santa Clara County Superior Court, No. 106-CV061397, issued November 14, 2008.

85068.5 EVICTION PROCEDURES

- (a) The licensee shall be permitted to evict a client by serving the client with a 30-day written notice to quit for any of the following reasons:
 - (1) Nonpayment of the rate for basic services within ten days of the due date.
 - (2) Failure of the client to comply with state or local law after receiving written notice of the alleged violation.
 - (3) Failure of the client to comply with the general facility policies as specified in the Admission Agreement.
 - (4) A needs and services plan modification has been performed, as specified in Section 85068.3, which determined that the client's needs cannot be met by the facility and the client has been given an opportunity to relocate as specified in Section 85068.3(b)(3).
 - (5) Change of use of the facility.
- (b) The licensee shall be permitted to evict a client by serving the client with a three-day written notice to quit provided that both of the following requirements have been met:
 - (1) The licensing agency has granted prior written and/or documented telephone approval for the eviction.

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85068.5 EVICTION PROCEDURES (Continued)

- (A) The licensing agency shall reply to a request for such approval within two working days.
- (B) Failure of the licensing agency to reply within two working days shall be considered approval.
- (2) The client has engaged or is engaging in behavior which is a threat to his/her mental and/or physical health or safety, or to the health and safety of others in the facility.
- (c) The licensee shall set forth in the notice to quit the reasons for the eviction, with specific facts including the date, place, witnesses, and circumstances.
- (d) The licensee shall, upon completion of the procedures specified in (a) or (b) above, notify or mail a copy of the notice to quit to the client's authorized representative if any.
- (e) A written report of any eviction processed in accordance with (a) above shall be sent to the licensing agency within five days of the eviction.
- (f) Nothing in this section is intended to preclude the licensee or client from invoking any other available remedy.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

85069.3 MENTAL HEALTH INTAKE ASSESSMENT

- (a) In order to determine his/her ability to provide the services needed by a client with mental illness, the licensee of an ARF shall ensure that a written intake assessment is prepared as required by Health and Safety Code Section 1562.6(a).

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- (1) Health and Safety Code Section 1562.6(a) is paraphrased in pertinent part:

The administrator of an adult residential care facility that provides services for residents who have mental illness shall ensure that a written intake assessment is prepared by a licensed mental health professional prior to acceptance of the client. This assessment may be provided by a student intern if the work is supervised by a properly licensed mental health professional. Facility administrators may utilize placement agencies, including, but not limited to, county clinics for referrals and assessments.

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NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507, 1530, 1531 and 1562.6, Health and Safety Code.

85070 CLIENT RECORDS

- (a) In addition to Section 80070, each client record must contain the following information:
- (1) Last known address.
 - (2) Religious preference, and name and address of clergyman or religious advisor, if any.
 - (3) Needs and Services Plan and any modifications thereto, as specified in Sections 80068.2, 80068.3, 85068.2 and 85068.3.
 - (4) Mental Health Intake Assessment specified in Section 85069.3.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1531, 1533, 1534 and 1538, Health and Safety Code.

85072 PERSONAL RIGHTS

- (a) In addition to Section 80072, the following shall apply.
- (b) The licensee shall insure that each client is accorded the following personal rights.
 - (1) To visit the facility with his/her relatives or authorized representative prior to admission.
 - (2) To have the facility inform his/her relatives and authorized representative, if any, of activities related to his/her care and supervision, including but not limited to notification of any modifications to the needs and services plan.
 - (3) To have communications to the facility from his/her relatives or authorized representative answered promptly and completely.
 - (4) To have visitors, including advocacy representatives, visit privately during waking hours, provided that such visitations do not infringe upon the rights of other clients.
 - (5) To wear his/her own clothes.
 - (6) To possess and use his/her own personal items, including his/her own toilet articles.
 - (7) To possess and control his/her own cash resources.
 - (8) To have access to individual storage space for his/her private use.
 - (9) To have access to telephones in order to make and receive confidential calls, provided that such calls do not infringe upon the rights of other clients and do not restrict availability of the telephone during emergencies.
 - (A) The licensee shall be permitted to require reimbursement from the client or his/her authorized representative for long distance calls.
 - (B) The licensee shall be permitted to prohibit the making of long distance calls upon documentation that requested reimbursement for previous calls has not been received.

85072 PERSONAL RIGHTS (Continued)

- (10) To mail and receive unopened correspondence.
- (11) To receive assistance in exercising the right to vote.
- (12) To move from the facility in accordance with the terms of the Admission Agreement.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

85075 HEALTH-RELATED SERVICES

- (a) In addition to Section 80075, the following shall apply.
- (b) The facility shall develop and implement a plan which ensures that assistance is provided to the clients in meeting their medical and dental needs.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

85075.1 HOSPICE CARE

- (a) A licensee shall be permitted to retain terminally ill clients who receive hospice services from a hospice agency or to accept terminally ill persons as clients if they are already receiving hospice services from a hospice agency and would continue to receive those services without disruption after becoming a client, when all of the following conditions (1) through (7) are met:
 - (1) The licensee has received a facility hospice care waiver from the Department.
 - (2) The licensee remains in substantial compliance with the requirements of this section, and those provisions of Chapters 1 and 6, Division 6, of Title 22, California Code of Regulations (CCR), governing Adult Residential Facilities, and with all terms and conditions of the waiver.
 - (3) Hospice services are individually contracted for by each client who is terminally ill or, if the client is incapacitated, by his or her Health Care Surrogate Decision Maker. The licensee shall not contract for hospice services on behalf of an existing or prospective client. The hospice agency must be licensed by the state and certified by the federal Medicare program to provide hospice services.

85075.1 HOSPICE CARE (Continued)

- (4) A written hospice care plan is developed for each existing or prospective terminally ill client by that client's hospice agency. Prior to the initiation of hospice services in the facility for that client, the plan must be agreed upon by the licensee and the client, or the client's Health Care Surrogate Decision Maker, if any. A written request to allow his or her acceptance or retention in the facility while receiving hospice services shall be signed by each existing or prospective client or the existing Health Care Surrogate Decision Maker, if any, and maintained by the licensee in the client's record. All plans must be fully implemented by the licensee and by the hospice agency.

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Health and Safety Code section 1507.3(a) provides in part that:

- (4) The hospice has agreed to design and provide for care, services, and necessary medical intervention related to the terminal illness as necessary to supplement the care and supervision provided by the facility.
- (5) An agreement has been executed between the facility and the hospice regarding the care plan for the terminally ill resident, or the terminally ill person to be accepted as a resident. The care plan shall designate the primary caregiver, identify other caregivers, and outline the tasks the facility is responsible for performing and the approximate frequency with which they shall be performed. The care plan shall specifically limit the facility's role for care and supervision to those tasks authorized for a residential facility under this chapter.

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85075.1 HOSPICE CARE (Continued)

- (5) The acceptance or retention of any terminally ill client in the facility does not represent a threat to the health and safety of any other facility client or results in a violation of the personal rights of any other facility client.
- (6) The hospice and the client agree to provide the licensee with all information necessary to allow the licensee to comply with all regulations and to assure that the client's needs are met.
- (7) The hospice agrees to provide necessary medical intervention related to the client's terminal illness.
 - (A) The medical intervention shall not exceed the care and supervision for a residential facility, as defined in Chapters 1 and 6, Division 6, of Title 22, CCR, governing Adult Residential Facilities.
- (b) A current and complete plan shall be maintained in the facility for each hospice client and include the following:
 - (1) The name, office address, business telephone number, and 24-hour emergency telephone number of the hospice and the client's physician.
 - (2) A description of the services to be provided in the facility by the hospice, including, but not limited to, the type and frequency of services to be provided.
 - (3) The designation of the client's primary contact person at the hospice, and the client's primary and alternate care-giver at the facility.
 - (4) A description of the licensee's responsibility for implementing the plan including, but not limited to, facility staff duties, record keeping, and communication with the hospice, the client's physician, and the client's responsible person, if any. This description shall include the type and frequency of the tasks to be performed by facility staff.
 - (A) The plan shall specify all procedures to be implemented by the licensee regarding the storage and handling of medications or other substances, and the maintenance and use of medical supplies, equipment, or appliances.
 - (B) The plan shall specify, by name or job function, the licensed health care professional on the hospice staff who will control and supervise the storage and administration of all controlled drugs (Schedule II-V, as defined in Health and Safety Code Sections 11055-11058) for the client. Facility staff may assist clients with self-medications without hospice personnel being present.

85075.1 HOSPICE CARE (Continued)

- (C) The plan shall neither require nor recommend that the licensee, or any facility staff, other than a physician or appropriately skilled professional, implement any health care procedure that may legally be provided only by a physician or appropriately skilled professional.
- (5) A description of all hospice services to be provided or arranged in the facility by persons other than the licensee, facility staff, or the hospice. These persons include but are not limited to clergy and the client's family members and friends.
- (6) Identification of the training needed, which staff members need this training, and who will provide the training related to the licensee's responsibilities for implementing the plan.
 - (A) The training shall include, but not be limited to, the needs of hospice patients, such as hydration, infection control, and turning and incontinence care to prevent skin breakdown.
 - (B) The hospice agency will provide training to all staff providing care to terminally ill clients that have obtained hospice services. This training shall be specific to the current and ongoing needs of the individual client receiving hospice care. The training must be completed before hospice care for a client begins in the facility.
- (7) Any other information deemed necessary by the Department, on an individual basis, to ensure that the terminally ill client's needs for health care, personal care, and supervision are met.
- (c) The licensee shall ensure that the plan complies with the requirements of this section and those provisions of Chapters 1 and 6, Division 6, of Title 22, CCR, governing Adult Residential Facilities.
- (d) The licensee shall ensure that the plan is current, accurately matches the services being provided, and that the client's care needs are being met at all times.
- (e) The Department may require that the licensee obtain a revision of the plan if the plan is not fully implemented, or if the Department has determined that the plan should be revised to protect the health and safety of any facility client.
- (f) The licensee shall maintain a record of all hospice-related training provided to the licensee or facility staff for a period of three years.
 - (1) The record of each training session shall specify the names and credentials of the trainer, the persons in attendance, the subject matter covered, and the date and duration of the training session.

85075.1 HOSPICE CARE (Continued)

- (2) The Department shall be entitled to inspect, audit, remove if necessary, and copy the record upon demand during normal business hours.

- (g) In addition to meeting the reporting requirements specified in Sections 80061 and 85061, the licensee shall submit a report to the Department when a client's hospice services are interrupted or discontinued for any reason other than the death of the client. The licensee shall also report any deviation from the client's plan, or other incident, which threatens the health and safety of any client.
 - (1) Such reports shall be made by telephone within one working day, and in writing within five working days, and shall specify all of the following:
 - (A) The name, age, and gender of each affected client.
 - (B) The date and nature of the event and explanatory background information leading up to the event.
 - (C) The name and business telephone number of the hospice.
 - (D) Actions taken by the licensee and any other parties to resolve the incident and to prevent similar occurrences.

- (h) For each client receiving hospice services, the licensee shall maintain the following in the client's record:
 - (1) The client's or the client's Health Care Surrogate Decision Maker's written request for acceptance or retention and hospice services in the facility while receiving hospice services, and his/her advance directive or request regarding resuscitative measures, if any.
 - (2) The name, address, telephone number, and 24-hour emergency telephone number of the hospice and the client's Health Care Surrogate Decision Maker, if any, in a manner that is readily available to the client, the licensee, and facility staff.
 - (3) A copy of the written certification statement of the client's terminal illness from the medical director of the hospice or the physician in the hospice interdisciplinary group, and the client's attending physician, if any.
 - (4) A copy of the client's current plan approved by the licensee, the hospice, and the client or the client's Health Care Surrogate Decision Maker, if the client is incapacitated.

85075.1 HOSPICE CARE (Continued)

- (5) A statement signed by the client's roommate, if any, indicating his or her acknowledgment that the client intends to receive hospice care in the facility for the remainder of the client's life, and the roommate's voluntary agreement to grant access to the shared living space to hospice staff, and the client's family members, friends, clergy, and others.
 - (A) If the roommate withdraws the agreement verbally or in writing, the licensee shall make alternative arrangements which fully meet the needs of the hospice client.
- (i) Prescription medications no longer needed shall be disposed of in accordance with Section 80075(o).
- (j) Care for the client's health condition is addressed in the plan.
 - (1) No facility staff, other than an appropriately skilled health professional, shall perform any health care procedure that, under law, may only be performed by an appropriately skilled professional.
- (k) The licensee shall maintain a record of dosages of medications that are centrally stored for each client receiving hospice in the facility.
- (l) Clients receiving hospice care, who are bedridden as defined in Section 1566.45 of the Health and Safety Code may reside in the facility provided the licensee shall within 48 hours of the client's admission or retention in the facility, notify the fire authority having jurisdiction over the bedridden client's location of the estimated length of time the client will retain his or her bedridden status in the facility.

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Health and Safety Code section 1566.45(e) provides:

- "(e) Notwithstanding the length of stay of a bedridden client, every residential facility admitting or retaining a bedridden client shall, within 48 hours of the client's admission or retention in the facility, notify the fire authority having jurisdiction over the bedridden client's location of the estimated length of time the client will retain his or her bedridden status in the facility."

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- (m) Despite prohibitions to the contrary in Section 80091, clients who have or develop any condition or care requirements relating to naso-gastric and naso-duodenal tubes and Stage 3 and 4 dermal ulcers may be permitted to be accepted or retained in the facility, provided these clients have been diagnosed as terminally ill and are receiving hospice services in accordance with a hospice care plan required in this section and the treatment of such prohibited health conditions is specifically addressed in the hospice care plan. Clients with active, communicable tuberculosis, or any condition or care requirements which would require the facility to be licensed as a health facility as defined by Section 1202 and Section 1250 of the Health and Safety Code remain prohibited from being accepted or retained in the facility.

