THE CITY OF SAN DIEGO

DEVELOPMENT SERVICES DEPARTMENT
Date of Notice: July 3, 2013
PUBLIC NOTICE
OF THE PREPARATION OF A ENVIRONMENTAL IMPACT REPORT
AND
AN ENVIRONMENTAL IMPACT REPORTSCOPING MEETING
SAP No. 24002348

PUBLIC NOTICE: The City of San Diego as the Lead Agency has determined that the project described below will require the preparation of an Environmental Impact Report (EIR) in compliance with the California Environmental Quality Act (CEQA). This Notice of Preparation of a project EIR and Scoping Meeting was publicly noticed and distributed on July 3, 2013. This notice was published in the SAN DIEGO DAILY TRANSCRIPT and placed on the City of San Diego website at, **http://clerkdoc.sannet.gov/Website/publicnotice/pubnotceqa.html**.

SCOPING MEETING: A public scoping meeting will be held by the City of San Diego's Development Services Department on **Wednesday, July 24, 2013, beginning at 6:00 PM and running no later than 8:00 PM at the Scripps Ranch Branch Library. Please note that depending on the number of attendees, the meeting could end earlier than 8:00 PM.** Verbal and written comments regarding the scope and alternatives of the proposed EIR will be accepted at the meeting.

Please send in written/mail-in comments may also be sent to the following address**: E. Shearer-Nguyen, Environmental Planner, City of San Diego Development Services Center, 1222 First Avenue, MS 501, San Diego, CA 92101 or e-mail your comments to DSDEAS@sandiego.gov with the Project Name and Number in the subject line Number** in the subject line within 30 days of the receipt of this notice/date of the Public Notice above. Responsible agencies are requested to indicate their statutory responsibilities in connection with this project when responding. An EIR incorporating public input will then be prepared and distributed for the public to review and comment.

- PROJECT NAME/NO.: **THE GLENN AT SCRIPPS RANCH / 264823**
- COMMUNITY AREA: Scripps Miramar Ranch
- COUNCIL DISTRICT: 5

PROJECT DESCRIPTION The applicant is requesting a CONDITIONAL USE PERMIT to amend Conditional Use Permit 133-PC, a Planned Development Permit, and a Site Development Permit to construct 400 non-acute assisted living units, 50 acute assisted living units (16 of which are memory care units), and 60 skilled nursing beds. The 400 non-acute assisted living units include 64 villa units, 48 garden terrace units, and 288 apartment style units. The 50 acute assisted living units and the 60 skilled nursing beds would be located within the Health Center Building. The proposed project would also include a facilities building and a common building consisting of learning centers, lecture hall, library, auditorium, fine dining, fine arts facilities, tennis court, gardens, fitness

center, and pool. Additionally, the project would construct various associated site improvements (e.g. hardscape and landscaping). The 53-acre project site is located at 10455 Pomerado Road. The land use designation for the project is university within the community plan. The project site is located within RS-1-8 zone, the Federal Aviation Administration (FAA) Part 77 Notification Area, Airport Influence Area (MCAS-Miramar, Review Area 2), and the Residential Tandem Parking Overlay Zone within the Scripps Miramar Ranch Community Plan area. (LEGAL DESCRIPTION: Portion of Parcel 3, Map No. 20640).

Applicant: Continuing Life Communities

Recommended Finding: Pursuant to Section 15060(d) of the CEQA Guidelines, it appears that the proposed project may result in significant environmental impacts in the following areas: **Land Use, Transportation/ Circulation and Parking, Air Quality and Odor, Energy, Biological Resources, Greenhouse Gas Emissions, Health Safety/Hazardous Materials, Historical Resources, Hydrology/Water Quality, Noise, Paleontological Resources, Public Services and Facilities, Public Utilities, Visual Effects/Neighborhood Character, and Cumulative Effects.**

Availability in Alternative Format: To request the this Notice or the City's letter to the applicant detailing the required scope of work (EIR Scoping Letter) in alternative format, call the Development Services Department at (619) 446-5460 (800) 735-2929 (TEXT TELEPHONE).

Additional Information: For environmental review information, contact Elizabeth Shearer-Nguyen at (619) 446-5369. The Scoping Letter and supporting documents may be reviewed, or purchased for the cost of reproduction, at the Fifth floor of the Development Services Department. For information regarding public meetings/hearings on this project, contact the Project Manager, John Fisher, at (619) 446-5231. This notice was published in the SAN DIEGO DAILY TRANSCRIPT and distributed on July 3, 2013.

Cathy Winterrowd
Assistant Deputy Director
Development Services Department

DISTRIBUTION: See Attached.

ATTACHMENTS: Figure 1: Project Vicinity Map
Figure 2: Site Plan
Scoping Letter

Distribution:

FEDERAL GOVERNMENT
Federal Aviation Administration (1)
Commanding General, Community Plans & Liaisons, MCAS Miramar Air Station (13)
U.S. Environmental Protection Agency (19)
U.S. Fish and Wildlife (23)
U.S. Army Corps of Engineers (26)

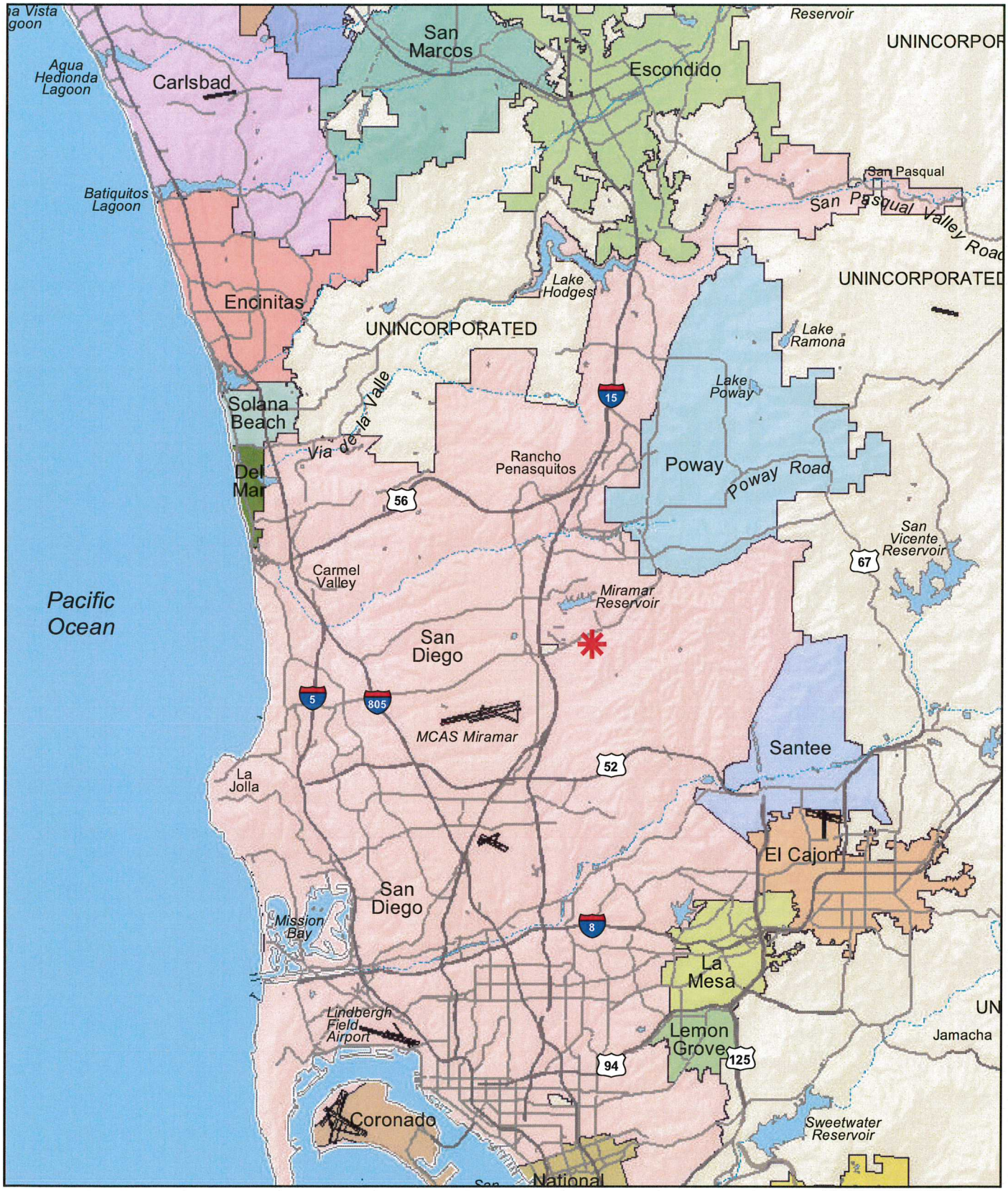
STATE OF CALIFORNIA
Caltrans District 11 (31)
California Department of Fish and Wildlife (32)
California Department of Toxic Substances Control (39)
California Regional Water Quality Control Board, Region 9 (44)
State Clearinghouse (46A)
California Department of Transportation (51)
California Transportation Commission (51A)
California Transportation Commission (51)
California Native American Heritage Commission (56)
California Highway Patrol (58)