85075.1 HOSPICE CARE (Continued)

- (n) Clients receiving hospice who also have or develop any restricted health conditions listed in Section 80092, Restricted Health Conditions, may be admitted or retained in the facility without the licensee's requirement to develop and maintain a written Restricted Health Condition Care Plan in accordance with Section 80092.2, provided these clients have been diagnosed as terminally ill and are receiving hospice services in accordance with a hospice care plan required in this section and the treatment of such restricted health conditions is specifically addressed in the hospice care plan.
- (o) Nothing contained in this section precludes the Department from requiring a client to be relocated when the client's needs for care and supervision or health care are not being met in the facility.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1507.3 and 1566.45, Health and Safety Code.

85075.2 FACILITY HOSPICE CARE WAIVER

- (a) In order to accept or retain terminally ill clients and permit them to receive care from hospice, the licensee shall have requested in writing and been granted a Facility Hospice Care Waiver from the Department. The licensee's written request shall include, but not be limited to, the following:
 - (1) The maximum number of terminally ill clients that the facility will care for at any one time.
 - (2) A statement by the licensee or designated representative that this section, and all other requirements within Chapters 1 and 6, Division 6, of Title 22, CCR, governing Adult Residential Facilities, have been read and that the licensee will ensure compliance with these requirements.
 - (3) A statement that the licensee shall comply with the terms and conditions of all plans which are designated as the responsibility of the licensee or under the control of the licensee.
 - (4) A statement that additional care staff will be provided if required by the hospice care plan.
- (b) The Department shall deny a waiver request if the licensee is not in substantial compliance with the provisions of Chapters 1 and 6, Division 6, of Title 22, CCR, governing Adult Residential Facilities.
- (c) The Department shall not approve a waiver request unless the licensee demonstrates the ability to meet the care and supervision needs of clients.
- (d) Any waiver granted by the Department shall include terms and conditions necessary to ensure the well-being of clients receiving hospice care and/or all other clients. These terms and conditions shall include, but not be limited to, the following requirements:
 - (1) A written request shall be signed by each client or the client's Health Care Surrogate Decision Maker, if any, to allow his or her acceptance or retention in the facility while receiving hospice services.

85075.2 FACILITY HOSPICE CARE WAIVER (Continued)

- (A) The request shall be maintained in the client's record at the facility as specified in Section 85075.1(h)(1).
- (2) The licensee shall notify the Department in writing within five working days of the initiation of hospice care services for any terminally ill client. The notice shall include the client's name and date of admission to the facility and the name and address of the hospice agency.
- (e) Within 30 calendar days of receipt of a completed request for a waiver, the Department shall notify the applicant or licensee, in writing, of one of the following:
 - (1) The request has been approved or denied.
 - (2) The request is deficient, needing additional described information for the request to be acceptable, and a time frame for submitting this information.
- (A) Failure of the applicant or licensee to submit the requested information within the time shall result in denial of the request.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Section 1507.3, Health and Safety Code.

85075.3 ADVANCE DIRECTIVES AND REQUESTS REGARDING RESUSCITATIVE MEASURES

- (a) A client shall be permitted to have an Advance Health Care Directive in the client's file.
- (b) If a client experiences a medical emergency and has an advance directive and/or request regarding resuscitative measures on file, the facility staff shall do one of the following:
 - (1) Immediately telephone 9-1-1, present the advance directive and/or request regarding resuscitative measures to the responding emergency medical personnel and identify the client as the person to whom the directive or request refers; or
 - (2) Immediately give the advance directive and/or request regarding resuscitative measures to a physician, RN or LVN if he or she is in the client's presence at the time of the emergency and if he or she assumes responsibility; or
 - (3) Specifically for a terminally ill client that is receiving hospice services who has completed an advance directive and/or request to forego resuscitative measures, and who is experiencing a life-threatening emergency and is displaying symptoms of impending death directly related to the expected course of the client's terminal illness, the facility may immediately notify the client's hospice agency in lieu of calling emergency response (9-1-1). For emergencies not directly related to the client's terminal illness, the facility staff shall immediately telephone emergency response (9-1-1).

85075.3 ADVANCE DIRECTIVES AND REQUESTS REGARDING RESUSCITATIVE MEASURES (Continued)

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Health and Safety Code section 1507.3 states in relevant part:

- "(c) A facility that has obtained a hospice waiver from the Department pursuant to this section, or an Adult Residential Facility for Persons with Special Health Care Needs (ARFPSHN) licensed pursuant to Article 9 (commencing with Section 1567.50), need not call emergency response services at the time of a life-threatening emergency if the hospice agency is notified instead and all of the following conditions are met:
- (1) The resident is receiving hospice services from a licensed hospice agency.
 - (2) The resident has completed an advance directive, as defined in Section 4605 of the Probate Code, 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 resident's illness and the symptoms of impending death."

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NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1507 and 1507.3, Health and Safety Code, and Section 4605, Probate Code.

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85075.4 OBSERVATION OF THE CLIENT

- (a) The licensee shall regularly observe each client for changes in physical, mental, emotional and social functioning.

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- (1) Documentation of such observation shall not be required.

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- (b) The licensee shall provide assistance when observation reveals needs which might require a change in the existing level of service, or possible discharge or transfer to another type of facility.
- (c) The licensee shall bring observed changes, including but not limited to unusual weight gains or losses, or deterioration of health condition, to the attention of the client's physician and authorized representative, if any.
- (d) A client suspected of having a contagious or infectious disease shall be isolated and a physician contacted to determine suitability of the client's retention in the facility.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1507, 1507.3, 1521 and 1531, Health and Safety Code.

85076 FOOD SERVICE

- (a) In addition to Section 80076, the following shall apply.
- (b) The licensee shall meet the food service personnel requirements specified in Section 85065(e).
- (c) The following requirements shall be met when serving food:
- (1) Meals served on the premises shall be served in one or more dining rooms or similar areas in which the furniture, fixtures and equipment necessary for meal service are provided.
- (A) Such dining areas shall be located near the kitchen so that food may be served quickly and easily.
- (2) Tray service shall be provided in case of temporary need.

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85076 FOOD SERVICE (Continued)

- (d) The licensee shall meet the following food supply and storage requirements:
- (1) Supplies of staple nonperishable foods for a minimum of one week and fresh perishable foods for a minimum of two days shall be maintained on the premises.
 - (2) Freezers shall be large enough to accommodate required perishables and shall be maintained at a temperature of zero degrees F (17.7 degrees C).
 - (3) Refrigerators shall be large enough to accommodate required perishables and shall maintain a maximum temperature of 45 degrees F (7.2 degrees C).
 - (4) Freezers and refrigerators shall be kept clean, and food storage shall permit the air circulation necessary to maintain the temperatures specified in (2) and (3) above.
- (e) Clients shall be encouraged to have meals with other clients.
- (f) Clients who do not elect to have all meals provided by the facility as specified in Section 80076(a)(3), but whose conditions subsequently change so that self-purchase of foods and self-preparation of meals is no longer a viable alternative, shall receive full meal service.

NOTE: Authority cited: Sections 1501 and 1531, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

85077 PERSONAL SERVICES

- (a) Licensees shall provide necessary personal assistance and care, as indicated in the needs and services plan, with activities of daily living including but not limited to dressing, eating, and bathing.
- (b) Licensees shall provide basic laundry services, including washing and drying of clients' personal clothing.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

85078 RESPONSIBILITY FOR PROVIDING CARE AND SUPERVISION

- (a) In addition to Section 80078, the following shall apply:
 - (1) The licensee shall provide those services identified in the client's needs and services plan as necessary to meet the client's needs.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1527, 1530 and 1531, Health and Safety Code.

85079 ACTIVITIES

- (a) The licensee shall ensure that planned recreational activities, which include the following, are provided for the clients:
 - (1) Activities that require group interaction.
 - (2) Physical activities including but not limited to games, sports and exercise.
- (b) Each client who is capable shall be given the opportunity to participate in the planning, preparation, conduct, clean-up and critique of the activities.
- (c) The licensee shall ensure that clients are given the opportunity to attend and participate in community activities including but not limited to the following:
 - (1) Worship services and activities of the client's choice.
 - (2) Community Service activities.
 - (3) Community events, including but not limited to concerts, tours, dances, plays, and celebrations of special events.
 - (4) Self-help organizations.
 - (5) Senior citizen groups, sports leagues and service clubs.
- (d) In facilities with a licensed capacity of seven or more clients, notices of planned activities shall be posted in a central facility location readily accessible to clients, relatives, and representatives of placement and referral agencies.
 - (1) Copies of such notices shall be retained in facility files for at least six months.
- (e) In facilities with a licensed capacity of 50 or more clients, a current, written program of activities shall be planned in advance and made available to all clients.
- (f) Activities shall be encouraged through provision of the space, equipment and supplies specified in Sections 85087.2, 85087.3, and 85088(g).

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

85080 RESIDENT COUNCILS

- (a) Each facility, at the request of a majority of its residents, shall assist its residents in establishing and maintaining a resident-oriented facility council.
- (1) The licensee shall provide space and post notice for meetings, and shall provide assistance in attending council meetings for those residents who request it.
- (A) If residents are unable to read the posted notice because of a physical or functional disability, the licensee shall notify the residents in a manner appropriate to that disability including but not limited to verbal announcements.
- (2) The licensee shall document notice of meetings, meeting times, and recommendations from council meetings.
- (3) In order to permit a free exchange of ideas, at least part of each meeting shall be conducted without the presence of any facility personnel.
- (4) Residents shall be encouraged, but shall not be compelled to attend council meetings.
- (b) The licensee shall ensure that in providing for resident councils the requirements of Section 1520.2 of the Health and Safety Code are observed.

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Health and Safety Code Section 1520.2 reads in pertinent part:

The council shall be composed of residents of the facility and may include family members of residents of the facility. The council may, among other things, make recommendations to the facility administrators to improve the quality of daily living in the facility and may negotiate to protect residents' rights with facility administrators.

A violation of this section shall not be subject to the provisions of Health and Safety Code Section 1540 (misdemeanors), but shall be subject to the provisions of Health and Safety Code Section 1534 (civil penalties).

This section shall not apply to facilities licensed for six (6) or fewer individuals.

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NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Section 1520.2, Health and Safety Code.

85081 REQUIREMENTS FOR EMERGENCY ADULT PROTECTIVE SERVICES PLACEMENTS

- (a) The licensee shall be permitted to accept emergency placements by an adult protective services (APS) agency, if the licensee has received approval from the Department to provide emergency shelter services.
- (1) To obtain approval, the licensee shall submit a written request to the Department. The request shall include, but not limited to, the following:
- (A) A letter of interest from the county APS agency stating that if the request to provide emergency shelter services is approved, the APS agency may enter into an agreement with the licensee to provide such services.
1. A copy of the written agreement between the APS agency and the licensee, listing the responsibilities of each party, shall be sent to the Department within seven calendar days of signing.
- (B) A written addendum to the Plan of Operation, specified in Sections 80022 and 85022, that includes procedures for the intake of an APS emergency placement. The addendum shall specify how the licensee will meet the needs of a client placed on an emergency basis, such as on-call staff, additional staff and training.
1. The procedures shall include, but not be limited to, provisions for a private room.
- a. The licensee shall provide a private room for the client until an individual program plan or a Needs and Services Plan has been completed, specified in Sections 80068.2 and 85068.2.
- b. The Department may approve an alternative to a private room, such as awake or additional staff, but an alternative shall not be approved if it displaces staff or other clients of the facility.

85081 REQUIREMENTS FOR EMERGENCY ADULT PROTECTIVE SERVICES PLACEMENTS (Continued)

- (C) A licensee of an adult residential facility may accept an elderly client, 60 years of age or older, for emergency placement under the following conditions.
1. The APS agency has written a statement indicating a local need exists for the licensee to accept elderly emergency placements.
 - a. The licensee attaches this APS statement of local need [Section 85081(a)(1)(C)1.] to the written request, specified in Section 85081(a)(1).
 - b. The licensee must request a statement each year from the APS agency, indicating a local need still exists as specified in Section 85081(a)(1)(C)1., and submit the statement to the Department.
 - (b) The Department shall provide written approval or denial of a licensee's request to provide emergency shelter services within 15 working days of its receipt.
 - (c) The licensee shall comply with the regulations in Title 22, Division 6, Chapter 1 (General Licensing Requirements) and Chapter 6 (Adult Residential Facilities), unless otherwise stated in Section 85081. These regulations include, but are not limited to, the following:
 - (1) The licensee shall not exceed the capacity limitations specified on the license and shall not allow rooms approved only for ambulatory clients to be used by nonambulatory clients, as specified in Section 80010.
 - (2) The licensee shall meet the requirements in Section 80020(b) on fire clearance if the licensee has accepted a nonambulatory client, defined in Section 80001n.(2).
 - (d) The licensee shall not accept the following persons as APS emergency placements:
 - (1) Individuals who use metered-dose and dry powder inhalers [Section 80075(a)(2)(A)].
 - (2) Individuals who require oxygen [Section 80075(h)].
 - (3) Individuals who rely upon others to perform all activities of daily living [Section 80077.2].
 - (4) Individuals who lack hazard awareness or impulse control [Section 80077.3].
 - (5) Individuals who have contractures [Section 80077.5].
 - (6) Individuals who have prohibited health conditions [Section 80091].

85081 REQUIREMENTS FOR EMERGENCY ADULT PROTECTIVE SERVICES PLACEMENTS (Continued)

- (7) Individuals who have restricted health conditions [Section 80092].
- (8) Individuals who require inpatient care in a health facility [Section 85068.4(a)(2)].
- (9) Any individual whose primary need is acute psychiatric care due to a mental disorder [Section 85068.4(a)(5)].
- (10) Individuals who are receiving hospice care.
- (e) The licensee shall not admit an APS emergency placement unless the APS worker is present at the facility at the time of admission.
- (f) Prior to acceptance of an APS emergency placement, the licensee shall obtain and keep on file the following information received from the APS worker:
 - (1) Client's name.
 - (2) Client's ambulatory status.
 - (3) Name(s) and telephone number(s) of the client's physician(s).
 - (4) Name(s), business address(es), and telephone number(s) of the APS worker responsible for the client's placement and the APS case worker, if known.
 - (5) Name, address, and telephone number of any person responsible for the care of the client, if available.
- (g) At the time of the APS emergency placement, the licensee shall ensure receipt of a mental health intake assessment, specified in Section 85069.3, for mentally ill clients.
- (h) Within seven calendar days of an APS emergency placement, the licensee shall obtain other client information specified in Sections 80070 and 85070.
 - (1) The client must have tuberculosis test [Section 80069(c)(1)] by the seventh day of placement even though the test results may not be available by the seventh day of placement.

85081 REQUIREMENTS FOR EMERGENCY ADULT PROTECTIVE SERVICES PLACEMENTS (Continued)

- (i) The licensee shall contact the client's attending physician or the person authorized to act for the physician to identify all of the client's prescribed medications and usage instructions [Section 80069(c)(3)] by the next working day, but no later than 72 hours from the initial APS emergency placement.
 - (1) The attending physician or the person acting for the physician shall have access to the client's records to determine whether the full medication regimen is accounted for and accurate.
 - (2) If medication verification, as specified in Section 85081(i), has not been obtained within 72 hours from the client's initial placement, the licensee shall contact the APS worker to request that the client be relocated, as specified in Section 85081(j).
- (j) The licensee shall contact the APS worker to request that the client be relocated immediately when the licensee identifies that needs cannot be met or that the client has a condition specified in Section 85081(d).
 - (1) The licensee cannot retain a client aged 60 years or older beyond 30 calendar days from initial placement by the APS agency unless the following requirement is met:
 - (A) The licensee must request an exception, specified in Section 80024(b)(2), within 30 calendar days of initial placement, but the client must be relocated if the Department denies the request.
- (k) Within seven calendar days of the licensee making any changes to an agreement with an APS agency, the licensee shall notify the Department in writing of these changes, which may include a renewed agreement, amended language and/or notification of a terminated agreement.
- (l) All emergency placements are subject to the same record requirements as set forth in Section 80070(f).

NOTE: Authority cited: Sections 1530 and 1531, Health and Safety Code; Sections 15763(a), (a)(2), and (d), Welfare and Institutions Code; and Senate Bill 2199 (Chapter 946, Statutes of 1998), Section 14 uncodified. Reference: Section 15610.13, Welfare and Institutions Code; and Sections 1501, 1502, 1507, 1507.3, 1520, 1531.1, 1533, 1536.1, 1536.3, 1557.5, 1562.6 and 13131, Health and Safety Code.

Article 7. PHYSICAL ENVIRONMENT**85087 BUILDINGS AND GROUNDS**

- (a) In addition to Section 80087, bedrooms must meet, at a minimum, the following requirements:
- (1) Not more than two clients shall sleep in a bedroom.
 - (2) Bedrooms must be large enough to allow for easy passage and comfortable use of any required client-assistive devices, including but not limited to wheelchairs, walkers, or oxygen equipment, between beds and other items of furniture specified in Section 85088(c).
 - (3) No room commonly used for other purposes shall be used as a bedroom for any person.
 - (A) Such rooms shall include but not be limited to halls, stairways, unfinished attics or basements, garages, storage areas, and sheds, or similar detached buildings.
 - (4) No client bedroom shall be used as a public or general passageway to another room, bath or toilet.
- (b) Stairways, inclines, ramps, open porches, and areas of potential hazard to clients whose balance or eyesight is poor shall not be used by clients unless such areas are well lighted and equipped with sturdy hand railings.
- (c) Facilities shall meet the following requirements in laundry areas:
- (1) Space and equipment for washing, ironing and mending of personal clothing.
 - (2) Space used for soiled linen and clothing shall be separated from the clean linen and clothing storage and handling area.
 - (3) In facilities with a licensed capacity of 16 or more clients, space used to do the laundry shall not be part of an area used for storage of any item other than items necessary for laundry activities.
- (d) Facilities with a licensed capacity of 16 or more clients shall meet the following requirements:
- (1) There shall be space available in the facility to serve as an office for business, administration and admission activities.
 - (2) There shall be a private office in which the administrator may conduct private interviews.

85087 BUILDINGS AND GROUNDS (Continued)

- (3) There shall be a reception area and a restroom facility designated for use by visitors.
- (e) Dining rooms or similar areas for food service shall be provided as specified in Section 85076.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1507, and 1531, Health and Safety Code.

85087.2 OUTDOOR ACTIVITY SPACE

- (a) Outdoor activity areas shall be provided which are easily accessible to clients and protected from traffic.
- (b) The outdoor activity area shall provide a shaded area, and shall be comfortable, and furnished for outdoor use.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

85087.3 INDOOR ACTIVITY SPACE

- (a) As a condition of licensure, there shall be common rooms, including a living room, dining room, den or other recreation/activity room, which provide the necessary space and/or separation to promote and facilitate the program of planned activities specified in Section 85079, and to prevent such activities from interfering with other functions.

- (1) At least one such room shall be available to clients for relaxation and visitation with friends and/or relatives.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

85088 FIXTURE, FURNITURE, EQUIPMENT, AND SUPPLIES

- (a) In addition to Section 80088, as a condition of licensure, the following shall apply.
- (b) Toilet, washbasin, bath and shower fixtures shall at a minimum meet the following requirements:
 - (1) At least one toilet and washbasin shall be maintained for each six persons residing in the facility, including clients, family and personnel.
 - (2) At least one bathtub or shower shall be maintained for each ten persons residing in the facility.
 - (3) Toilets and bathrooms shall be located near client bedrooms.
 - (4) Individual privacy shall be provided in all toilet, bath and shower areas.
- (c) The licensee shall ensure provision to each client of the following furniture, equipment and supplies necessary for personal care and maintenance of personal hygiene.
 - (1) An individual bed, except that couples shall be allowed to share one double or larger sized bed, maintained in good repair, and equipped with good bed springs, a clean mattress and pillow(s).
 - (A) Fillings and covers for mattresses and pillows shall be flame retardant.
 - (B) No adult residential facility shall have more beds for client use than required for the maximum capacity approved by the licensing agency.
 - 1. This requirement shall not apply to beds made available for illness or separation of others in the isolation room or area as required by Section 80075.
 - (2) Bedroom furniture including, in addition to (c)(1) above, for each client, a chair, a night stand, and a lamp or lights necessary for reading.
 - (A) Two clients sharing a bedroom shall be permitted to share one night stand.
 - (3) Portable or permanent closets and drawer space in each bedroom to accommodate the client's clothing and personal belongings.
 - (A) A minimum of two drawers or eight cubic feet (.2264 cubic meters) of drawer space, whichever is greater, shall be provided for each client.

85088 FIXTURE, FURNITURE, EQUIPMENT, AND SUPPLIES (Continued)

- (4) Clean linen in good repair, including lightweight, warm blankets and bedspreads; top and bottom bed sheets; pillow cases; mattress pads; rubber or plastic sheeting, when necessary; and bath towels, hand towels and washcloths.
 - (A) The quantity of linen provided shall permit changing the linen at least once each week or more often when necessary to ensure that clean linen is in use by clients at all times.
 - (B) The use of common towels and washcloths shall be prohibited.
- (5) Feminine napkins, nonmedicated soap, toilet paper, toothbrush, toothpaste, and comb.
- (d) If the facility operates its own laundry, necessary supplies shall be available and equipment shall be maintained in good repair.
 - (1) Clients who are able, and who so desire, shall be allowed to use at least one washing machine and iron for their personal laundry, provided that the equipment is of a type and in a location which can be safely used by the clients.
 - (A) If that washing machine is coin operated, clients on SSI/SSP shall be provided with coins or tokens and laundry supplies.
 - (B) The licensee shall be permitted to designate a safe location or locations, and/or times in which clients shall be permitted to iron.
- (e) Emergency lighting, which shall include at a minimum working flashlights or other battery-powered lighting, shall be maintained and readily available in areas accessible to clients and staff.
 - (1) An open-flame type of light shall not be used.
 - (2) Night lights shall be maintained in hallways and passages to nonprivate bathrooms.
- (f) Facilities shall meet the following signal system requirements:
 - (1) In all facilities with a licensed capacity of 16 or more clients, and all facilities having separate floors or separate buildings without full-time staff there shall be a signal system which has the ability to meet the following requirements:
 - (A) Operation from each client's living unit.
 - (B) Transmission of a visual and/or auditory signal to a central location, or production of an auditory signal at the client's living unit which is loud enough to summon staff.

85088 FIXTURE, FURNITURE, EQUIPMENT, AND SUPPLIES (Continued)

- (C) Identification of the specific client's living unit from which the signal originates.
- (2) Facilities having more than one wing, floor or building shall be allowed to have a separate signal system in each component provided that each such system meets the criteria specified in (1)(A) through (C) above.
- (g) The licensee shall provide and maintain the equipment and supplies necessary to meet the requirements of the planned activity program.
 - (1) Such supplies shall include daily newspapers, current magazines and a variety of reading materials.
 - (2) Special equipment and supplies necessary to accommodate physically handicapped persons or other persons with special needs shall be provided to meet the needs of the handicapped clients.
 - (3) When not in use, recreational equipment and supplies shall be stored where they do not create a hazard to clients.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1530 and 1531, Health and Safety Code.

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Article 9. ADMINISTRATOR CERTIFICATION TRAINING PROGRAMS**85090 INITIAL CERTIFICATION TRAINING PROGRAM VENDOR AND PROGRAM APPROVAL REQUIREMENTS**

- (a) Initial Certification Training Programs shall be approved by the Department prior to being offered to applicants seeking administrator certification.
- (b) Any vendor applicant seeking approval of an Initial Certification Training Program shall submit a written request to the Department's Administrator Certification Section using Request for Course Approval form LIC 9140 and Vendor Application/Renewal form LIC 9141. The request shall be signed by an authorized representative of the vendor applicant certifying that the information submitted is true and correct, and contain the following:
- (1) Name, type of entity, physical address, e-mail address and phone number of the vendor applicant requesting approval and the name of the person in charge of the program.
 - (2) Subject title, classroom hours, proposed dates, duration, time, location and proposed instructor of each component.
 - (3) Written description and educational objectives for each subject matter component, hourly topical outline, teaching method, and description of course and participant evaluation methods.
 - (A) The use of videos, videotapes, video clips, or other visual recordings are permitted as media teaching aids in an Initial Certification Training Program but shall not, in themselves, constitute the Program or any subject matter component thereof.
 - (4) Qualifications of each proposed instructor as specified in Section 85090(i)(7) below.
 - (5) Locality(ies) in which the Training Program will be offered.
 - (6) A list and the location(s) of records to be maintained pursuant to Section 85090(i)(4) below.
 - (7) A statement of whether or not the vendor applicant and each proposed instructor held or currently holds a license, certification or other approval as a professional in a specified field and the certificate or license number(s).
 - (8) A statement of whether or not the vendor applicant and each proposed instructor held or currently holds a State-issued care facility license or was or is employed by a State-licensed care facility and the license number.
 - (9) A statement of whether or not the vendor applicant and each proposed instructor was the subject of any legal, administrative, or other action involving licensure, certification or other approvals as specified in Sections 85090(b)(7) and (8) above.
 - (10) A non-refundable processing fee of one hundred-fifty dollars (\$150).

85090 INITIAL CERTIFICATION TRAINING PROGRAM VENDOR AND PROGRAM APPROVAL REQUIREMENTS (Continued)

- (c) Initial Certification Training Program approval shall expire two (2) years from the date the Initial Certification Training Program is approved by the Department.
- (d) A written request for renewal of the Initial Certification Training Program shall be submitted to the Department's Administrator Certification Section using Request for Course Approval form LIC 9140 and Vendor Application/Renewal form LIC 9141 and shall contain the information and processing fee specified in Section 85090(b) above.
- (1) A vendor must have a current approved Adult Residential Facility Initial Certification Training Program in order to renew its Adult Residential Facility Initial Certification Training Program vendorship.
- (e) If a request for approval or renewal of an Initial Certification Training Program is incomplete, the Department shall, within thirty (30) days of receipt, give written notice to the vendor applicant that:
- (1) The request is deficient, describing what documents are outstanding and/or inadequate, and informing the vendor applicant that the information must be submitted within thirty (30) days of the date of notice.
- (f) If the vendor applicant does not submit the requested information within thirty (30) days, the request for approval or renewal shall be deemed withdrawn provided that the Department has not denied or taken action to deny the request.
- (g) Within thirty (30) days of receipt of a complete request for an approval, the Department shall notify the vendor applicant in writing whether the request has been approved or denied.
- (h) The Adult Residential Facility Initial Certification Training Program shall consist of the following components:
- (1) A minimum of thirty-five (35) classroom hours, as defined in Section 85001(c)(3), with the following uniform Core of Knowledge curriculum:
- (A) Six (6) hours of instruction in laws, including residents' personal rights, regulations, policies, and procedural standards that impact the operations of adult residential facilities.
- (B) Three (3) hours of instruction in business operations.
- (C) Three (3) hours of instruction in management and supervision of staff.
- (D) Four (4) hours of instruction in the psychosocial needs of the facility residents.
- (E) Three (3) hours of instruction in the use of community and support services to meet residents' needs.
- (F) Four (4) hours of instruction in the physical needs of facility residents.

85090 INITIAL CERTIFICATION TRAINING PROGRAM VENDOR AND PROGRAM APPROVAL REQUIREMENTS (Continued)

- (G) Four (4) hours of instruction in the administration, storage, use, prevention of misuse and interaction of drugs commonly used by facility residents.
- (H) Three (3) hours of instruction on admission, retention, and assessment procedures.
- (I) Four (4) hours of instruction on nonviolent crisis intervention techniques and reporting requirements.
- (J) One (1) hour of instruction in cultural competency and sensitivity in issues relating to the underserved aging lesbian, gay, bisexual, and transgender community.