COUNTY OF SAN DIEGO
Leann Williams, Environmental Health (74)
Department of Environmental Health (75)

CITY OF SAN DIEGO
Mayor's Office (91)
Council President Pro Tem Lightner, District 1 (MS10A)
Councilmember Faulconer District 2 (MS10A)
Council President Gloria, District 3 (MS10A)
Councilmember Cole, District 4 (MS10A)
Councilmember Kersey, District 5 (MS10A)
Councilmember Zapf, District 6 (MS10A)
Councilmember Sherman, District 7 (MS10A)
Councilmember Alvarez, District 8 (MS10A)
Councilmember Emerald, District 9 (MS10A)
Development Services Department
    EAS
    Project Manager
Transportation Development - DSD (78)
Development Coordination (78A)
Fire and Life Safety Services (79)
Library Department - Government Documents (81)
Central Library (81A)

CITY OF SAN DIEGO - continued
Scripps Miramar Ranch Branch Library (81FF)
Park and Recreation (89)
Wetlands Advisory Board (91A)
Environmental Services Department (93A)
Tom Tomlinson, Facilities Financing (93B)
Warren Lovell, San Diego Police Department (MS776)
Doug Perry, San Diego Fire-Rescue (MS603)
Larry Trame, San Diego Fire-Rescue (MS603)
City Attorney (MS59)

OTHER ORGANIZATIONS AND INTERESTED INDIVIDUALS
San Diego Unified School District (125)
San Diego Canyonlands (165)
San Diego Natural History Museum (166)
San Diego Audubon Society (167)
San Diego Audubon Society (167A)
California Native Plant Society (170)
Ellen T Bauder (175)
Citizens Coordinate for Century 3 (179)
Endangered Habitats League (182)
Endangered Habitats League (182A)
Vernal Pool Society (185)
San Diego Tracking Team (187)
Carmen Lucas (206)
South Coastal Information Center (210)
San Diego Archaeological Center (212)
Save Our Heritage Organisation (214)
Ron Christman (215)
Louie Guassac (215A)
Clint Linton (215B)
San Diego County Archaeological Society (218)
Kumeyaay Cultural Repatriation Committee (225)
Native American Distribution [Notice and Site Plan Only] (225A-R)
Beeler Canyon Conservancy (436)
Scripps Miramar Ranch Planning Group (437)
Alliant International University (438)
Scripps Ranch Civic Association (440)
Acquisitions, Walter Library USIS
Craig Jones
Mr. David Harbour, Continuing Life Communities
Bobbi Herdes, RECON Environmental
Jesse Fleming, RECON Environmental



Project Location

RECON

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FIGURE 1

Regional Location

0 Feet 300

Project Boundary

FIGURE 2

Site Plan

RECON

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THE CITY OF SAN DIEGO

June 3, 2013

Mr. David Harbour
Continuing Life Communities
1940 Levante Street
Carlsbad, CA 92009

SUBJECT: SCOPE OF WORK FOR A DRAFT ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE GLEN AT SCRIPPS RANCH (Project No. 264823) SCH No. Pending.

Dear Mr. Harbour:

Pursuant to Section 15060(d) of the California Environmental Quality Act (CEQA), the Environmental Analysis Section (EAS) of the City of San Diego Development Services Department has determined that the proposed project may have significant effects on the environment, and the preparation of an Environmental Impact Report (EIR) is required. Staff has determined that a project EIR is the appropriate environmental document for the Glen at Scripps project.

The purpose of this letter is to identify the issues to be specifically addressed in the EIR. The EIR shall be prepared in accordance with the City's "Technical Report and Environmental Impact Report Guidelines," dated September 2002 and updated December 2005. A copy of the current guidelines is attached. The project issues to be discussed in the EIR are outlined below. A Notice of Preparation (NOP) will be distributed to the Responsible Agencies and others who may have an interest in the project as required by CEQA Section 21083.9(a)(2).

Scoping meetings are required by CEQA section 21083.9(a)(2) for projects that may have statewide, regional or area-wide environmental impacts. The City's environmental review staff has determined that this project meets this threshold. A scoping meeting has been scheduled

for July 24, 2013 from 6:00PM to 8:00PM at the Scripps Ranch Library. Please note, changes or additions to this scope of work may be required as a result of input received in response to the Scoping Meeting and Notice of Preparation. Any such changes shall be disclosed within the EIR.

Project Description:

Project proposes to construct 400 non-acute assisted living units, 50 acute assisted living units (16 of which are memory care units), and 60 skilled nursing beds. The 400 non-acute assisted living units include 64 villa units, 48 garden terrace units, and 288 apartment style units. The 50 acute assisted living units and the 60 skilled nursing beds would be located within the Health Center Building. The proposed project would also include a facilities building and a common building consisting of learning centers, lecture hall, library, auditorium, fine dining, fine arts facilities, tennis court, gardens, fitness center, and pool. Additionally, the project would construct various associated site improvements (e.g. hardscape and landscaping). The 53-acre project site is located at 10455 Pomerado Road. The land use designation for the project is university within the community plan. The project site is located within RS-1-8 zone, the Federal Aviation Administration (FAA) Part 77 Notification Area, Airport Influence Area (MCAS-Miramar, Review Area 2), and the Residential Tandem Parking Overlay Zone within the Scripps Miramar Ranch Community Plan area. (LEGAL DESCRIPTION: Portion of Parcel 3, Map No. 20640).

Discretionary Approvals:

Conditional Use Permit, Planned Development Permit, and a Site Development Permit.

EIR Requirements:

The EIR serves to inform governmental agencies and the public of a project's environmental impacts. Emphasis in the EIR must be on identifying feasible solutions to environmental impacts. The objective is not to simply describe and document an impact but to actively create and suggest mitigation measures or project alternatives to substantially reduce the significant adverse environmental impacts. The adequacy of the EIR will depend greatly on the thoroughness of this effort.

The EIR must be written in an objective, clear, and concise manner, in plain language. The Use of graphics is encouraged to replace extensive word descriptions and to assist in clarification. Conclusions must be supported with quantitative, as well as qualitative, information, to the extent feasible.

Prior to the distribution of the draft EIR for public review, Conclusions, which are attached at the front of the draft EIR, will also need to be prepared. The Conclusions cannot be prepared until an approved draft has been submitted and accepted by the City. The EIR shall include a title page that includes the Project Tracking System (PTS) number (264823) and the date of publication. The entire environmental document must be left justified and shall include a table of contents and an executive summary of all of the following sections. Please refer to the "Environmental Impact Report Guidelines," updated December 2005, for additional details regarding the required information.

I. INTRODUCTION

The EIR shall introduce the project with a brief discussion on the intended use and purpose of the EIR. This discussion shall focus on the type of analysis that the EIR is providing and provide an explanation of why it is necessary to implement the project. This section shall describe and/or incorporate by reference any previously certified environmental documents that cover the project site including any EIRs. This section shall briefly describe areas where the proposed project is in compliance or non-compliance with assumptions and mitigation contained in these previously certified documents. Additionally, this section shall provide a brief description of any other local, state and federal agencies that may be involved in the project review and/or any grant approvals.

II. ENVIRONMENTAL SETTING

The EIR shall describe the precise location of the project and present it on a detailed topographic map and regional map. This section shall also include a map of the specific proposal and discuss the existing conditions on the project site and in the project area. In addition, the section shall provide a local and regional description of the environmental setting of the project, as well as the zoning and land use designations of the site and its contiguous properties, area topography, drainage characteristics, and vegetation. It shall include any applicable land use plans such as the City's MSCP/MHPA and other applicable open space preserves or overlay zones that affect the project site, such as the City of San Diego General Plan. The section shall include a listing of any open space easements or building restricted easements that exist on the property. A description of other utilities that may be present on or in close proximity to the site and their maintenance accesses shall also be discussed. This section shall include a brief description of the location of the closest police and fire stations along with their response times.

III. PROJECT DESCRIPTION

The EIR shall include a detailed discussion of the goals and objectives of the proposed project, in terms of public benefit (increase in housing supply, employment centers, etc.). Project objectives will be critical in determining the appropriate alternatives for the project, which would avoid or substantially reduce potentially significant impacts. As stated in CEQA Section 15124 (b), "A clearly written statement of objectives will help the lead agency develop a reasonable range of alternatives to evaluate in the EIR and will aid the decision makers in preparing findings or a statement of overriding consideration, if necessary. The statement of objectives should include the underlying purpose of the project." This section shall describe all discretionary actions needed to implement the project (e.g. Planned Development Permit, Tentative Map, etc.) including all permits required from federal, state, and local agencies. The description of the project shall include all major project features, including density, grading (cut and fill), relocation of existing facilities, land use, retaining walls, landscaping, drainage design, improvement plans, including any off-site improvements, vehicular access points and parking areas associated with the project. The project description shall describe any off-site activities necessary to construct the proposed project. The EIR shall include sufficient graphics and tables to provide a complete description of all major project features. Project phasing also should be described in this section. This discussion shall address the whole of the proposed project

IV. HISTORY OF PROJECT CHANGES

This section of the EIR shall outline the history of the project and any physical changes that have been made to the proposed project in response to environmental concerns raised during the City's review of the project.