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Topics within the basic curriculum may include, but not be limited to, topics as specified in the Department's Core of Knowledge Guidelines for each of the nine (9) Core of Knowledge components specified in Section 85090(h)(1)(A) through (I) above. The guideline is available from the Department upon request.

Core of Knowledge information will be derived from a variety of sources governing the operation of licensed adult residential facilities, including but not limited to, pertinent statutory provisions of the Health and Safety Code, Welfare and Institutions Code, Education Code, Business and Professions Code, Penal Code, and applicable provisions of Title 22 of the California Code of Regulations, Sections 80000 et seq.

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- (2) A standardized exam developed and administered by the Department.
 - (A) Individuals completing an Initial Certification Training Program must pass the exam with a minimum score of seventy percent (70%).
 - (B) The exam questions shall reflect the hour value of the Core of Knowledge areas specified in Section 85090(h)(1) above.
- (i) Initial Certification Training Program vendors shall:
 - (1) Offer all thirty-five (35) of the classroom hours required for certification in a classroom setting as defined in Section 85001(c)(4).
 - (A) A minimum of ten (10) hours of instruction must be provided by instructor(s) who meets the criteria specified in Section 85090(i)(7)(D).
 - (B) Where good faith efforts to employ an instructor who meets the criteria specified in Section 85090(i)(6)(D) are unsuccessful, vendors may apply to the Department's Administrator Certification Section for a waiver of this requirement.

85090 INITIAL CERTIFICATION TRAINING PROGRAM VENDOR AND PROGRAM APPROVAL REQUIREMENTS (Continued)

- (2) Establish a procedure to allow participants to make up any component necessary to complete the total program hours and content.
- (3) Issue certificates of completion to participants who successfully complete the program.
 - (A) The certificate of completion shall be signed by the vendor or its authorized representative and include the approved vendor's name and vendor number, approved course number, and the date(s), time(s) and location(s) of program classes.
- (4) Submit to the Department upon request a Roster of Participants (form LIC 9142A or other document which includes the same information) who completed the program.
- (5) Maintain and ensure that records are available for review by Department representatives. Records shall be maintained for (3) three years from the date of vendorship approval, course approval, or course offering, whichever is applicable and most recent. The records shall include the following information:
 - (A) Course schedules, dates, descriptions and course outlines.
 - (B) A list of instructors and documentation of qualifications of each, as specified in Section 85090(i)(7) below.
 - (C) A Roster of Participants (LIC 9142A or other document which includes the same information) and documentation of who completed the program.
 - (D) Evaluations by participants of courses and instructors.
 - (E) Audio-visual recordings of all Initial Certification Training Programs and program components offered outside of California.
- (6) Upon request, submit to the Department's Administrator Certification Section a schedule for at least the next calendar quarter specifying the subject title, approved course number, classroom hours, proposed dates, time, duration, location and proposed instructor(s) for each future program/component.
- (7) Have instructors who have verifiable knowledge and/or experience in the subject matter and content to be taught and who meet at least one of the following criteria:
 - (A) Hold a bachelor's or higher degree from an accredited institution in a discipline or field related to the subject(s) to be taught, and have at least two (2) years of experience relevant to the subject(s) to be taught, or
 - (B) Four (4) years of experience relevant to the course(s) to be taught, or

85090 INITIAL CERTIFICATION TRAINING PROGRAM VENDOR AND PROGRAM APPROVAL REQUIREMENTS (Continued)

- (C) Be a professional in a field related to the subject(s) to be taught ,with a valid license or certification to practice in California and at least two (2) years of related field experience, or
 - (D) Have at least four (4) years of experience in California as an administrator of an adult residential facility, within the last six (6) years, with a record of administering the facility(ies) in substantial compliance, as defined in Section 80001(s)(7), and have verifiable training in the subject(s) to be taught.
- (8) Before adding or replacing an approved instructor, obtain the Department’s approval by submitting a completed Request to Add or Replace Instructor form LIC 9140A and supporting documentation to the Department’s Administrator Certification Section.
 - (9) Encourage course instructors to elicit and respond appropriately to participants’ questions.
 - (10) Develop and provide to each course participant an end-of-course evaluation requesting feedback on, at minimum, instructor(s) knowledge of the subject(s), quality of instruction provided, attainment of learning objectives, and opportunity of participants to ask questions.
 - (11) Report any changes of the information in 85090(b)(1) within thirty (30) days to the Department's Administrator Certification Section.
- (j) Initial Certification Training Program Vendors shall allow Department representatives to monitor and inspect training programs.
 - (1) Any duly authorized Department representative may, upon proper identification and upon stating the purpose of his/her visit, enter, inspect, and monitor Initial Certification Training Programs with or without advance notice. Such representatives may also request information and copies of records in advance of such visits and/or for desk monitoring.
 - (2) The vendor shall ensure that provisions are made for the private interview of any participant or instructor, and for the examination of any records relating to the program.
 - (3) The Department shall have the authority to inspect, audit, and copy all program records upon demand. Records may be removed if necessary for copying.
 - (4) Department representatives shall not remove any current emergency or health related personnel records unless the same information is otherwise readily available in another document or format. Department representatives shall return the records undamaged and in good order within three business days following the date the records were removed.

85090 INITIAL CERTIFICATION TRAINING PROGRAM VENDOR AND PROGRAM APPROVAL REQUIREMENTS (Continued)

- (k) If, as a result of an investigation or inspection, the Department determines that a deficiency exists, the Department shall issue a notice of deficiency, unless the deficiency is minor and corrected immediately, and shall provide the Initial Certification Training Program Vendor with the notice of deficiency in person or by registered mail.
- (1) The notice of deficiency shall be in writing and shall include:
- (A) A reference to the statute or regulation upon which the deficiency is premised.
 - (B) A factual description of the nature of the deficiency fully stating the manner in which the Initial Certification Training Program Vendor failed to comply with the specified statute or regulation.
 - (C) The amount of penalty pursuant to Section 85092 which shall be assessed if the deficiency is not corrected and the date the penalty begins.
 - (D) The appeal process as specified in Section 85093.
- (2) The Department and the Initial Certification Training Program Vendor shall develop a plan for correcting each deficiency which shall be added to the notice of deficiency.
- (3) Absent prior Department approval, all Program deficiencies shall be corrected prior to the next offering of the Initial Certification Training Program, and all other deficiencies (e.g., recordkeeping) shall be corrected within the number of days agreed to in the corrective action plan.
- (l) Initial Certification Training Program vendors shall not instruct or "co-locate" more than one program type (Adult Residential Facility, Group Home, Residential Care Facility for the Elderly) at one time.
- (m) Initial Certification Training Program vendors and their instructors who are also seeking administrator certification shall not be permitted to receive credit for attending the vendor's own Initial Certification Training Program.

NOTE: Authority cited: Sections 1530 and 1562.3(i), Health and Safety Code; and Section 15376, Government Code. Reference: Sections 1522.08, 1550, 1551 and 1562.3, Health and Safety Code.

85090.1 DENIAL OF REQUEST FOR APPROVAL OF AN INITIAL CERTIFICATION TRAINING PROGRAM

- (a) The Department may deny a request for approval of an Initial Certification Training Program in accordance with Section 1562.3(h)(1) of the Health and Safety Code. The Department shall provide the applicant with a written notice of the denial.

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Health and Safety Code section 1562.3(h)(1) reads in pertinent part:

"The department may deny vendor approval to any agency or person in any of the following circumstances:

(A) The applicant has not provided the department with evidence satisfactory to the department of the ability of the applicant to satisfy the requirements of vendorization set out in the regulations adopted by the department pursuant to subdivision (i).

(B) The applicant person or agency has a conflict of interest in that the person or agency places its clients in adult residential facilities.

(C) The applicant public or private agency has a conflict of interest in that the agency is mandated to place clients in adult residential facilities and to pay directly for the services. The Department may deny vendorization to this type of agency only as long as there are other vendor programs available to conduct the certification training programs and conduct education courses."

HANDBOOK ENDS HERE

- (b) The applicant may appeal the denial of the application in accordance with Section 1551 of the Health and Safety Code.
- (c) Any request for approval submitted by a vendor applicant whose application has been previously denied shall be processed by the Department in accordance with the provisions of Health and Safety Code section 1520.3(b).

HANDBOOK BEGINS HERE

Health and Safety Code section 1520.3(b) reads in pertinent part:

"(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 paragraph (1) of subdivision (a) and the application was denied within the last year, the department shall cease further review of the application as follows:

HANDBOOK CONTINUES

85090.1 DENIAL OF REQUEST FOR APPROVAL OF AN INITIAL CERTIFICATION TRAINING PROGRAM (Continued)

HANDBOOK CONTINUES

(1) In cases where the applicant petitioned for a hearing, the department shall cease further review of the application until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall cease further review of the application until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(3) The department may continue to review the application if it has determined that the reasons for the denial of the applications were due to circumstances and conditions which either have been corrected or are no longer in existence."

HANDBOOK ENDS HERE

NOTE: Authority cited: Sections 1530 and 1562.3(i), Health and Safety Code. Reference: Sections 1520.3, 1551, and 1562.3, Health and Safety Code.

85090.2 REVOCATION OF AN INITIAL CERTIFICATION TRAINING PROGRAM

- (a) The Department may revoke an Initial Certification Training Program approval and remove the vendor from the list of approved vendors if the vendor does not provide training consistent with Section 85090, or
- (1) Is unable to provide training due to lack of staff, funds or resources, or
 - (2) Misrepresents or makes false claims regarding the training provided, or
 - (3) Demonstrates conduct in the administration or instruction of the program that is illegal, inappropriate, or inconsistent with the intent or requirements of the program, or
 - (4) Misrepresents or knowingly makes false statements in the vendor application or during program instruction, or
 - (5) Fails to correct deficiencies and/or to pay civil penalties due.
- (b) The vendor may appeal the revocation in accordance with Health and Safety Code section 1551.
- (c) Any application for approval of an Initial Certification Training Program submitted by a vendor applicant whose approval has been previously revoked shall be processed by the Department in accordance with the provisions of Health and Safety Code section 1520.3.

**85090.2 REVOCATION OF AN INITIAL CERTIFICATION TRAINING PROGRAM
(Continued)**

HANDBOOK BEGINS HERE

Health and Safety Code section 1520.3 reads in pertinent part:

"(a)(1) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant previously was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.3 (commencing with Section 1569), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) and the prior license was revoked within the preceding two years, the department shall cease any further review of the application until two years have elapsed from the date of the revocation. The cessation of review shall not constitute a denial of the application for purposes of Section 1526 or any other provision of law.

...

(a)(3) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant was excluded from a facility licensed by the department or from a certified family home pursuant to Sections 1558, 1568.092, 1569.58, or 1596.8897, the department shall cease any further review of the application unless the excluded individual has been reinstated pursuant to Section 11522 of the Government Code by the department."

HANDBOOK ENDS HERE

NOTE: Authority cited: Sections 1530 and 1562.3(i), Health and Safety Code. Reference: Sections 1520.3, 1551, and 1562.3, Health and Safety Code.

**85091 CONTINUING EDUCATION TRAINING PROGRAM VENDOR
REQUIREMENTS**

- (a) Any vendor applicant seeking approval as a vendor of a Continuing Education Training Program shall obtain vendor approval by the Department prior to offering any course to certificate holders.
- (b) Any vendor applicant seeking approval to become a vendor of a Continuing Education Training Program shall submit a written request to the Department's Administrator Certification Section using the Vendor Application/Renewal form LIC 9141. The request shall be signed by an authorized representative of the vendor applicant certifying that the information submitted is true and correct, and contain the following:
 - (1) Name, type of entity, physical address, e-mail address, and phone number of the vendor applicant requesting approval and the name of the person in charge of the Program.
 - (2) A statement of whether or not the vendor applicant held or currently holds a license, certification or other approval as a professional in a specified field and the license or certificate number.

85091 CONTINUING EDUCATION TRAINING PROGRAM VENDOR REQUIREMENTS (Continued)

- (3) A statement of whether or not the vendor applicant held or currently holds a State-issued care facility license or was or is employed by a State-licensed care facility and the license number.
 - (4) A statement of whether or not the vendor applicant was the subject of any legal, administrative, or other action involving licensure, certification or other approvals as specified in Section 85091(b)(2) and (3) above.
 - (5) A non-refundable processing fee of one hundred dollars (\$100).
- (c) Continuing Education Training Program vendor approval shall expire two (2) years from the date the vendorship is approved by the Department.
- (d) A written request for renewal of the Continuing Education Training Program shall be submitted to the Department's Administrator Certification Section using the Vendor Application/Renewal form, LIC 9141 and shall contain the information and processing fee specified in Section 85091(b) above.
- (1) A continuing education vendor must have one or more current approved Adult Residential Facility continuing education courses in order to renew its Adult Residential Facility continuing education program vendorship.
- (e) If a request for approval or renewal of a Continuing Education Training Program vendorship is incomplete, the Department shall, within thirty (30) days of receipt, give written notice to the vendor applicant that:
- (1) The request is deficient, describing which documents or information are outstanding and/or inadequate and informing the vendor applicant that the information must be submitted within thirty (30) days of the date of the notice.
- (f) If the vendor applicant does not submit the requested information above within thirty (30) days, the request for approval or renewal shall be deemed withdrawn, provided that the Department has not denied or taken action to deny the request.
- (g) Within thirty (30) days of receipt of a complete request for an approval or renewal, the Department shall notify the vendor applicant in writing whether the request has been approved or denied.
- (h) Continuing Education Training Program vendors shall:
- (1) Issue certificates of completion to participants who successfully complete the program.
 - (A) The certificate of completion shall be signed by the vendor or its authorized representative and include the approved vendor's name and vendor number, the approved course name and course number, the approved course hours, and the date(s), time(s) and location(s) of the course(s).

85091 CONTINUING EDUCATION TRAINING PROGRAM VENDOR REQUIREMENTS (Continued)

- (2) Maintain and ensure that records are available for review by Department representatives. Records shall be maintained for three (3) years from the date of vendorship approval, course approval, or course offering, whichever is applicable and most recent. The records shall include the following:
 - (A) Course schedules, dates, descriptions and course outlines.
 - (B) Lists of instructors and documentation of qualifications of each, as specified in Section 85091(h)(3) below.
 - (C) Rosters of Participants (LIC 9142A or other document which includes the same information) and documentation of who completed the courses.
 - (D) Evaluations by participants of courses and instructors.
 - (E) Audio-visual recordings of all Continuing Education Training courses offered outside of California.
- (3) Have instructors who have verifiable knowledge and/or experience in the subject matter and content to be taught and who meet at least one of the following criteria:
 - (A) Hold a bachelor's or higher degree from an accredited institution in a discipline or field related to the subject(s) to be taught, and have at least two (2) years of experience relevant to the subject(s) to be taught, or
 - (B) Four (4) years of experience relevant to the course to be taught, or
 - (C) Be a professional, in a field related to the subject(s) to be taught, with a valid license or certification to practice in California and at least two (2) years of related field experience, or
 - (D) Have at least four (4) years of experience in California as an administrator of an adult residential facility, within the last six (6) years, with a record of administering the facility(ies) in substantial compliance as defined in Section 80001(s)(7)), and have verifiable training in the subject(s) to be taught.
- (4) Upon request, submit to the Department's Administrator Certification Section a schedule for at least the next calendar quarter specifying the subject title, approved course number, classroom hours, proposed dates, time, duration, location and proposed instructor for each future course.
- (5) Before adding or replacing an approved instructor, obtain the Department's approval by submitting a completed Request to Add or Replace Instructor form LIC 9140A and supporting documentation to the Department's Administrator Certification Section.

85091 CONTINUING EDUCATION TRAINING PROGRAM VENDOR REQUIREMENTS (Continued)

- (6) Encourage course instructors to elicit and respond appropriately to participants' questions.
 - (7) Develop and provide to each course participant an end-of-course evaluation requesting feedback on, at minimum, instructor(s) knowledge of the subject(s), quality of instruction provided, attainment of learning objectives, and opportunity of participants to ask questions.
 - (8) Report any changes of the information in 85091(b)(1) within thirty (30) days to the Department's Administrator Certification Section.
- (i) Courses approved for continuing education credit shall require the physical presence of the certificate holder in a classroom setting, as defined in Section 85001(c)(4), except that:
- (1) The Department may approve online courses pursuant to Health and Safety Code section 1522.41(h)(7) where technology permits the interactive participation of the certificate holder and such participation is verifiable. Interactive online training courses require the participant to respond to prompts and receive feedback at various intervals throughout the course in order to progress through the training and to successfully pass a test at the conclusion of the course in order to receive a certificate of completion for the course.
 - (A) A Webinar or similar type of live broadcast of a training course may be approved by the Department for online continuing education hours pursuant to Health and Safety Code section 1562.3(h)(7) where the technology permits interactive participation of the certificate holder and such participation is verifiable, and where it can be verified that the certificate holder was logged on and interacting throughout the entire length of the Webinar.
 - (B) All online training courses shall be designed to ensure participation for the actual number of hours approved and to ensure that participants cannot print a certificate of completion until the approved course hours have been completed.

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Health and Safety Code section 1522.41(h)(7) provides that:

"(A) A vendor of online programs for continuing education shall ensure that each online course contains all of the following:

(i) An interactive portion in which the participant receives feedback, through online communication, based on input from the participant.

(ii) Required use of a personal identification number of personal identification information to confirm the identity of the participant.

HANDBOOK CONTINUES

**85091 CONTINUING EDUCATION TRAINING PROGRAM VENDOR
REQUIREMENTS (Continued)**

HANDBOOK CONTINUES

(iii) A final screen displaying a printable statement, to be signed by the participant, certifying that the identified participant completed the course. The vendor shall obtain a copy of the final screen statement with the original signature of the participant prior to the issuance of a certificate of completion. The signed statement of completion shall be maintained by the vendor for a period of three years and be available to the department upon demand. Any person who certifies as true any material matter pursuant to this clause that he or she knows to be false is guilty of a misdemeanor.

(B) Nothing in this subdivision shall prohibit the department from approving online programs for continuing education that do not meet the requirements of subparagraph (A) if the vendor demonstrates to the department's satisfaction that, through advanced technology, the course and the course delivery meet the requirements of this section."

HANDBOOK ENDS HERE

- (j) Any changes to courses previously approved by the Department must be submitted and approved by the Department prior to being offered.
- (k) Continuing Education Training Program vendors shall allow Department representatives to monitor and inspect Training Courses and Programs.
 - (1) Any duly authorized Department representative may, upon proper identification and upon stating the purpose of his/her visit, enter, inspect, and monitor continuing education training courses with or without advance notice. Such representatives may also request information and copies of records in advance of such visits and/or for desk monitoring.
 - (2) The vendor shall ensure that provisions are made for the private interview of any participant or instructor, and for the examination of any records relating to the program.
 - (3) The Department shall have the authority to inspect, audit, and copy all program records upon demand. Records may be removed if necessary for copying.
 - (4) Department representatives shall not remove any current emergency or health related personnel records unless the same information is otherwise readily available in another document or format. Department representatives shall return the records undamaged and in good order within three business days following the date the records were removed.
- (l) If, as a result of an investigation or inspection, the Department determines that a deficiency exists, the Department shall issue a notice of deficiency, unless the deficiency is minor and corrected immediately, and shall provide Continuing Education Training Program Vendor with the notice of deficiency in person or by registered mail.

85091 CONTINUING EDUCATION TRAINING PROGRAM VENDOR REQUIREMENTS (Continued)

- (1) The notice of deficiency shall be in writing and shall include:
 - (A) A reference to the statute or regulation upon which the deficiency is premised.
 - (B) A factual description of the nature of the deficiency fully stating the manner in which the Vendor failed to comply with the specified statute or regulation.
 - (C) The amount of penalty pursuant to Section 85092 which shall be assessed if the deficiency is not corrected and the date the penalty begins.
 - (D) The appeal process as specified in Section 85093.
- (2) The Department and the Vendor shall develop a plan for correcting each deficiency which shall be added to the notice of deficiency.
- (3) Absent prior Department approval, all course deficiencies shall be corrected prior to the next offering of the deficient course(s), and all other deficiencies (e.g., recordkeeping) shall be corrected within the number of days agreed to in the corrective action plan.
- (m) Continuing Education Training Program vendors who teach courses that the Department has approved for more than one program type (Adult Residential Facility, Group Home, Residential Care for the Elderly), may provide "multiple crediting," that is, more than one certification for the course, to participants who complete the course satisfactorily.
- (n) Continuing Education Training Program vendors that the Department has approved for more than one program type (Adult Residential Facility, Group Home, Residential Care for the Elderly), may "co-locate" or instruct specified courses for more than one program type.
 - (1) The approved hours for co-located courses may differ depending on the content pertinent to each program type.
- (o) Continuing Education Training Program vendors and their instructors who are also certificate holders shall not be permitted to receive credit for attending the vendor's own Continuing Education Training Program courses.

NOTE: Authority cited: Sections 1530 and 1562.3(i), Health and Safety Code. Reference: Sections 1522.08 and 1562.3, Health and Safety Code.

85091.1 CONTINUING EDUCATION TRAINING PROGRAM COURSE APPROVAL REQUIREMENTS

- (a) Any Continuing Education Training Program course shall be approved by the Department prior to being offered to certificate holders.
 - (1) At the sole discretion of the Department, continuing education credit may be granted for training provided by the Department's licensing staff.
- (b) Any vendor seeking approval of a Continuing Education Training Program course shall submit a written request to the Department's Administrator Certification Section using the Request for Course Approval form, LIC 9140. The request shall be signed by an authorized representative of the vendor certifying that the information submitted is true and correct, and contain the following:
 - (1) Subject title, classroom hours, scheduled dates, duration, time, location, and proposed instructor.
 - (2) Written description and educational objectives, teaching methods, hourly topical content outline, and a description of course and participant evaluation methods.
 - (A) The use of videos, videotapes, video clips, or other visual recordings are permitted as media teaching aids in a continuing education course but shall not, in themselves, constitute the course.
 - (3) Qualifications of each proposed instructor, as specified in Section 85091(h)(3).
 - (4) A list and the location(s) of records to be maintained, as required by Section 85091(h)(2).
 - (5) A statement of whether or not the proposed instructor held or currently holds a license, certification, or other approval as a professional in a specified field and the license or certificate number.
 - (6) A statement of whether or not the proposed instructor held or currently holds a State-issued care facility license or was or is employed by a State-licensed care facility and the license number.
 - (7) A statement of whether or not the proposed instructor was the subject of any legal, administrative or other action involving licensure, certification or other approvals as specified in Sections 85091.1(b)(5) and (6) above.
- (c) Course approval shall expire on the expiration date of the vendor's Continuing Education Training Program vendorship approval, as provided in Section 85091(c).
 - (1) To renew a course, the vendor shall submit a written request to the Department's Administrator Certification Section, using the Vendor Application/Renewal form LIC 9141 and the Renewal of Continuing Education Course Approval form LIC 9139, at least thirty (30) days prior to course expiration.

85091.1 CONTINUING EDUCATION TRAINING PROGRAM COURSE APPROVAL REQUIREMENTS (Continued)

- (2) Course renewal requests received by the Department after the course expiration date shall be denied, and the vendor required to resubmit the courses for approval pursuant to Section 85091.1(b).
 - (3) Course renewal requests received for courses where the content is known to have changed, or needs to be updated, shall be denied. The vendor will need to submit the revised course for approval pursuant to Section 85091.1(b).
- (d) If a request for approval or renewal of a Continuing Education Training Program course is incomplete, the Department shall, within thirty (30) days of receipt, give written notice to the vendor that:
- (1) The request is deficient, describing which documents or information are outstanding and/or inadequate and informing the vendor applicant that the information must be submitted within thirty (30) days of the date of the notice.
- (e) If the vendor applicant does not submit the requested information within thirty (30) days, the request for approval or renewal shall be deemed withdrawn, provided that the Department has not denied or taken action to deny the request.
- (f) Within thirty (30) days of receipt of a complete request for an approval or renewal, the Department shall notify the vendor applicant in writing whether the course has been approved or denied.
- (g) Any changes to previously approved courses must be submitted to the Department for approval prior to being offered as specified in Section 85091.1(b).

NOTE: Authority cited: Sections 1530 and 1562.3(i), Health and Safety Code. Reference: Sections 1522.08 and 1562.3, Health and Safety Code.

85091.2 ADMINISTRATIVE REVIEW OF DENIAL OR REVOCATION OF A CONTINUING EDUCATION COURSE

- (a) A vendor may seek administrative review of the denial or revocation of course approval as follows:
- (1) The vendor must request an administrative review in writing to the Department's Administrator Certification Section Manager within ten (10) days of receipt of the Department's notice denying or revoking course approval.
 - (2) The administrative review shall be conducted by a higher-level staff person than the person who denied or revoked course approval.
 - (3) If the reviewer determines that the denial or revocation of course approval was not issued in accordance with applicable statutes and regulations of the Department, or that other circumstances existed, that would have led to a different decision, he/she shall have the authority to affirm, amend or reverse the denial or revocation of course approval.

85091.2 ADMINISTRATIVE REVIEW OF DENIAL OR REVOCATION OF A CONTINUING EDUCATION COURSE (Continued)

- (4) The reviewer shall send a written response to the vendor within thirty (30) days of the Section's receiving the request per Section 85091.2(a)(1).
- (5) The decision of the higher-level staff person shall be final.

NOTE: Authority cited: Sections 1530 and 1562.3(i), Health and Safety Code. Reference: Section 1562.3, Health and Safety Code.

85091.3 DENIAL OF A REQUEST FOR APPROVAL OF A CONTINUING EDUCATION TRAINING PROGRAM

- (a) The Department may deny a request for approval of a Continuing Education Training Program in accordance with Health and Safety Code section 1562.3(h)(1). The Department shall provide the applicant with a written notice of the denial.

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Health and Safety Code section 1562.3(h)(1) reads in pertinent part:

"(h)(1) The department may deny vendor approval to any agency or person in any of the following circumstances:

(A) The applicant has not provided the department with evidence satisfactory to the department of the ability of the applicant to satisfy the requirements of vendorization set out in the regulations adopted by the department pursuant to subdivision (i).

(B) The applicant person or agency has a conflict of interest in that the person or agency places its clients in adult residential facilities.

(C) The applicant public or private agency has a conflict of interest in that the agency is mandated to place clients in adult residential facilities and to pay directly for the services. The department may deny vendorization to this type of agency only as long as there are other vendor programs available to conduct the certification training programs and conduct education courses."

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- (b) The vendor applicant may appeal the denial in accordance with Health and Safety Code section 1551.
- (c) Any request for approval submitted by a vendor applicant whose application has been previously denied shall be processed by the Department in accordance with the provisions of Health and Safety Code section 1520.3(b).

85091.3 DENIAL OF A REQUEST FOR APPROVAL OF A CONTINUING EDUCATION TRAINING PROGRAM (Continued)

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Health and Safety Code section 1520.3(b) reads in pertinent part:

"(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 paragraph (1) of subdivision (a) and the application was denied within the last year, the department shall cease further review of the application as follows:

(1) In cases where the applicant petitioned for a hearing, the department shall cease further review of the application until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall cease further review of the application until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(3) The department may continue to review the application if it has determined that the reasons for the denial of the applications were due to circumstances and conditions, which either have been corrected or are no longer in existence."