VII. ENVIRONMENTAL ISSUES

The potential for significant environmental impacts must be thoroughly analyzed and mitigation measures identified that would avoid or substantially lessen any significant impacts. Since the City of San Diego is the Lead Agency for this project, the EIR must represent the independent analyses of the Environmental Analysis Section (EAS). Therefore, all impact analysis must be based on the City's "Significance Determination Thresholds" dated January 2011. Below are key environmental issue areas that have been identified for this project, within which the issue statements must be addressed individually. Discussion of each issue statement shall include an explanation of the existing project site conditions, impact analysis, significance determination, and appropriate mitigation. The impact analysis shall address potential direct, indirect, and cumulative impacts that could be created through implementation of the proposed project and its alternatives.

Land Use

Issue 1: Would the proposal result in a conflict with the environmental goals, objectives, or recommendations of the General/Community Plan in which it is located?

Issue 2: Would the proposal require a deviation or variance, and the deviation or variance would in turn result in a physical impact on the environment?

Issue 3: Would the proposal conflict with the provisions of the City's MSCP Subarea Plan or other approved local, regional, or state habitat conservation plan?

Issue 4: Would the proposal result in land uses which are not compatible with an adopted Airport Land Use Compatibility Plan (ALUCP)?

This section shall provide a discussion of all applicable land use plans to establish a context in which the project is being proposed. Specifically, it shall discuss how the project implements or fails to implement the goals, objectives, and recommendations of the General Plan, Scripps Miramar Ranch Community Plan, and the MCAS Miramar ALUCP. Ultimately, this section shall identify any inconsistencies between the project as proposed and any adopted land use plan and whether the identified inconsistency would result in a secondary physical environmental impact.

The project site is located within the City of San Diego Multiple Species Conservation Program (MSCP). A portion (4.39 acres) of the project is within the MSCP's Multi-Habitat Planning Area (MHPA) and the majority of the site is adjacent to MHPA. Due to the fact that the CUP supersedes the implementation of the City of Diego's MSCP, dated March 1997, a boundary line correction, per the previously approved CUP boundary, is being requested. With a boundary line correction, 4.39 acres will be corrected out from the MHPA. The section shall include a discussion of the existing MHPA lands on-site (acreage, quality, etc.) and a description of any requested MHPA boundary line correction.

The EIR shall evaluate the project' conformance with the final MSCP Plan (August 1998) and the City's MSCP Subarea Plan (March 2007), with specific attention to the Land Use Adjacency Guidelines (Section 1.4.3) in terms of land use, drainage, toxic substances in runoff, lighting, noise, invasive plant species and brush management requirements for the portions of the proposed development that would lie adjacent

to the MHPA. A description of measures proposed to reduce any identified MHPA edge effects should be included within this section as well.

The section shall provide a listing of all requested deviation(s)/variance(s). For each requested deviation or variance, provide analysis on whether the requested action would then result in a physical impact on the environment.

The section shall provide a discussion/analysis on the surrounding community and whether the project would be compatible with and integrate with the existing community.

Transportation/Circulation/Parking

Issue 1: Would the proposal result in an increase in project traffic which is substantial in relation to the existing traffic load and capacity of the street system?

Issue 2: Would the proposal result in traffic generation in excess of specific community plan allocations?

Issue 3: Would the proposal result in the addition of a substantial amount of traffic to a congested freeway segment, interchange or ramp?

Issue 4: Would the proposal result in a substantial impact upon existing or planned transportation systems

Issue 5: Would the proposed project increase traffic hazards for motor vehicles, bicyclists, or pedestrians due to a proposed non-standard design feature (e.g., poor sight distance or driveway onto an access-restricted roadway)?

A traffic study would be required to analyze and estimate the expected trips the proposed project would create at build-out and document any impacts on intersections, roadways, and freeways. The traffic report would form the basis of the impact analysis for this section of the EIR. The study shall evaluate the traffic volumes and levels of service on circulation element roadways. The traffic study and EIR shall include descriptions and applicable graphics of the conditions during the near term and at project build-out. The cumulative analysis shall incorporate any past, present and reasonably foreseeable future developments in the community that may impact or contribute to local and regional street and circulation systems. This section of the EIR shall also describe any required modifications and/or

improvements to the existing circulation system, including City streets, intersections, freeways, and interchanges. If the project would result in the construction of a roadway which is inconsistent with the General Plan and/or community plan, the impact would be significant if the proposed roadway would not properly align with other existing or planned roadways. The section shall provide a discussion to the extent this may be triggered.

If the project would result in a significant increase in trips, the study and EIR shall describe what measures would be required to mitigate significant traffic circulation impacts. The section shall describe the adequacy of the parking provided and the walkability, pedestrian, and bicycle connectivity within the project and off-site areas.

Air Quality

Issue 1: Would the proposal conflict with or obstruct the implementation of the applicable air quality plan?

Issue 2: Would the proposal result in a violation of any air quality standard or contribute substantially to an existing or projected air quality violation?

Issue 3: Would the proposal exceed 100 pounds per day of particulate Matter (PM) (dust)?

The EIR shall describe the region's climate and the San Diego Air Basin's current attainment levels for state and federal ambient air quality standards. An air quality analysis shall be prepared and included in the appendix to the EIR.

The air quality analysis shall focus on the project's potential air quality impacts and how this would hinder or help the San Diego Air Basin meet the regional air quality strategies. The discussion shall include potential impacts that would occur during the demolition and construction phases of the specific projects that are being proposed at this time, and the operational impacts of the proposed project, assuming maximum build-out.

An analysis of potential stationary and non-stationary air emission sources related to the construction and operation associated with the proposed project and vehicle emission sources should be provided.

The section shall also include a discussion of any short-term, long-term and cumulative impacts the project may have on regional air quality, including construction and transportation-related sources of air pollution.

Biological Resources

Issue 1: **Would the proposal result in substantial adverse impact, either directly or through habitat modifications, to any species identified as a candidate, sensitive, or special status species in the MSCP or other local or regional plans, policies or regulations, or by the California Department of Fish and Wildlife (CDFW) or U.S. Fish and Wildlife Services (USFWS)?**

Issue 2: **Would proposal result in a substantial adverse impact on any Tier I Habitats, Tier II Habitats, Tier IIIA Habitats or Tier IIIB Habitats as identified in the Biology Guidelines of the Land Development Code or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS?**

Issue 3: **Would the proposal result in a substantial adverse impact on wetlands (including, but not limited to, marsh, vernal pool, riparian, etc.) through direct removal, filling, hydrological interruption, or other means?**

Issue 4: **Would the proposal interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, including linkages identified in the MSCP, or impede the use of native wildlife nursery sites?**

Issue 5: **Would the proposal conflict with the provisions of an adopted Habitat Conservation Plan (HCP), Natural Conservation Community Plan (NCCP), or other approved local, regional, or state habitat conservation plan, either within the MSCP plan area or in the surrounding region?**

Issue 6: **Would the proposal introduce a land use within an area adjacent to the MHPA that would result in adverse edge effects?**

Issue 7: **Would the proposal result in the introduction of invasive species of plants into a natural open space area?**

The project site is located within the City of San Diego Multiple Species Conservation Program (MSCP) and is partially located within the MSCP's Multi-

Habitat Planning Area (MHPA). Various sensitive habitat and wetlands could be potentially directly affected or indirectly affected by the project.

A Biological Technical Report is required for the project. The report shall focus on direct, indirect and cumulative impacts resulting from specific project approvals. The report shall be prepared in accordance with the City's Biological Resources Guidelines (April 2012). The analysis within the report shall include the entire development footprint. In addition to the analysis for structures, roads, etc., the report shall also include any associated improvements and staging areas for construction equipment. This section shall analyze all physical changes that may impact sensitive biological resources resulting from project implementation.

This section of the EIR and the biological report must identify any MSCP covered and narrow endemic flora and fauna that exist or have a potential to exist in the area of the proposed development. The direct, indirect, and cumulative impacts to wetland habitat shall be addressed within this section of the EIR. The wetland habitat types shall be graphically delineated, including an adequate buffer to sustain their functionality. If impacts to any wetlands or their buffers are identified, a discussion of the infeasibility of avoiding such impacts with the project shall be included.

Both the biological report and the biological resources section of the EIR shall provide a detailed discussion and mapping of the MHPA and shall address potential adjacency impacts from the proposed project and any proposed mitigation measures.

Energy

Issue 1: Would the construction and operation of the proposal result in the use of excessive amounts of electrical power?

Issue 2: Would the proposal result in the use of excessive amounts of fuel or other forms of energy (including natural gas, oil, etc.)?

Appendix F of the State CEQA Guidelines requires that potentially significant energy implications of a project shall be considered in an EIR to the extent relevant and applicable to the project. Particular emphasis on avoiding or reducing inefficient, wasteful, and unnecessary consumption of energy should be included in this section. The EIR section shall address the estimated energy use for the project and assess whether the project would generate a demand for energy (electricity and/or natural gas) that would exceed the planned capacity of the energy suppliers. A description of any

energy and/or water saving project features should also be included in this section. (Cross-reference with GHG Emissions discussion section as appropriate.) Describe any proposed measures included as part of the project or required as mitigation measures directed at conserving energy and reducing energy consumption. Ensure this section addresses all issues described within Appendix F of the CEQA Guidelines.

Geology/Soils

Issue 1: Would the proposal be located on a geologic unit or soil that is unstable or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?

Issue 2: Would the proposal result in a substantial increase in wind or water erosion of soils, either on or off the site?

Issue 3: Would the proposal expose people or property to geologic hazards such as earthquakes, landslides, mudslides, ground failure, or similar hazards?

The project site is located in a seismically active region of California where the potential for geologic hazards, such as earthquakes and ground failures exist. According to the City of San Diego Seismic Safety Study, the project site is located within Geologic Hazard Category 53. A Geologic Investigation is required for the proposed project and the EIR should include a discussion of the information, conclusions and any mitigation measures, if required.

The section shall describe the geologic and subsurface conditions in the project area. It shall describe the general setting in terms of existing topography, geology (surface and subsurface), tectonics and soil types. It shall assess possible impacts to the project from geologic hazards and unfavorable soil conditions. The constraints discussion shall include issues such as the potential for liquefaction, slope instability, and other hazards. Any secondary impacts due to soils/geology mitigation (e.g., excavation of unsuitable soil) shall also be addressed. Additionally, the sections shall provide mitigation, as appropriate, that would reduce the potential for future adverse impacts resulting from on-site soils and geologic hazards.

Greenhouse Gas Emissions

Issue 1: Would the proposal generate greenhouse gas (GHG) emissions, either directly or indirectly, that may have a significant impact on the environment?

Issue 2: Would the proposal conflict with any applicable plan, policy, or regulation of an agency adopted for the purpose of reducing the emissions of GHGs?

This section shall present an overview of GHG emissions, including the most recent information regarding the current understanding of the mechanisms behind current conditions and trends, and the broad environmental issues related to global climate change. A discussion of current legislation, plans, policies, and programs pertinent to global climate change shall also be included. The EIR shall provide details of the project's sustainable features such as pedestrian access and orientation, sustainable design and building features, and others that meet criteria outlined in the Conservation Element of the General Plan.

The EIR shall address the project's contribution to GHG emissions. A quantitative analysis addressing the project-generated GHG emissions, as applicable, shall be provided in a GHG emission study summarized in the EIR.

Based on the scope of the project, GHG emissions resulting from both construction activities related to the project and on-going operation of the project must be analyzed. The analysis should include, but is not limited to, the five primary sources of GHG emissions: vehicular traffic, generation of electricity, natural gas consumption/combustion, solid waste generation, and water usage. If the proposed project would result in significant GHG emissions, project features, designs and measures should be identified and incorporated into the project to reduce GHG emissions.

Health and Safety/Hazardous Materials

Issue 1: **Would the proposal result in hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within a quarter-mile of an existing or proposed school?**

Issue 2: **Would the proposal be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, create a significant hazard to the public or environment and would the project expose people to potential health hazards?**

Issue 4: **Would the proposal impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?**

Issue 5: **Would the proposal expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including when**

wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

This section of the EIR shall describe the process required to permit any use of hazardous materials and any local, state or federal regulations that would govern any future commercial or industrial uses that would require the handling of hazardous materials for their business operations. The EIR shall describe any existing and recently enacted legislation to protect the public from any potential impacts from the use of hazardous materials. Such legislation includes the Clean Air Act, the Clean Water Act, the Comprehensive Environmental Response, Compensation and Liability Act and the Toxic Substances Control Act.

Additionally, as part of the environmental process, steps are needed to disclose and address the safe removal, disposal, and/or remediation of hazardous materials. There are federal and state requirements that are mandated to be incorporated into a project that may have these issues.

The EIR shall also discuss project effects on emergency routes and access within the project area during and after project construction and potential wildland fire hazards affecting the site.

Historical Resources

Issue 1: Would the proposal result in the alteration, including the adverse physical or aesthetic effects and/or the destruction of a prehistoric or historic building (including an architecturally significant building), structure, or object or site?

Issue 2: Would the proposal result in any impact to existing religious or sacred uses within the potential impact area?

Issue 3: Would the proposal result in the disturbance on any human remains, including those interred outside of formal cemeteries?

An archaeological survey is required for the proposed project. The report shall include the results of the initial archaeological site survey and literature review. Appropriate graphics, including a map of the Area of Potential Affect (APE), shall be provided. Additional field surveys, as appropriate, shall be completed to address the potential direct, indirect, and cumulative impacts of all project components.

Any newly discovered sites shall be recorded at the South Coastal Information Center at San Diego State University. For sites that are expected to be impacted with project implementation, a testing program shall be conducted to determine site significance in accordance with CEQA and the City's criteria pursuant to the Historical Resources Regulations and Guidelines.

The EIR shall discuss the results of the archaeological survey and testing program that was prepared for the project. The potential for ground disturbing activities to impact archaeological resources shall be determined.

The report shall be included as an appendix; the records search results should be provided under separate cover as a confidential appendix. The EIR shall summarize the results of the report and discuss the need for a research design and a data recovery program to mitigate impacts to sites that are determined to be significant and that would be directly impacted with project implementation.

Hydrology

Issue 1: Would the proposal result in an increase in impervious surfaces and associated runoff?

Issue 2: Would the proposal result in a substantial alteration to on and off-site drainage patterns due to changes in runoff flow rates or volumes?

Issue 3: Would the proposal develop wholly or partially within the 100-year floodplain identified in the FEMA maps or impose flood hazards on other properties.

A portion of this project site located closest to Pomerado Road has been identified as being within the floodway of a Special Flood Hazard Area (San Diego panel 1364) as identified by the Federal Emergency Management Agency (FEMA). This section shall discuss whether project build-out would result in any increase to the base flood elevation. It shall provide a discussion and analysis focusing on the project's impact on the floodway and the floodplain.

Increases in impervious surfaces could potentially result in significant erosion and subsequent sedimentation downstream. A hydrology study is required to address theses issues. The study shall pay particular attention to addressing anticipated changes to existing drainage patterns and runoff volumes affecting adjacent properties.

The Hydrology section should include changes in impervious surfaces and the resulting changes in drainage patterns and their affect on exiting wetlands. A project would generally have a significant impact on biological resources if the project would result in degradation in the function and value of habitat of if the project would alter the habitat type. The Hydrology section doesn't need to include biological mitigation measures, but does need to analyze the linkage between drainage patterns and existing wetlands.

Noise

Issue 1: Would the proposal result in or create a significant increase in the existing ambient noise level?

Issue 2: Would the proposal result in the exposure of people to noise levels which exceed the City's Noise Ordinance or are incompatible with the Noise Compatibility Guidelines (Table NE-3) in the Noise Element of the General Plan?

Issue 3: Would the proposal cause exposure of people to future transportation noise levels which exceed standards established in the General Plan?

Issue 4: Would the proposal result in land uses which are not compatible with aircraft noise levels as defined by an adopted Airport Land Use Compatibility Plan (ALUCP)?

An acoustical analysis, prepared in accordance with the City's Acoustical Report Guidelines, is required to determine if any impacts would occur due to project implementation. The technical report should also discuss any potential for the generation of noise that may affect sensitive biological resources or adjacent properties. In addition, the analysis should describe any potential onsite noise impacts to the sensitive receptors. If significant noise impacts are identified, the report shall include mitigation measures that would mitigate the impacts to below a level of significance.

The analysis in this section of the EIR shall summarize the findings of the acoustical analysis and also provide a discussion on typical sources of noise, measurements of noise, etc., to provide context for the findings of the acoustical analysis. The EIR shall further discuss potential exterior and interior noise impacts as a result of the proposed land uses and estimated traffic volumes on adjacent streets.

Paleontological Resources

Issue 1: Would the proposal require over 1,000 cubic yards of excavation in a high resource potential geologic deposit/formation/rock unit?

Issue 2: Would the proposal require over 2,000 cubic yards of excavation in a moderate resource potential geologic deposit/formation/rock unit?

This section of the EIR shall provide a brief introduction to paleontological resources. Due to the amount of grading the project proposes and using the City of San Diego's Paleontological Guidelines discuss the potential for project grading activities to impact fossil resources and identify any proposed mitigation measures for any significant impact. Grading in areas of a moderate to high rating would require paleontological monitoring during grading activities.

Public Services and Facilities

Issue 1: Would the proposal have an effect upon, or result in a need for new or altered government services in any of the following areas: fire/life safety protection; police protection; schools; maintenance of public facilities including roads, parks or other recreational facilities; and libraries which would result is physical impacts?

The EIR shall identify the number, location, and size of public facilities such as fire and police stations, public schools, libraries, parks, and other governmental services and facilities. The EIR shall discuss the project's effect on the need for libraries and identify whether there would be a physical impact due to the need for new facilities.