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NOTE: Authority cited: Sections 1530 and 1562.3(i), Health and Safety Code. Reference: Sections 1551 and 1562.3, Health and Safety Code.

85091.4 REVOCATION OF A CONTINUING EDUCATION TRAINING PROGRAM

(a) The Department may revoke a Continuing Education Training Program approval and remove the vendor from the list of approved vendors if the vendor does not provide training consistent with Sections 85091 and 85091.1, or:

- (1) Is unable to provide training due to lack of staff, funds or resources; or
- (2) Misrepresents or makes false claims regarding the training provided; or
- (3) Demonstrates conduct in the administration or instruction of the program that is illegal, inappropriate, or inconsistent with the intent of the program; or
- (4) Misrepresents or knowingly makes false statements in the vendor application or during program instruction, or

**85091.4 REVOCATION OF A CONTINUING EDUCATION TRAINING PROGRAM
(Continued)**

- (5) Fails to correct deficiencies and/or to pay civil penalties due.
- (b) The vendor may appeal the revocation in accordance with Health and Safety Code section 1551.
- (c) Any application for approval of an Continuing Education Training Program submitted by a vendor applicant whose approval has been previously revoked shall be processed by the Department in accordance with the provisions of Health and Safety Code section 1520.3.

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Health and Safety Code section 1520.3 reads in pertinent part:

"(a)(1) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant previously was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.3 (commencing with Section 1569), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) 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 the revocation. The cessation of review shall not constitute a denial of the application for purposes of Section 1526 or any other provision of law....

(a)(3) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant was excluded from a facility licensed by the department or from a certified family home pursuant to Section 1558, 1568.092, 1569.58, or 1596.8897, the department shall cease any further review of the application unless the excluded individual has been reinstated pursuant to Section 11522 of the Government Code by the department."

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NOTE: Authority cited: Sections 1550 and 1562.3(i), Health and Safety Code. Reference: Sections 1520.3, 1562.3 and 1551, Health and Safety Code.

85092 PENALTIES

- (a) A penalty of \$50 per day, per cited violation, shall be assessed for all deficiencies that are not corrected as specified in the notice of deficiency.
- (b) Unless otherwise ordered by the Department, all penalties are due and payable upon receipt of notice of payment, and shall be paid only by money order or cashier's check made payable to the Department.
- (c) The Department shall have authority to file a claim in a court of competent jurisdiction or to take other appropriate action for failure to pay penalties as specified in (b) above.

NOTE: Authority cited: Sections 1522.41(h) and 1530, Health and Safety Code. Reference: Sections 1523.1, 1548 and 1549, Health and Safety Code.

85093 APPEAL PROCESS

- (a) A vendor may request in writing to the Department's Administrator Certification Section Manager a review of a notice of deficiency or notice of penalty within ten (10) working days of receipt of the notice. This review shall be conducted by a higher level staff person other than the evaluator who issued the notice.
- (b) If the reviewer determines that a notice of deficiency or notice of penalty was not issued in accordance with applicable statutes and regulations, the reviewer shall amend or dismiss the notice. In addition, the reviewer may extend the date specified for correction of a deficiency if warranted by the facts or circumstances to support a request for extension.
- (c) The reviewer will send a written response to the vendor within thirty (30) days of the Section's receiving a request as described in (a) above.

NOTE: Authority cited: Sections 1522.41(h) and 1530, Health and Safety Code. Reference:Section 1534, Health and Safety Code.

SUBCHAPTER 1. EMERGENCY INTERVENTION**Article 1. GENERAL REQUIREMENTS****85100 GENERAL**

- (a) In addition to Chapters 1 and 6, the licensee of an Adult Residential Facility is governed by the provisions of this subchapter when a licensee utilizes or reasonably foresees that he or she will utilize a manual restraint or seclusion.
- (b) When a client's behavior presents an imminent danger of serious injury to self or others, the licensee shall use a continuum of interventions starting with the least restrictive intervention. More restrictive interventions may be used only when less restrictive interventions are determined to be ineffective.

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Health and Safety Code section 1180.4(j) provides in pertinent part:

A facility described in subdivision (a) of Section 1180.2 or subdivision (a) of Section 1180.3 shall afford to persons who are restrained the least restrictive alternative and the maximum freedom of movement, while ensuring the physical safety of the person and others, and shall use the least number of restraint points.

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- (c) Adult Residential Facility staff may use manual restraint or seclusion with a client only if:
 - (1) The force used does not exceed that which is necessary to avert the injury or danger being threatened;
 - (2) The risk of injury caused by the force applied does not exceed the risk of injury being averted;
 - (3) The manual restraint or seclusion is used when a client's behavior presents an imminent danger of serious injury to self or others;
 - (4) The duration of a manual restraint or seclusion ceases as soon as the risk of imminent danger of serious injury to self or others from the client's behavior has ceased; and
 - (5) The manual restraint or seclusion is not otherwise prohibited by statute or regulation.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1180.4, 1501, 1502, 1531 and 1562.3(c)(1)(I), Health and Safety Code.

85101 DEFINITIONS

In addition to the definitions in Sections 80001 and 85001, the following shall apply:

- (a) (Reserved)
- (b) (1) "Behavior Management Consultant" means a person who designs and/or implements behavior modification intervention services and meets one of the following requirements:
 - (A) A Licensed Clinical Social Worker, pursuant to Business and Professions Code Sections 4996-4998.5.
 - (B) A Licensed Marriage and Family Therapist, pursuant to Business and Professions Code Sections 4980-4984.7.
 - (C) A psychologist, licensed by the Medical Board of California or Psychology Examining Board.
 - (D) A licensed registered nurse, pursuant to Business and Professions Code Section 2700 and subsequent Sections, possessing a master's degree in psychiatric-mental health nursing and listed as a psychiatric-mental health nurse by the Board of Registered Nursing.
 - (E) An advanced practice registered nurse, certified as a clinical nurse specialist, pursuant to Business and Professions Code Section 2838 and subsequent Sections, and participating in expert clinical practice in the specialty of psychiatric-mental health nursing.
 - (F) A Nurse Practitioner, as defined in the Business and Professions Code Section 2834.
 - (G) A professional with training and expertise in human behavior with California licensure, which permits the design of behavior modification intervention services.
- (c) (1) "Chemical Restraint" means involuntary emergency medication used to control behavior. This includes drugs used for control of inappropriate behavior and used in a manner not required to treat the individual's medical symptoms.
- (2) "Clinical and Quality Review" means a review that is strictly objective and based on training and the Plan of Operation.
- (3) "Containment" means a brief physical (manual) restraint of a person for the purpose of effectively gaining quick control of a person who is aggressive or agitated or who is a danger to self or others as defined in Section 1180.1(b) of the Health and Safety Code.
- (d) (Reserved)

85101 DEFINITIONS (Continued)

- (e) (1) "Emergency Intervention(s)" means safety measures to prevent imminent risk of serious physical harm to an individual and the methods used to offer immediate, short-term help to clients who experience an event that produces emotional, mental, physical, and behavioral distress or problems that have the potential to result in injury to self or others.
- (2) "Emergency Intervention Plan" means a written plan, addressing the prevention of injury and implementation of emergency intervention techniques by the licensee, that is included in the facility's plan of operation as required by Section 85122(a)(1).
- (3) "Emergency Intervention Training" means an instructional curriculum provided to facility personnel regarding the techniques that may be used to prevent injury to, and maintain safety for, clients who are a danger to themselves or others, and shall emphasize positive behavioral supports and techniques that are alternatives to physical restraint and seclusion in accordance with Health and Safety Code sections 1180.3(b)(2) and 1567.64.

(f)-(h) (Reserved)

- (i) (1) "Imminent Danger," in this subchapter means behavior that is reasonably certain to cause a substantial risk of death or serious physical injury.
- (2) "Individual Emergency Intervention Plan" means a written plan addressing the prevention of injury and implementation of emergency intervention techniques by the licensee that will be used with a specific client, which are in addition to and are not prohibited by, the emergency intervention techniques set forth in the facility Emergency Intervention Plan. The plan shall be developed in consultation with a Qualified Behavior Modification Professional with input from the client and if available, someone whom he or she desires to provide input in accordance with Health and Safety Code section 1180.4(a). The plan shall include client-centered problem solving strategies that diffuse and safely resolve emerging crisis situations and strategies to minimize time spent in seclusion or behavioral restraints.

(j)-(l) (Reserved)

- (m) (1) "Manual Restraint" means the same as "Physical Restraint" which means the use of a manual hold to restrict freedom of movement of all or part of a person's body, or to restrict normal access to the person's body, and that is used as a behavioral restraint on a client who presents an immediate danger to his or her self or to others. Techniques include, but are not limited to, forced escorts; holding; wall restraint; brief prone restraint; or any staff-to-person physical contact in which the person unwillingly participates. This is further defined in Health and Safety Code section 1180.1(d).

85101 DEFINITIONS (Continued)

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Health and Safety Code section 1180.1 provides in pertinent part:

- (a) "Behavioral restraint" means "mechanical restraint" or "physical restraint" as defined in this section, used as an intervention when a person presents an immediate danger to self or to others. It does not include restraints used for medical purposes, including, but not limited to, securing an intravenous needle or immobilizing a person for a surgical procedure, or postural restraints, or devices used to prevent injury or to improve a person's mobility and independent functioning rather than to restrict movement.[...]

- (d) "Physical restraint" means the use of a manual hold to restrict freedom of movement of all or part of a person's body, or to restrict normal access to the person's body, and that is used as a behavioral restraint. "Physical restraint" is any staff-to-person physical contact in which the person unwillingly participates. "Physical restraint" does not include briefly holding a person without undue force in order to calm or comfort, or physical contact intended to gently assist a person in performing tasks or to guide or assist a person from one area to another.

HANDBOOK ENDS HERE

- (m) (2) "Mechanical Restraint" means the use of a mechanical device, material, or equipment attached or adjacent to the person's body that he or she cannot easily remove and that restricts the freedom of movement of all or part of a person's body or restricts normal access to the person's body, and that is used as a behavioral restraint. Mechanical restraint devices include, but are not limited to, soft cloth ties, handcuffs, restraining sheets, restraining chairs, leather cuffs and belts or any other similar method. This is further defined in Health and Safety Code section 1180.1(c). Mechanical restraint does not include postural supports, as specified in Section 80072(a)(8).

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Health and Safety Code section 1180.1, subdivision (c) provides:

"Mechanical restraint" means the use of a mechanical device, material, or equipment attached or adjacent to the person's body that he or she cannot easily remove and that restricts the freedom of movement of all or part of a person's body or restricts normal access to the person's body, and that is used as a behavioral restraint.

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85101 DEFINITIONS (Continued)

(n)-(p) (Reserved)

(q) (1) "Qualified Behavior Modification Professional" means an individual with a minimum two years of experience in designing, supervising, and implementing behavior modification services who is one of the following:

- (A) An Assistant Behavior Analyst certified by the National Behavior Analyst Certification Board as a Certified Assistant Behavior Analyst;
- (B) A Behavior Analyst certified by the National Behavior Analyst Certification Board as a Certified Behavior Analyst;
- (C) A Licensed Clinical Social Worker, pursuant to Sections 4996-4998.5 of the Business and Professions Code;
- (D) A Licensed Marriage and Family Therapist, pursuant to Sections 4980-4984.7 of the Business and Professions Code;
- (E) A psychologist, licensed by the Medical Board of California or Psychology Examining Board; or
- (F) A licensed professional with California licensure, which permits the design of behavior modification intervention services.

(r) (Reserved)

(s) (1) "Seclusion" as defined in Health and Safety Code section 1180.1(e).

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Health and Safety Code section 1180.1, subdivision (e) provides:

"Seclusion" means the involuntary confinement of a person alone in a room or an area from which the person is physically prevented from leaving. "Seclusion" does not include a 'timeout' as defined in regulations relating to facilities operated by the State Department of Developmental Services.

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- (2) "Seclusion Room" means a room specifically designated and designed for the involuntary seclusion of a client for a limited period when a client's behavior presents an imminent danger of serious injury to self or others. No person with a developmental disability may be placed in a seclusion room in accordance with Title 17, Section 50515(a).

85101 DEFINITIONS (Continued)

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Title 17, California Code of Regulation, Section 50515(a) provides in pertinent part:

- (a) Seclusion. No person with a developmental disability shall be placed in seclusion. The use of "time out" procedures may be employed only under the following circumstances:
 - (1) State Hospital. The procedure used complies with regulations promulgated by the director pursuant to Welfare and Institutions Code section 4505.
 - (2) Community Care or Health Facility. A written agreement exists between the placing regional center and the facility which complies with regulations promulgated by the director pursuant to Welfare and Institutions Code section 4505.

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- (3) "Serious Injury" as defined in Health and Safety Code section 1180.1(g).

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Health and Safety Code section 1180.1 provides in pertinent part:

- (g) "Serious injury" means significant impairment of the physical condition as determined by qualified medical personnel, and includes, but is not limited to, burns, lacerations, bone fractures, substantial hematoma, or injuries to internal organs.

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- (t) "Time-Out" means a behavioral management technique involving the client, voluntarily and without force, being separated from the current environment to calm and allow the client to regain self-control.

(u)-(z) (Reserved)

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1180, 1180.1, 1180.3, 1180.4, 1180.5, 1501 and 1531, Health and Safety Code. Sections 2700, 2834, 2838, 4996-4998.5, 4980-4984.7, Business and Professions Code. Section 54342, California Code of Regulations, Title 17.