Public Utilities

Issue 1: Would the proposal result in the need for new systems, or require substantial alterations to existing utilities, the construction of which would create physical impacts (Natural Gas, Water, Sewer, Solid Waste Disposal, Communication Systems)?

Issue 3: Would the proposal result in the use of excessive amounts of water?

Issue 4: Would the proposal result in landscaping which is predominantly non-drought resistant vegetation?

The proposed project would increase the demand on essential public utilities (electrical, natural gas, solar energy, solid waste generation/disposal, water and sewer) and may require new or expanded infrastructure. This section of the EIR shall analyze the demand and supply relationships of various public utilities and discuss how the project would comply with local, state and federal regulations for each public utility and identify any conflicts with existin and planned instrstructure.

Specifically, the EIR should include a Waste Management Plan that must be approved by the City's Environmental Services Department that would address Solid Waste disposal impacts (construction and operational). The EIR shall discuss how this project would contribute cumulatively to the region's solid waste facility capacity and summarize the findings of the Waste Management Plan.

Sewer and/or water pipeline studies shall be performed to determine if appropriate sewer/water facilities are available to serve the development. The analysis and conclusions of the studies shall be included in the EIR.

Senate Bill 610 and 221 requires the evaluation of the availability of water to serve the project for a 20-year planning horizon, including single and multiple dry years. A Water Supply Assessment (WSA) is needed for projects that would require an equivalent amount of water of 500 dwelling units. The project meets this threshold and would therefore require a WSA. In addition to the specific project proposals, CEQA requires that changes in land use require a WSA. Therefore, a WSA shall be prepared the project.

Visual Quality/Neighborhood Character/ Landform Alteration

Issue 1: **Would the proposal result in a substantial obstruction of any vista or scenic view from a public viewing area as identified in the community plan?**

Issue 2: **Would the proposal result in a negative aesthetic site or project?**

Issue 3: **Would the proposal result in bulk, scale, materials, or style which would be incompatible with surrounding development?**

Issue 4: **Would the proposed project cause a substantial alteration to the existing or planned character of the area?**

Issue 5: **Would the proposal result in a substantial change in the existing landform?**

Issue 6: Would the proposal result in substantial light or glare which would adversely affect daytime or nighttime views in the area?

The EIR shall include an analysis of potential impacts to the community character as a result of the proposed development. The EIR shall include a discussion analyzing whether any views to open space would be impacted. Relevant graphics and photo simulations shall be included as appropriate. Identify designated views in close proximity to the proposed site. This section shall analyze whether or not the project would impact any designated view corridors.

Overall, the analysis shall place an emphasis on how project development will appear to viewers from adjacent streets and from public viewing areas from various vantage points within and around the project site.

Also, this section shall include a discussion of the location and size of any retaining walls. A visual impact may occur if retaining walls or noise walls greater than six feet in height and 50 feet in length with minimal landscaping screening or berming are proposed and where the walls would be visible to public are proposed. The section shall provide discussion and any relevant graphics that analyze the number, size and location of any proposed retaining walls.

The EIR shall include an evaluation of the impacts on the natural landforms within the project boundary due to the proposed grading and include the grading quantities (cut and fill) as well as the height of proposed manufactured slopes. In accordance with the City of San Diego's Significance Determination Thresholds, the proposed project may potentially create significant visual impacts in relation to landform alterations. The guidelines include the following in determining landform visual impact: Alteration of more than 2,000 cubic-yards of earth per graded acre; creating manufactured slopes higher than ten feet of steeper than 2:1 (50 percent); or changing the elevation of steep natural slopes (25 percent gradient or steeper) from existing grade to a proposed grade of more than 5 feet by either excavation or fill.

A description of all proposed structures shall also be included within this section of the EIR in terms of their building mass, bulk, height and architectural style. This section shall also include an analysis with respect to lighting and glare.

Water Quality

Issue 1 **Would the proposal result in an increase in pollutant discharge to receiving waters during or following construction? Would the proposal discharge identified pollutants to an already impaired water body?**

Issue 2: **What short-term and long-term effects would the proposal have on local and regional water quality? What types of pre and post-construction Best Management Practices (BMPs) would be incorporated into the proposal to preclude impacts to local and regional water quality?**

A Water Quality Technical Report (WQTR) is required for this project. The report along with the EIR shall discuss how the proposed project could affect water quality within the project area and downstream. This section shall also include the findings and conclusions of the report. This section shall also include examples of BMPs and outline programs that can be used during and post-construction and discuss the project's compliance with the City's Storm Water Standards.

VI. SIGNIFICANT ENVIRONMENTAL EFFECTS WHICH CANNOT BE AVOIDED IF THE PROPOSED PROJECT IS IMPLEMENTED

This section shall describe any significant unavoidable impacts of the project, including those significant impacts that can be mitigated but not reduced to below a level of significance. Provide mitigation measures where appropriate; including triggers, details, responsible entities, and a monitoring and report schedule. Include a sentence on the significance of each impact area discussed, with effect of the proposed mitigation if appropriate. Do not include analysis in this sentence.

VII. SIGNIFICANT IRREVERSIBLE ENVIRONMENTAL CHANGES

In accordance with CEQA Section 15126.2(c), the EIR shall include a discussion of any significant irreversible environmental changes which would be caused by the proposed action should it be implemented. This section shall address the use of nonrenewable resources during the construction and life of the project. See CEQA Section 15127 for limitation on the requirements for this discussion.

VIII. GROWTH INDUCEMENT

The EIR shall address the potential for growth inducement through implementation of the project. The EIR shall discuss the ways in which the project 1) is directly and

indirectly growth inducing (i.e. fostering economic or population growth by land use changes, construction of additional housing, etc.) and 2) if the subsequent consequences (i.e. impacts to existing infrastructure, requirement of new facilities, roadways, etc.) of the growth inducing project would create a significant and/or unavoidable impact, and provide for mitigation or avoidance. Accelerated growth could further strain existing community facilities or encourage activities that could significantly affect the environment. This section need not conclude that growth-inducing impacts if any are significant unless the project would induce substantial growth or concentration of population.

IX. CUMULATIVE IMPACTS

In accordance with CEQA Section 15130, potential cumulative impacts shall be discussed in a separate section of the EIR. This section shall include all existing and pending development proposals, including those undergoing review with the Development Services Department. The discussion shall address the potential cumulative effects related to each environmental resources area that should be discussed in the EIR as outlined above.

The EIR shall summarize the overall short-term and long-term impacts this project could have in relation to other planned and proposed projects. When this project is considered with other past, present and reasonably foreseeable probable future projects within close proximity, would the proposed project result in significant environmental changes that are individually limited but cumulatively considerable? If incremental impacts do not rise to the level of cumulatively significant the Draft EIR shall make a statement to that extent.

X. EFFECTS FOUND NOT TO BE SIGNIFICANT

A separate section of the EIR shall include a brief discussion of why certain areas were not considered to be potentially significant and were therefore not included in the EIR.

XI. ALTERNATIVES

The EIR should place major attention on reasonable alternatives that avoid or mitigate the project's significant environmental impacts. The alternatives should meet the project objectives. Therefore, a discussion of the project's objectives should be included in this section. In addition to meeting the project's objectives, the alternatives should substantially lessen one or more significant environmental effect and should be feasible.

The EIR shall place major attention on reasonable alternatives that avoid or reduce the project's significant environmental impacts while still achieving the stated project objectives. Therefore, a discussion of the project's objectives should be included in this section. The alternatives should be identified and discussed in detail and should address all significant impacts. Refer to Section 15364 of the CEQA Guidelines for the CEQA definition of "feasible."

This section should provide a meaningful evaluation, analysis, and comparison of alternatives' impacts to those of the proposed project (matrix format recommended). These alternatives should be identified and discussed in detail and should address all significant impacts. The alternatives analysis should be conducted with sufficient graphics, narrative and detail to clearly assess the relative level of impacts and feasibility. Issues to consider when assessing "feasibility" are site suitability, economic viability, availability of infrastructure, general plan consistency, other regulatory limitations, jurisdictional boundaries and the applicant's control over alternative sites (own, ability to purchase, etc.).

Preceding the detailed alternatives analysis, provide a section entitled "Alternatives Considered but Rejected." This section should include a discussion of preliminary alternatives that were considered but not analyzed in detail. The reasons for rejection must be explained in detail and demonstrate to the public the analytical route followed in rejecting certain alternatives. At a minimum, the following alternatives should be considered: No Project; Development per the existing residential zone, Development per the master plan, Reduced Density/Intensity.

If, through the environmental analysis, other alternatives become apparent that would mitigate potential impacts, these should be discussed with EAS staff prior to including them in the Draft EIR. It is important to emphasize that the alternatives section of the EIR should constitute a major part of the report. The timely processing of the environmental review will likely be dependent on the thoroughness of effort exhibited in the alternative analysis.

10. MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

Mitigation measures should be clearly identified and discussed and their effectiveness assessed in each issue section of the EIR. A Mitigation, Monitoring, and Reporting Program (MMRP) for each issue area with significant impacts is mandatory and projected effectiveness must be assessed (i.e., all or some CEQA impacts would be reduced to below a level of significance, etc.). At a minimum, the MMRP should identify: 1) the department responsible for the monitoring; 2) the

monitoring and reporting schedule; and 3) the completion requirements. In addition, mitigation measures and the monitoring and reporting program for each impact should also be contained (verbatim) to be included within the EIR in a separate section and a duplicate separate copy (Word version) must also be provided to EAS.

11. REFERENCES

Material must be reasonably accessible. Use the most up-to-date possible and reference source document.

12. INDIVIDUALS AND AGENCIES CONSULTED

List those consulted in preparation of the EIR. Seek out parties who would normally be expected to be a responsible agency or an interest in the project.

13. CERTIFICATION PAGE

Include City and Consulting staff members, titles, and affiliations.

14. APPENDICES

Include the EIR Notice of Preparation (NOP), Scoping Meeting Notice, and comments on the NOP and Scoping Meeting (Scoping Meeting verbal transcript). Include all accepted technical studies.

Conclusion:

If other potentially significant issue areas arise during detailed environmental investigation of the project, consultation with this division is required to determine if these other areas need to be addressed in the EIR. Should the project description be revised, an additional scope of work may be required. Furthermore, as the project design progresses and supplementary information becomes available, the EIR may need to be expanded to include additional issue areas.

It is important to note that timely processing of your project will be contingent in large part on your selection of a well-qualified consultant. Prior to starting work on the EIR, a meeting between the consultant and EAS will be required to discuss and clarify the scope of work. Until the screencheck for the draft EIR is submitted, which addresses all of the above issues, the environmental processing timeline will be held in abeyance.

Should you have any questions, please contact the environmental analyst, Elizabeth Shearer-Nguyen at (619) 446-5369.

Sincerely,

Cathy Winterrowd
Assistant Deputy Director
Development Services Department

EN:en

Enclosures: City of San Diego Technical Report and Environmental Impact Report Guidelines

cc: John Fisher, Development Project Manager
EAS Project File

1927 Fifth Avenue
San Diego, CA 92101
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RECON

An Employee-Owned Company

July 15, 2013

Javier Mainar
Fire Chief
San Diego Fire Department
1010 Second Avenue, Suite 400
San Diego, CA 92101

Reference: The Glen at Scripps Ranch Environmental Impact Report
(RECON Number 6054)

Dear Mr. Mainar:

RECON is preparing an environmental impact report (EIR) for the proposed Glen at Scripps Ranch project in the city of San Diego.

The Glen at Scripps Ranch project consists of 400 non-acute assisted living units, 50 acute assisted living units (16 of which are memory care units), and 60 skilled nursing beds. The proposed project would also include a facilities building and a common building consisting of learning centers, lecture hall, library, auditorium, fine dining, fine arts facilities, tennis court, gardens, fitness center, and pool. Additionally, the project would construct various associated site improvements (e.g. hardscape and landscaping). The 53-acre project site is located at 10455 Pomerado Road. It is bounded by Alliant University to the west; Pomerado Road and single-family residential to the north; religious/institutional facilities to the east; and MCAS Mirmar to the south.

The proposed project would have a capped occupancy rate which is less than typical residential uses. It is anticipated that the proposed project would have approximately 625 residents.

RECON is requesting the following information to assist in the preparation for the draft EIR:

- Verification that the following station(s) would serve the project area:

Station No.	Number of Firefighters	Equipment (e.g., engine #)	Distance to Project Site	Response Time to Project Site
44				
38				
37				

- Plans for new fire facilities in the vicinity of the project site.
- Incidents per year for each of the engines/trucks which may respond to incidents at the project site.
- Standards for determining fire fighter/resident ratio and response time goals.

- Existing number of fire fighters per 1,000 residents.
- Existing average response times (please indicate year for statistics).
- Will the San Diego Fire Department have sufficient staffing and facilities to meet City standards for the proposed project?
- The nearest emergency medical unit to the project site and equipment (e.g., ambulance) and response time.

I would greatly appreciate it if you could provide me with this information no later than **August 12, 2013**. Please feel free to contact me should you have any questions. I can be reached via email at swhitmore@reconenvironmental.com or by phone at 619.308.9333 ext. 152.

Sincerely,

Stephanie Whitmore
Sr. Environmental Analyst

Response time estimates for the The Glen at Scripps Ranch to be located at 10455 Pomerado Rd are calculated using San Diego Fire-Rescue's 911 Computer Aided Dispatch System's (CAD) point to point routing. This application uses the road network generating the closest path from the fire station address to the requested location. Response times below include dispatch and turnout:

Engine
E44 from Fire Station 44 at 10011 Black Mountain Rd. = 5.3 minutes
E37 from Fire Station 37 at 11640 Spring Canyon Rd. = 7.0 minutes
E38 from Fire Station 38 at 8441 New Salem St. = 8.9 minutes
E40 from Fire Station 40 at 13393 Salmon River Rd. = 10.7 minutes

Truck
T44 from Fire Station 44 at 10011 Black Mountain Rd. = 5.3 minutes
T40 from Fire Station 40 at 13393 Salmon River Rd. = 10.7 minutes

Battalion Chief
B7 from Fire Station 44 at 10011 Black Mountain Rd. = 5.3 minutes
B5 from Fire Station 35 at 4285 Eastgate Mall = 14.9

Please let me know if you have any questions or concerns.

Laura Brenner-Mikoly
San Diego Fire-Rescue
Communication's Response Planning
(858) 573-1325

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www.reconenvironmental.com

RECON

An Employee-Owned Company

July 15, 2013

Mr. Ted Parker
San Diego Police Department
1401 Broadway Avenue, MS 796
San Diego, CA 92101

Reference: The Glen at Scripps Ranch Environmental Impact Report
(RECON Number 6054)

Dear Mr. Parker:

RECON is preparing an environmental impact report (EIR) for the proposed Glen at Scripps Ranch project in the city of San Diego.

The Glen at Scripps Ranch project consists of 400 non-acute assisted living units, 50 acute assisted living units (16 of which are memory care units), and 60 skilled nursing beds. The proposed project would also include a facilities building and a common building consisting of learning centers, lecture hall, library, auditorium, fine dining, fine arts facilities, tennis court, gardens, fitness center, and pool. Additionally, the project would construct various associated site improvements (e.g. hardscape and landscaping). The 53-acre project site is located at 10455 Pomerado Road. It is bounded by Alliant University to the west; Pomerado Road and single-family residential to the north; religious/institutional facilities to the east; and MCAS Mirmar to the south.

The proposed project would have a capped occupancy rate which is less than typical residential uses. It is anticipated that the proposed project would have approximately 625 residents.

RECON is requesting the following information to assist in the preparation for the draft EIR:

- Verification that police Beat 241 of the City of San Diego Police Department, Northeastern Division Substation would serve the project area
- Number of sworn police officers and non-sworn personnel assigned to the service area
- Number of personnel assigned to the service area that would be on duty during a normal 24-hour period
- Minimum staffing for the Noprtheastern Division (based on 24-hour period)
- Standard for determining officer/resident ratio and response time goals
- Existing number of sworn personnel per 1,000 residents
- Existing average response times for Priority I and Priority II calls (please indicate year for statistics)
- Plans for new facilities
- Will the San Diego Police Department have sufficient staffing and facilities to meet City standards?

I would greatly appreciate it if you could provide me with this information no later than **August 12, 2013**. Please feel free to contact me should you have any questions. I can be reached via email at swhitmore@reconenvironmental.com or by phone at 619.308.9333 ext. 152.

Sincerely,

Stephanie Whitmore
Sr. Environmental Analyst

THE CITY OF SAN DIEGO

1914131211

August 6, 2013

RECEIVED
AUG 09 2013
RECON

Ms. Stephanie Whitmore
Senior Environmental Analyst
RECON Environmental

1927 Fifth Avenue
San Diego, Ca 92101

Dear Ms. Whitmore,

Listed below are the Police Department's findings for The Glen at Scripps Ranch Project/6054.

Area Station

Police service for The Glen at Scripps Ranch Project will be provided by officers from Northeastern Division, on beat 241, located at 13396 Salmon River Road, San Diego, CA 92128. Northeastern Division provides police services to the following communities: San Pasqual, Rancho Bernardo, Black Mountain Ranch, Torrey Highlands, Rancho Penasquitos, Carmel Mountain, Carmel Valley, Mira Mesa, Sabre Springs, Miramar Ranch North, Rancho Encantada, Scripps Ranch and Miramar.

The San Diego Police Department has mutual aid agreements with all other Law Enforcement Agencies in San Diego County.