Article 2. PROHIBITIONS**85102 EMERGENCY INTERVENTION PROHIBITIONS**

Notwithstanding 85300(a), Section 85102 shall apply to all Adult Residential Facilities as follows:

- (a) The following emergency interventions shall not be used on a client:
- (1) Mechanical restraints;
 - (2) Manual restraint as an extended procedure;
 - (3) Manual restraint or seclusion when imminent risk of serious physical harm to self or others is no longer present;
 - (4) Adverse behavior modifications, including but not limited to body shaking, water spray, slapping, pinching, ammonia vapors, sensory deprivation and electric shock;
 - (5) Pain, induced to control behavior or limit movement, including but not limited to arm twisting, finger bending, joint extensions and headlocks;
 - (6) Any manual restraint technique that obstructs a person's airway or impairs or restricts breathing or circulation;
 - (7) Manual restraint with the person's hands held or restrained behind the person's back;
 - (8) Any manual restraint technique in which a staff member places pressure on a person's back or places his or her body weight against the person's torso or back;
 - (9) Placement of an item that covers the head or face;
 - (A) Padding, placed under the head, to prevent injury is permitted, provided it does not impair breathing.
 - (10) Chemical restraint or psychotherapeutic or behavior modifying drugs in a manner prohibited by Health and Safety Code section 1180.4(k);

85102 EMERGENCY INTERVENTION PROHIBITIONS (Continued)

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Health and Safety Code section 1180.4, subdivision (k) provides:

A person in a facility described in subdivision (a) of Section 1180.2 and subdivision (a) of Section 1180.3 has the right to be free from the use of seclusion and behavioral restraints of any form imposed as a means of coercion, discipline, convenience, or retaliation by staff. This right includes, but is not limited to, the right to be free from the use of a drug used in order to control behavior or to restrict the person's freedom of movement, if that drug is not a standard treatment for the person's medical or psychiatric condition.

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- (11) Techniques reasonably expected to cause serious injury that may require medical treatment from a health practitioner, licensed under division 2 of the Business and Professions Code;
- (12) Verbal abuse or physical threats;
- (13) Isolation in an area from which the client cannot voluntarily exit including, but not limited to, denying a request from a non-ambulatory client to exit a chair or an unlocked room. This prohibition does not apply to a Seclusion Room;
- (14) Manual restraint or seclusion for more than 15 consecutive minutes unless the licensee is in compliance with Section 85122(e)(6);

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Health and Safety Code section 1180.4, subdivision (h) provides:

A facility described in subdivision (a) of Section 1180.2 or subdivision (a) of Section 1180.3 shall not use physical restraint or containment as an extended procedure. A facility described in subdivision (a) of Section 4684.80 of the Welfare and Institutions Code that is licensed by the State Department of Social Services shall not use physical restraint or containment for more than 15 consecutive minutes. The department may, by regulation, authorize an exception to the 15 minute maximum duration if necessary to protect the immediate health and safety of residents or others from risk of imminent serious physical harm.

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- (15) Punishment, discipline, harassment, humiliation, coercion or retaliation.

85102 EMERGENCY INTERVENTION PROHIBITIONS (Continued)

- (b) Manual restraint or seclusion shall not be used:
- (1) As a substitution for staff;
 - (2) For the convenience of staff;
 - (3) As a substitute for, or as part of a treatment program;
 - (4) As a substitute for, or as part of a behavior modification program;
 - (5) To prevent a client from leaving a room or area or the facility when there is no immediate threat to health and safety of the individuals or others;
 - (6) When a client's medical or physical condition or the Client Medical Assessment indicates that there is reason to believe that the intervention would endanger the client's life or seriously worsens the client's medical condition;
 - (7) If it is prohibited by the facility's Emergency Intervention Plan or the client's Individual Emergency Intervention Plan.

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Health and Safety Code section 1180.4, subdivisions (d) provides:

A facility described in subdivision (a) of Section 1180.2 or subdivision (a) of Section 1180.3 shall not use physical or mechanical restraint or containment on a person who has a known medical or physical condition, and there is reason to believe that the use would endanger the person's life or seriously exacerbate the person's medical condition.

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NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1180.2, 1180.3, 1180.4, 1501, 1502, and 1531, Health and Safety Code.

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Article 3. APPLICATION AND LICENSING PROCEDURES**85122 EMERGENCY INTERVENTION PLAN**

- (a) The applicant or licensee shall be responsible to ensure an Emergency Intervention Plan is developed and approved by the Department prior to the use of manual restraint or seclusion, if staff use or it is reasonably foreseeable that staff will use these techniques.
 - (1) The Emergency Intervention Plan shall be designed and approved by the applicant or licensee in conjunction with a Behavior Management Consultant and shall be part of the Plan of Operation.
- (b) The Emergency Intervention Plan shall specify the less restrictive or non-physical de-escalation methods that may be used to identify and prevent behaviors that lead to the use of manual restraint or seclusion.
- (c) The Emergency Intervention Plan shall also specify the techniques that a licensee may use in an emergency when the use of manual restraint or seclusion is necessary to prevent serious physical harm to an individual and no less restrictive or non-physical technique is effective.
- (d) The Emergency Intervention Plan shall include:
 - (1) Staff qualifications sufficient to implement the plan.
 - (2) A list of job titles of the staff required to be trained to use manual restraint and/or seclusion.
 - (3) A list of emergency intervention techniques beginning with the least restrictive intervention, which shall include:
 - (A) A description of each emergency intervention technique that may be used.
 - 1. Prone containment shall only be used in compliance with Section 1180.4(f) of the Health and Safety Code.

85122 EMERGENCY INTERVENTION PLAN (Continued)

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Health and Safety Code Section 1180.4(f) provides in pertinent part:

- (f) A facility described in subdivision (a) of Section 1180.2 or subdivision (a) of Section 1180.3 shall avoid the deliberate use of prone containment techniques whenever possible, utilizing the best practices in early intervention techniques, such as de-escalation. If prone containment techniques are used in an emergency situation, a staff member shall observe the person for any signs of physical duress throughout the use of prone containment . . .

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- (B) The maximum time limits for each manual restraint and/or seclusion technique, not to exceed maximum time limits, as specified in Sections 85102(a)(14).
- (C) The purpose or expected outcome for clients.
- (4) A description of the circumstances and the types of client behaviors for which the use of emergency interventions are needed.
- (5) Procedures for maintaining care and supervision and reducing the trauma of other clients when staff are required for the use of emergency interventions.
- (6) Procedures for crisis situations, when more than one client requires the use of emergency interventions simultaneously.
- (7) Procedures for re-integrating the client into the facility routine after the need for an emergency intervention has ceased.
- (8) Criteria for assessing when an Emergency Intervention Plan needs to be modified or terminated.
- (9) Criteria for assessing when the licensee does not have adequate resources to meet the needs of a specific client.
- (10) Criteria for assessment when community emergency services are necessary to assist staff during an emergency intervention.
- (A) A list of the community emergency services to assist staff.
- (11) Procedures to ensure a client in crisis does not injure or endanger self or others.

85122 EMERGENCY INTERVENTION PLAN (Continued)

- (12) Criteria for assessing when an Individual Emergency Intervention Plan needs to be modified or terminated.
- (13) A statement clarifying that only staff trained as required by Section 85165(b), may use emergency interventions.
- (e) If staff will use, or it is reasonably foreseeable staff will use, manual restraint or seclusion or both, the licensee shall include and ensure the following time limitations are adhered to in the Emergency Intervention Plan. The Emergency Intervention Plan shall include procedures for ensuring:
 - (1) Client safety when a manual restraint or seclusion is used, including the title(s) of staff responsible for checking the client's breathing and circulation.
 - (A) A determination for when a medical examination is needed during or after a manual restraint or seclusion, as specified in Section 85169.
 - (2) The use of manual restraint or seclusion or both shall not be used if a less restrictive, nonphysical intervention is possible. The use of manual restraint or seclusion or both shall not cause injury to the client or others in the facility.
 - (3) The amount of time a client is in a manual restraint or seclusion is limited to when the client is presenting an imminent danger of serious injury to self or others.
 - (4) Staff shall respond immediately and appropriately to a client's request for services, assistance and repositioning.
 - (5) During the continued use of a manual restraint or seclusion a trained staff person not involved in the manual restraint or seclusion shall perform an assessment which shall include, but is not limited to, the following:
 - (A) A visual check of the client's physical well-being to ensure the client is not injured and the client's breathing and circulation are not impaired;
 - (B) Whether community emergency services, as described in Section 85122(d)(10)(A) need to be called;
 - (C) Ensuring the safety of the client;
 - (D) Ensuring the safety of staff involved;
 - (E) Determining if the client's behavior poses an imminent risk of serious physical harm; and
 - (F) Determining if a less restrictive intervention is warranted.

85122 EMERGENCY INTERVENTION PLAN (Continued)

- (6) Unless discontinued sooner, at 15 consecutive minutes after the initiation of a manual restraint or seclusion, staff shall discontinue the manual restraint or seclusion.
- (A) The only exception to the 15 minute limitation above shall be when there is a continued need to protect the immediate health and safety of the client or others from risk of imminent serious physical harm and concurrent approval is obtained by the certified administrator for every exception.
1. The administrator's approval shall be documented in the client record within 24 hours and also include an explanation of why it was necessary for the manual restraint or seclusion to go over 15 minutes, including a description of the client's imminently dangerous behavior.
 2. The certified administrator mentioned in Section 85122(e)(6)(A)1. above shall not be a participant in the manual restraint.
- (7) The licensee shall outline in the Emergency Intervention Plan, the procedures to ensure the safety of clients and staff in the event the client continues to pose an immediate serious danger to self or others after 15 consecutive minutes of manual restraint or seclusion.
- (8) Client safety when a client is placed in a seclusion room, including the following:
- (A) Staff shall be free from other responsibilities and maintain direct visual contact with the client at all times. The visual contact shall not be through video and/or audio equipment or electronic transmission.
1. Staff shall remain in the seclusion room, when necessary, to prevent injury to the client.
- (B) Staff shall make reasonable efforts to ensure the client does not possess objects that could be used to inflict injury to self or others while in the seclusion room.
- (C) Only one client shall be placed in a seclusion room at a time.
- (9) Each use of manual restraint or seclusion is documented in the client's record.
- (10) There is a review of each use of manual restraint or seclusion, as specified in Section 85168.3.
- (11) Access to necessary community emergency services, including emergency response personnel, when the use of emergency interventions is not effective or appropriate.
- (12) Staff are aware of the client's medical or physical condition(s), and comply with any necessary limitations or prohibition of the use of manual restraint or seclusion.

85122 EMERGENCY INTERVENTION PLAN (Continued)

- (13) When staff are involved in a manual restraint or seclusion, there shall be additional staff to provide care and supervision to the other client(s) who are not involved in the manual restraint or seclusion.
- (f) The Emergency Intervention Training Plan shall be a component of the Emergency Intervention Plan and shall include:
- (1) The course type, title and a brief description of the training staff completed;
 - (2) Training requirements for new staff;
 - (3) The ongoing training requirement for existing staff including timeframes and frequency of refresher training to ensure staff maintain their skills;
 - (4) Training curriculum;
 - (5) The qualification(s) of the instructor(s) providing the training.
 - (6) Evidence that the training plan is based on research and that the training topics are appropriate for the client population and services provided by the facility.
- (g) The Emergency Intervention Plan shall include procedures for an internal six month review of the use of manual restraint and seclusion, which shall include:
- (1) A review, conducted by the administrator or the administrator's designee and the Qualified Behavior Modification Professional;
 - (2) An analysis of patterns and trends of the use of manual restraint and seclusion in the previous six month period, based on a review of:
 - (A) All records, related to the use of manual restraint and seclusion, for accuracy and completeness;
 - (B) The use, outcome and duration of each manual restraint or seclusion, including injuries and determinations of the appropriateness of the manual restraint and seclusion technique used in each situation; and
 - (C) The frequency of manual restraint(s) and seclusion(s).
 - (3) The development of a corrective action plan to resolve problems identified in the six month review, including amendments to the Emergency Intervention Plan, or to other internal procedures.

85122 EMERGENCY INTERVENTION PLAN (Continued)

- (h) Documentation of the six month review, corrective action plan and a copy of all emergency intervention incident reports shall be maintained at the facility and shall be available for review, inspection, audit and copy, upon request, by the Department.
 - (1) The licensee shall document when no manual restraint or seclusion has occurred.
 - (2) A copy of the six month review shall be maintained in the client's record and available for review, inspection, audit and copy, upon request, by the Department, as specified in Section 80070.
- (i) The licensee shall provide a copy of the six month review and corrective action plan, if applicable, to the client's authorized representative, if any, upon request.
- (j) The licensee shall immediately discontinue the use of manual restraint or seclusion, if both of the following apply:
 - (1) The licensee has used a manual restraint or seclusion and has been cited for non-compliance with this subchapter, Sections 80072 or 85072.
 - (2) The Department provides written notice to the licensee prohibiting the use of manual restraint or seclusion.

NOTE: Authority cited: Sections 1530, 1567.64 and 1567.82, Health and Safety Code. Reference: Sections 1180, 1180.2, 1180.3, 1180.4, 1180.5, 1501 and 1531, Health and Safety Code.

Article 6. CONTINUING REQUIREMENTS**85161 EMERGENCY INTERVENTION DOCUMENTATION AND REPORTING REQUIREMENTS**

- (a) Each use of manual restraint or seclusion shall be reported to the client's authorized representative, if any, by telephone, no later than the next calendar day. This report shall include the type of emergency intervention used, the duration of the manual restraint or seclusion, the time the event was reported to the authorized representative, and the time and response of the authorized representative and shall be documented in the client's file.
- (b) Each use of manual restraint or seclusion shall be reported to the Department in writing no later than the next business day. This time frame shall supersede the reporting time frame required by Section 80061(b).
- (1) An incident report of the use of the manual restraint or seclusion shall be reviewed, for accuracy and completeness, and signed by the licensee or licensee's designee prior to submission to the Department.
- (2) If a manual restraint or seclusion technique that was not part of the facility Emergency Intervention Plan or the Individual Emergency Intervention Plan was used during the emergency intervention, the plan for corrective action, at minimum, shall require staff to repeat or obtain emergency intervention training. Within 24 hours of the licensee's discovery of non-compliance of the Plan, the licensee shall also submit a plan for corrective action to the Department to describe how he or she will ensure that there is no recurrence of a violation of the Plan. This shall not impede upon the Department's authority to enforce applicable statutes and regulations or initiate administrative action.
- (c) The report in Section 85161(b) above must include the following:
- (1) A description of the client's behavior that required the use of manual restraint or seclusion, and description of the precipitating factors, including behaviors of others, which led to the intervention.
- (2) Description of what manual restraints were used, how long the client was restrained or secluded, and if the restraint resulted in the use of seclusion.
- (3) Description of what non-physical interventions were utilized prior to the use of the manual restraint or seclusion; explanation of why more restrictive interventions were necessary.
- (4) The client's verbal response and physical appearance, including a description of any injuries at the completion of the manual restraint or seclusion, whether they are related to the manual restraint or seclusion, and how the licensee became aware of the injury.