Current Staffing / Officer Availability

Northeastern Division is currently staffed with 75 sworn personnel and one civilian employee. The current patrol strength at Northeastern Division is 66 uniformed patrol officers. Officers work ten-hour shifts. Staffing is comprised of three shifts which operate from 6:00 a.m. - 4:00 p.m. (First Watch), 2:00 p.m. - Midnight (Second Watch) and from 9:00 p.m. - 7:00 a.m. (Third Watch). Using the department's recommended staffing guidelines, Northeastern Division currently deploys a minimum of 9 patrol officers on First Watch, 11 patrol officers on Second Watch and 7 patrol officers on Third Watch. The San Diego Police Department does not staff individual stations based on ratios of sworn officers per 1,000 population ratio. The goal citywide is to maintain 1.48 officers per 1,000 population ratio.

Current Response Times

The Police Department currently utilizes a five level priority calls dispatch system, which includes priority E (Emergency), one, two, three and four. The calls are prioritized by the phone

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dispatcher and routed to the radio operator for dispatch to the field units. The priority system is designed as a guide, allowing the phone dispatcher and the radio dispatcher discretion to raise or lower the call priority as necessary based on the information received. Priority "E" and priority one calls involve serious crimes in progress or those with a potential for injury. Priority Two calls include vandalism, disturbances and property crimes. Priority Three includes calls after a crime has been committed, such as cold burglaries and loud music. Priority Four include calls include parking complaints or lost and found reports.

The Glen at Scripps Ranch Project is currently located in the City of San Diego; within the boundaries of police beat 241. The 2011 average response times for Beat 241 are 8.6 minutes for emergency calls, 15.5 minutes for priority one calls, 24.5 minutes for priority two calls, 60.5 minutes for priority three calls and 81.4 minutes for priority four calls.

The San Diego Police Department's Citywide response time goals are 7 minutes for emergency calls, 14 minutes for priority one calls, 27 minutes for priority two calls, 70 minutes for priority three calls and 70 minutes for priority four calls. The citywide average response times, for the same period, were 6.6 minutes for emergency calls, 12.1 minutes for priority one calls, 25.2 minutes for priority two calls, 67.4 minutes for priority three calls and 66.7 minutes for priority four calls during that same time period. The department strives to maintain the response time goals as one of various other measures used to assess the level of service to the community.

Potential Mitigation Measures to Response Time

The department is currently reaching its targeted staffing ratio of 1.48 sworn officers per 1,000 residents based on 2011 estimate residential population of 1,311,882. The ratio is calculated to take into account all support and investigative positions within the department. This ratio does not include the significant population increase resulting from citizens who commute to work from outside of the city of San Diego or those visiting.

Long-Term (Community Plan Build-Out) Post-Project Response Time

There are no current plans for additional police sub-stations in the immediate area. Police response times in this community will continue to increase with the build-out of community plans and the increase of traffic generated by new growth. A Crime Prevention through Environmental Design Review (CPTED) is recommended by the Police Department to address general security concerns.

Dawn M. Summers, Lieutenant, Operational Support

DMS/mp

cc: Lori Luhnow, A/Assistant Chief, Special Operations
Joseph Ramos, Captain, Northeastern Division

PLANNING COMMISSION RESOLUTION NO. 4896-PC
CLASSIFICATION OF USE RECOMMENDATION TO THE
DEVELOPMENT SERVICES DIRECTOR
THE GLEN AT SCRIPPS RANCH PROJECT NO. 264823

WHEREAS, on April 11, 2013, the Planning Commission of the City of San Diego held a public hearing for the purpose of considering and recommending to the Development Services Director a Classification of Use; and

WHEREAS, CONTINUING LIFE COMMUNITIES MANAGEMENT, LLC, Applicant, requested a Classification of Use to clarify the process for a development applications within the City of San Diego, excepting all Prop "A" lands; and

WHEREAS, the Planning Commission of the City of San Diego has considered all written documents contained in the report to the Planning Commission for this request on record in the City of San Diego, and has considered the oral presentations given at the public hearing; NOW HEREFORE,

BE IT RESOLVED, by the Planning Commission of the City of San Diego that it hereby determines that a Continuing Care Retirement Community is consistent with the Residential Care Facilities, to apply a parking rate of one space for every three beds in a convalescent rooms, assisted living units, and memory care rooms; and a parking rate of one space per unit for independent living units, for purposes of traffic impact analysis, staff would apply three trips per room for convalescent rooms, assisted living units, and memory care rooms; and four trips per unit for independent living units, apply the landscape regulations that apply to Commercially-zoned properties regardless of the actual zone of the site, and forwards this recommendation to the Development Services Department Director.

John S. Fisher
Development Project Manager
Development Services Department

Dated: April 11, 2013
By a vote of: 5:0:0

THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: **April 4, 2013** **REPORT NO. PC-13-048**

ATTENTION: Planning Commission, Agenda of April 11, 2013

SUBJECT: Classification of Use for Continuing Care Retirement Communities applied City-wide

SUMMARY

Issue - To obtain a Planning Commission interpretation of the appropriate zoning use category and subcategory for Continuing Care Retirement Communities.

Environmental Review - This activity is not a "project" and is therefore not subject to CEQA pursuant to State CEQA Guidelines Section 15060(c)(3).

Fiscal Impact Statement - The costs associated with this request are recovered through a deposit account funded by the applicant.

Code Enforcement Impact - None.

Housing Impact Statement - None.

BACKGROUND

A development application requesting approval of a Continuing Care Retirement Community (CCRC) through a Conditional Use Permit (CUP) and Site Development Permit (SDP) was received and deemed complete on December 7, 2011. The site is located south of Pomerado Road within the Scripps Ranch Community Plan area of the City of San Diego (Attachment 1).

The Land Development Code does not currently have a use category that fully encompasses the types of uses that compose a CCRC. As a result staff has been attempting to regulate the individual components of CCRCs (housing for seniors citizens, nursing facilities, and multiple dwelling units). The result is a mix of development requirements that do not accurately address the operations of a CCRC. The applicant is requesting the Planning Commission make a determination of use pursuant to Section 131.0110 of the Municipal Code (Determination of Use Category and Subcategory - Attachment 1) that a CCRC is most like a Residential Care Facility.

DIVERSITY

Further, City staff is requesting this recommendation to the Development Services Director by the Planning Commission be applied City-wide with the exception of Prop "A" Lands.

DISCUSSION

CCRC's are required to comply with California State requirements for licensing and operation, and must be licensed by the State as a residential care facility for the elderly and as a skilled nursing facility. A CCRC facility requires State licensing by two State agencies, and is subject to monitoring and enforcement by those agencies for the duration of the license.

A CCRC is regulated under the State Health and Safety Code Sections 1770, *et seq.* Health and Safety Code Section 1771.5 requires that every unit in a CCRC be licensed either as a residential care facility for the elderly (pursuant to Sections 1569, *et seq.* of the Health and Safety Code)(Attachment 2) or as a skilled nursing facility (pursuant to Sections 1250, *et seq.* of the Health and Safety Code).

Pursuant to these laws, residents must be at least 60 years old and meet the "provider's" requirements for entering a continuing care contract, which must be approved by the Continuing Care Branch of the State Department of Social Services. Residents are generally qualified in three ways: 1) by being over the age of 60; 2) by demonstrating to the provider the ability to make contracted payments; and 3) by being of sufficient health to justify the provider's taking on the obligation of providing care, generally for the remaining lifetime.

The California Department of Social Services is responsible for the oversight of continuing care providers. The Department's Community Care Licensing Division has two branches that participate in the regulation. The Senior Care Program monitors continuing care providers for compliance with the Community Care licensing laws and regulations regarding buildings and grounds, accommodations, care and supervision of occupants, and quality of service. The Continuing Care Contracts Branch is responsible for reviewing and approving applications to operate a CCRC and monitors the ongoing financial condition of all providers and their ability to fulfill the long-term contractual obligations to occupants. All residents of a CCRC would enter into a "continuing care contract" obligating the operator to provide care to residents when such care is needed as defined by the terms of the contract. Residency in a CCRC is restricted to persons who meet the eligibility requirements of 22 CA ADC§ 87456(a) which requires the operator to: 1) Conduct an interview with the applicant and his responsible person, 2) Perform a pre-admission appraisal, 3) Obtain and evaluate a recent medical assessment, and 4) Execute an admissions agreement. Title 22 Social Security Division 6 Chapter 8 Article 8; Resident Assessments, Fundamental Services and Rights, outlines the criteria used to determine who may or may not be accepted or retained in a facility and the required process (Attachment 3).

Continuing care retirement communities are designed for older adults who have previously been living independently but with advanced age desire services, maintenance free living and health care support not found elsewhere in the community. Most residents who select a CCRC own or

formerly owned a home and are capable of making required payments in the judgment of the provider. Because the service component is extensive, prospective residents are typically over 70 years old, younger prospects being less attracted to the purchase of extensive services. The average age of residents at entrance is between 79 and 80 and residents commonly live in the community for ten or more years.

Residents who enter a Continuing Care Contract secure rights of occupancy in the appropriate level of the community in the judgment of the provider. A resident enjoys performance contract rights, not real estate contract rights of ownership or tenancy. For example, the provider's obligations to provide care trump the resident's right to "quiet enjoyment." The provider becomes obligated to provide services, including food, activities, and care, especially assisted living and skilled nursing care, generally for life, in the appropriate venue in accordance with the State approved contract.