85161 EMERGENCY INTERVENTION DOCUMENTATION AND REPORTING REQUIREMENTS (Continued)

- (5) Description of injuries sustained by the client or facility personnel, what type of medical treatment was sought and where was client taken or an explanation if medical treatment was not sought for injuries.
 - (6) Name(s) of facility personnel who participated in or witnessed the manual restraint or seclusion.
 - (7) Name of the certified administrator who approved the continuation of the manual restraint or seclusion for more than 15 minutes.
 - (8) If it is determined in the debriefing, as required in Section 85168.3, that facility personnel did not adequately attempt to prevent the manual restraint or seclusion, a description of what action should have been taken by facility personnel to prevent the manual restraint or seclusion incident shall be documented. This documentation shall also include what corrective action will be taken or not taken and why.
 - (9) If law enforcement was involved, a description of the precipitating factors, including behaviors of others, which led to the police intervention.
 - (10) Date and time of other manual restraint or seclusion involving the same client in the past 24 hours.
- (d) If it is necessary to continue the use of manual restraint or seclusion for more than 15 minutes it shall be documented in accordance with Section 85122(e)(6)(A)1.
 - (e) A copy of the incident report shall be made available for review, inspection, audit or copy, upon request, by the Department as specified in Section 80070.
 - (f) The information required in subdivision (b), shall be documented following the use of manual restraint or seclusion no later than the end of the working shift(s) of the staff(s) who participated in the manual restraint or seclusion, or both.
 - (g) The licensee shall maintain a monthly log of information related to each use of manual restraint or seclusion, which includes:
 - (1) The name of each client for which a manual restraint or seclusion was used.
 - (2) The date and time of the manual restraint or seclusion.
 - (3) The duration of time of the manual restraint or seclusion.
 - (4) The behaviors of others connected to the incident and factors that contributed to the incident.
 - (5) The name(s) and job title(s) of staff that participated in the manual restraint or seclusion.

85161 EMERGENCY INTERVENTION DOCUMENTATION AND REPORTING REQUIREMENTS (Continued)

- (6) The name of the certified administrator that approved the continuation of the manual restraint or seclusion for more than 15 minutes, if applicable.
- (7) A description of the manual restraint or seclusion and type used, including:
 - (A) The outcome to the client, including injury or death.
 - (B) The outcome to the staff, including injury or death.
 - (C) Whether the injury in Section 85161(g)(7)(A) and (B) above was serious as defined in Health and Safety Code section 1180.1(g)

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Health and Safety Code section 1180.1 provides in pertinent part:

- (g) "Serious injury" means significant impairment of the physical condition as determined by qualified medical personnel, and includes, but is not limited to, burns, lacerations, bone fractures, substantial hematoma, or injuries to internal organs.

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- (8) The total number of incidents of manual restraint and the total number of incidents of seclusion per month.
 - (9) The total number of serious injuries to clients as a result of manual restraint or seclusion per month.
 - (10) The total number of non-serious injuries to clients as a result of manual restraint or seclusion per month.
 - (11) The total number of serious injuries to staff as a result of manual restraint or seclusion per month.
 - (12) The number of deaths per month that occur to a client while in a manual restraint or seclusion, or where it is reasonable to assume that a death was related to the use of manual restraint or seclusion.
- (h) The monthly log specified in (g) shall be available for review, inspection, audit and copy, upon request, by the Department.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1180.2, 1180.3, 1180.5, 1501 and 1531, Health and Safety Code.

85165 EMERGENCY INTERVENTION STAFF TRAINING

- (a) The licensee shall ensure staff who use, participate in, approve, or provide visual checks of manual restraint or seclusion only use techniques specified in the Emergency Intervention Plan and which are not prohibited in Section 85102.
- (b) Staff who use, participate in, approve or provide visual checks of manual restraint or seclusion, shall have a minimum of sixteen hours of emergency intervention training and be certified for having successfully completed the training.
 - (1) Staff who use, participate in, approve or provide visual checks of manual restraints or seclusions, shall be trained in the manual restraint or seclusion technique utilized.
 - (2) Staff shall maintain valid certification.
 - (3) Staff shall have a minimum of 6 hours of annual refresher training following the initial training certification. The provisions specified in Section 85165(c)-(e) and, (g) shall also apply to this training.
- (c) The training shall be provided by an individual holding a valid instructor certificate from a program for preventing and safely managing dangerous behavior. The licensee shall maintain a copy of the trainer's certificate and make it available for review, inspection, audit and copy, upon request, by the Department.
- (d) The emergency intervention training curriculum shall address, at a minimum, the following:
 - (1) Techniques of group and individual behavior management, including, but not limited to, crisis prevention and intervention, positive behavioral supports, and precipitating factors leading to assaultive behavior.
 - (2) Methods of de-escalating volatile situations, including, but not limited to, non-physical intervention techniques such as crisis communication; or evasive techniques.
 - (3) Alternative methods of handling aggressive and assaultive behavior.
 - (4) If the licensee chooses to use manual restraints, the techniques of applying manual restraints in a safe and effective manner, ranging from the least to most restrictive type(s) of manual restraints, including, but not limited to, escorting, wall restraint, and floor containment.
 - (5) Techniques for reintegrating the client back into the facility routine after the need for the emergency intervention has ceased.
 - (6) Methods of assessing client specific information regarding how to keep a client safe.

85165 EMERGENCY INTERVENTION STAFF TRAINING (Continued)

- (e) Training for manual restraint and/or seclusion shall have a written competency test and a hands-on competency test administered by a certified trainer. The certified trainer shall be present for the hands-on competency test.
- (f) The administrator who will approve the continued use of a manual restraint or seclusion shall complete additional training which shall include the following:
 - (1) Techniques to identify staff and client behaviors, events, and environmental factors that may trigger circumstances that require the use of a manual restraint or seclusion;
 - (2) The use of nonphysical intervention skills;
 - (3) Choosing the least restrictive intervention based on the individualized assessment of the client's medical, or behavioral status or condition as required by Section 85068.2(b)(1)(G);
 - (4) The safe application and use of all types of manual restraints or seclusions permitted in the facility, including training in how to recognize and respond to signs of physical and psychological distress, such as positional asphyxia;
 - (5) Identification of specific behavioral changes that indicate that a manual restraint or seclusion is no longer necessary;
 - (6) Monitoring the physical well-being of the client who is being manually restrained or secluded, including, but not limited to, respiratory and circulatory status, skin integrity, and vital signs. This shall not mean monitoring that requires training beyond basic first aid and CPR;
 - (7) Current first aid certification and current certification in the use of cardiopulmonary resuscitation (CPR).
- (g) All direct care staff and any other person in their direct management chain, up through and including the licensee, shall be trained in the facility Emergency Intervention Plan and on each client's Individual Emergency Intervention Plan.
- (h) The licensee shall maintain a written record of the staff training.
 - (1) Documentation of the training received by each staff member shall be maintained in the personnel records, pursuant to Section 80066, and include:
 - (A) Dates, hours, and description of the training completed, including name of the instructor and organization providing the training.
 - (B) Written verification from the instructor that the staff member has successfully completed the required training and passed the competency test(s).

NOTE: Authority cited: Sections 1530, 1567.64 and 1567.82, Health and Safety Code. Reference: Sections 1180, 1180.2, 1180.3, 1180.4, 1180.5, 1501, 1531 and 1562, Health and Safety Code.

85168 ADMISSION AGREEMENTS

- (a) In addition to Sections 80068 and 85068, the Admission Agreement shall include a list and short description of each of the emergency interventions the licensee may use.
- (1) The facility's plan regarding the use of emergency interventions shall be reviewed with and approved by the client and his/her authorized representative, if any, prior to its implementation.
 - (2) The licensee shall provide a copy of the Emergency Intervention Plan to the client and the authorized representative, if any, at admission.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1180, 1180.4, 1501 and 1531, Health and Safety Code.

85168.2 NEEDS AND SERVICES PLAN

In addition to Section 80068.2 and 85068.2, the following shall apply:

- (a) If the licensee will use or it is reasonably expected the licensee will use manual restraint or seclusion with a client when that client is an imminent danger to self or others, the licensee shall develop an individual emergency intervention plan for that client.
- (1) The individual emergency intervention plan shall be based on the assessment required by Section 85068.2(b)(1)(G).
 - (2) The individual emergency intervention plan shall be updated as needed to ensure it meets the safety needs of clients.
 - (3) The client and authorized representative, if any, shall receive a copy of and approve the individual emergency intervention plan and any modification to the plan prior to implementation.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1180, 1501, and 1531, Health and Safety Code.

85168.3 MANUAL RESTRAINT OR SECLUSION REVIEW

- (a) The Licensee shall ensure that a debriefing occurs in accordance with Section 1180.5(b) of the Health and Safety Code.

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Health and Safety Code section 1180.5(b) provides in pertinent part:

A facility described in subdivision (a) of Section 1180.2 or subdivision (a) of Section 1180.3 shall, as quickly as possible but no later than 24 hours after the use of seclusion or behavioral restraints, conduct a debriefing regarding the incident with the person, and, if the person requests it, the person's family member, domestic partner, significant other, or authorized representative, if the desired third party can be present at the time of the debriefing at no cost to the facility, as well as with the staff members involved in the incident, if reasonably available, and a supervisor, to discuss how to avoid a similar incident in the future. The person's participation in the debriefing shall be voluntary. [...]

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- (b) The debriefing required by Section 85168.3(a) shall include:
- (1) An evaluation of whether the emergency intervention action taken by the staff was consistent with the facility Emergency Intervention Plan, Individual Emergency Intervention Plan, facility policies and training.
 - (A) If the use of any de-escalation technique causes an escalation of the client's behavior, the use of the technique shall be evaluated for effectiveness. De-escalation techniques that are ineffective or counter-productive shall be discontinued.
 - (2) An evaluation of whether the manual restraint or seclusion was utilized only after less restrictive techniques were utilized and proven unsuccessful.
 - (3) Identification of the factors that may have contributed to the incident and any alternate methods of helping the client avoid or cope with these factors.
 - (4) An evaluation of whether the client was in a manual restraint and/or seclusion for the least amount of time necessary.
 - (5) A discussion of circumstances and strategies for preventing future incidents.
- (c) Documentation of the debriefing meeting in the client's record shall include the findings of the review, any modifications to the client's Needs and Services Plan, and any refusal by the client to participate in the review.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1180, 1180.1, 1180.5, 1501 and 1531, Health and Safety Code.

85169 MEDICAL EXAMINATION

In addition to Section 80069, the following shall apply:

- (a) Immediately following each manual restraint or seclusion, the administrator or administrator's designee shall have an in-person communication with the client to assess and determine whether there is a physical injury or suspected physical injury and whether a medical examination by qualified medical professional is needed.
 - (1) The decision and rationale whether to seek a medical examination shall be documented in the client's record.

- (b) Any suspected physical injury or complaint of physical injury to the client, reported to or witnessed by staff during or after a manual restraint or seclusion shall be reported immediately to the administrator or administrator's designee, the licensee and the authorized representative. This shall also be included in the written incident report to the Department as specified in Section 85161(b).
 - (1) Any suspected serious injury shall be reported immediately to a qualified medical professional for examination.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1180.4, 1501, 1507 and 1531, Health and Safety Code.

Article 7. PHYSICAL ENVIRONMENT**85175 SECLUSION ROOM**

- (a) In addition to Section 85122, a licensee at a facility with a seclusion room, shall not:
- (1) Use the seclusion room for another purpose such as a bedroom, a bathroom, or for storage.
 - (2) Use the seclusion room without a fire clearance allowing the use of the seclusion room from the city, county, or city and county fire department or district providing fire protection services, or the State Fire Marshal.
 - (A) The request for the fire clearance for use of the seclusion room shall be made through the Department and compliance with it shall be maintained by the licensee.
 - (3) Use the seclusion room without prior approval by the Department.
 - (A) The licensee shall submit the following to the Department in order to receive approval from the Department for the use of the seclusion room:
 1. if applicable, Facility Sketch and
 2. the staffing plan to be maintained for the use of the seclusion room.
 - (4) Deprive a client placed in the seclusion room of daily living functions, as specified in Section 80072(a)(3).
 - (5) Include a locking or jamming device on the door of the seclusion room.
 - (A) The seclusion room door shall only be shut in a manner providing for immediate release upon removal of a staff member's foot, hand, and/or body.
 - (6) Place a person with a developmental disability in seclusion, in accordance with California Code of Regulations, Title 17, Division 2, Chapter 1, Subchapter 5, Article 2, Section 50515.
 - (7) Use a room or another area for a seclusion that is not identified as the seclusion room in the Plan of Operations.
- (b) A control for the lighting of the seclusion room shall be located outside the room. A dimmer switch may be used if indicated in the client's Individual Emergency Intervention Plan. In order to ensure supervision of the safety of the client, in no event shall the light be completely turned off while the room is in use.
- (c) A seclusion room shall be free of hazards such as objects or fixtures which can be broken or used by a client to inflict injury to self or others.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1509 and 1531, Health and Safety Code.

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