CCRC Description

CCRC's are typically designed to provide a relaxed home-like environment for occupants who meet the state's requirements for admission and contracted for a care commitment. CCRC's provide lifetime care, or in other words, residents typically do not move in and out. Residents enter the facility to live in one type of unit or room and then as an increased level of care is necessary move to other units or rooms in the facility. CCRC's require full compliance with all state and federal regulations including yet not limited to ADA standards, the required Residential Care Facilities for the Elderly Act and California Health and Safety Code.

CCRC's typically include convalescent rooms, assisted living units, memory care rooms, and independent living units, and possibly a health care clinic to serve residents and not the general public. Convalescent rooms are skilled nursing beds licensed by the Department of Health Services. These rooms are part of a skilled nursing facility which includes both private and semi-private rooms. Assisted living units are similar to a small apartment with a bedroom, bathroom, living room and small refrigerator, small wet bar type counter and sink, and microwave. Assisted living units do not have full kitchens and residents do not prepare their own meals. Meals are served in a common dining room. Memory care rooms are typically private rooms supported by common facilities with a fairly high level of care. Memory care is a specialized subset of assisted living. Occasionally a room will have two beds and two occupants. Independent living units are similar to a small apartment with a bedroom, bathroom, living room, full kitchen and may include a garage for parking one to two cars or one car and a golf cart. In that CCRC's can typically be large complexes of several acres with its own internal circulation, golf carts appeal to residents who occupy independent living units for their ease of mobility. Independent living units may occur in large buildings with several units per building or as small as a duplex with two units. Independent living units conform to the Land Development Code definition of a dwelling unit, yet persons who occupy these units do so only after meeting state entrance requirements and have a continuing care contract.

CCRC's typically provide a service-enriched care environment with many support facilities for the occupants. In addition to the services described above, independent professionals may provide specialized services such as individual and group exercise instruction, hydrotherapy, occupational, physical and speech therapies, infusion and respiratory therapies, individual nutritional counseling, recreation therapy, rehabilitation, hair salons and other amenities. CCRC's are designed to meet the needs of retired people in all stages of their life who meet the admission standards regulated by the state of California.

Determination of Use Category and Subcategory

Section 131.0110 of the Land Development Code (Determination of Use Category and Subcategory) indicates when a particular use could meet the description of more than one use category, the category with the most direct relationship to the specific use shall apply. Staff has analyzed the operating requirements and characteristics of CCRC's in general and reviewed state regulations. Staff concluded there was no use specifically allowed by the Land Development Code that could be determined to be a CCRC though a Residential Care Facility is most closely similar. In making this determination staff reviewed Health & Safety Code, Chapter X, Div. II, pages 1-9, Jan. 1, 2012 (Attachment 4) and Health & Safety Code, Chapter X, Div. II, pages 50-56, Jan. 1, 2012 (Attachment 5), and Section 141.0312 Residential Care Facilities of the Municipal Code (Attachment 6).

Residential Care Facility

The Land Development Code (LDC) describes a Residential Care Facility in Section 141.0312: "Residential care facilities provide in-house treatment or rehabilitation programs for residents on a 24-hour basis. Residential care facilities include drug and alcohol rehabilitation and recovery facilities **and residential and community care facilities as defined by the state** or county. Housing for senior citizens, nursing homes, convalescent homes, work furlough and probationary residential facilities, and emergency shelters are not residential care facilities." [Emphasis added]

Regulations in LDC Section 141.0312 state: "Residential care facilities for 7 to 12 persons may be permitted with a Conditional Use Permit decided in accordance with Process Three, and residential care facilities for 13 or more persons may be permitted with a Conditional Use Permit decided in accordance with Process Four, in the zones indicated with a "C" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

(a) Residential care facilities are not permitted in agricultural zones in *Proposition A Lands*
(b) Only one residential care facility may be permitted per *lot* or *premises*.
(c) Residential care facilities are not permitted within 1/4 mile of another residential care facility, measured from *property line* to *property line* in accordance with Section 113.0225.
(d) The facility shall provide at least 70 square feet of sleeping space for each resident, not including closet or storage space, multipurpose rooms, bathrooms, dining rooms, and halls.

(e) Sleeping areas shall not be used as a public or general passageway to another room, bath, or toilet.
(f) The facility shall provide at least 5 square feet of living area per bed, not including sleeping space, dining, and *kitchen* areas.
(g) The facility shall provide at least 8 square feet of storage area (closet or drawers) per bed.
(h) The facility shall provide one full bathroom including sink, toilet, and shower or bathtub for every seven beds.
(i) The center shall provide at least one *off-street parking space* for each employee and one *off-street parking space* for every seven beds. Additional parking may be required by the decision maker.
(j) Conversion of an existing garage or reduction in the amount of off-*street* parking to provide a residential care facility is not permitted."

The Land Development Code (LDC) Section 142.0530(f) states: "For uses not addressed by Tables ... the required off-street parking spaces are the same that required for similar uses. The City Manager shall determine if uses are similar" and in LDC Table 142-05C a Residential care Facility would require one parking space for every three beds. In Table 142-05F an Intermediate care facility and nursing facility would require one parking space for every three beds. To achieve consistency with these regulations, staff proposes to apply a parking rate of one space for every three beds in a convalescent rooms, assisted living units, and memory care rooms; and a parking rate of one space per unit for independent living units. For purposes of traffic impact analysis, staff would apply three trips per room for convalescent rooms, assisted living units, and memory care rooms; and four trips per unit for independent living units. In addition, staff believes it is appropriate to require the landscape regulations that apply to Commercially-zoned properties regardless of the actual zone of the site.

CONCLUSION

Staff is of the opinion that a CCRC is most similar to a Residential Care Facility.
Staff requests the Planning Commission make a recommendation to the Development Services Director that a CCRC is most like a Residential Care Facility.

ALTERNATIVES:

The Planning Commission may also make one of following alternative recommendations:

1. The Commission may recommend the Land Development Code does include a use that could be determined to be a CCRC and that use is another use defined by the Land Development Code, or

2. The Planning Commission may recommend the Land Development Code does not include a use that could be determined to be a CCRC.

Respectfully submitted,

Kelly Broughton
Director
Development Services Department

John S. Fisher
Development Project Manager
Development Services Department

BROUGHTON/JSF

Attachments:

1. Section 131.0110 of the Municipal Code
2. Title 22 Social Security Division 6 Chapter 8
3. Title 22 Social Security Division 6 Chapter 8 Article 8; Resident Assessments, Fundamental Services and Rights
4. Health & Safety Code, Chapter X, Div. II, pages 1-9, Jan. 1, 2012
5. Health & Safety Code, Chapter X, Div. II, pages 50-56, Jan. 1, 2012
6. LDC §141.0312; Residential Care Facilities

§131.0110 Determination of Use Category and Subcategory

(a) A use shall be identified as belonging to a use category and use subcategory based upon the descriptions in Section 131.0112 and the facility needs and operational characteristics of the use including type of use, intensity of use, and *development* characteristics of use. The Use Regulations Tables in the base zones shall be used to determine in which base zones the use is permitted. If a particular use could meet the description of more than one use subcategory, the subcategory with the most direct relationship to the specific use shall apply. The City Manager shall identify a particular uses's category and subcategory upon request of an *applicant* or a property owner.

(b) If the *applicant* or property owner disputes the City Manager's determination, the City Manager may place the question of the appropriate use category and use subcategory for that particular use on the Planning Commission's agenda. The City Manager shall present the factors used in the determination and the position of the *applicant* or property owner. The Planning Commission shall recommend to the City Manager its interpretation of the appropriate use category or use subcategory for the particular use.

(c) If an appropriate use category and use subcategory cannot be determined for a specific use by referring to the Use Regulations Tables, an amendment to the Use Regulations Table may be initiated in accordance with Chapter 12, Article 3, Division 1 (Zoning and Rezoning Procedures).

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

ATTACHMENT 2

Manual of Policies and Procedures

COMMUNITY CARE LICENSING DIVISION

RESIDENTIAL CARE FACILITIES FOR THE ELDERLY (RCFE)

Title 22
Division 6
Chapter 8

STATE OF CALIFORNIA

HEALTH AND HUMAN SERVICES AGENCY

DEPARTMENT OF SOCIAL SERVICES

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TABLE OF CONTENTS

TITLE 22, DIVISION 6

CHAPTER 8. RESIDENTIAL CARE FACILITIES FOR THE ELDERLY

Article 1. Definitions and Forms

	Section
General	87100
Definitions	87101
Descriptions of Forms	87102

Article 2. License

License Required	87105
Operation Without a License	87106
Exemption from Licensure	87107
Integral Facilities	87108
Transferability of License	87109
Continuation of License Under Emergency Conditions or Sale of Property	87111
Conditions for Forfeiture of a License	87112
Posting of License	87113
Applicant or Licensee Mailing Address	87114
Nondiscrimination	87118

Article 3. Application Procedures

Application for License	87155
Licensing Fees	87156
Application Review	87157
Capacity	87158
Withdrawal of Application	87159
Resubmission of Application	87161
Provisional License	87162
Denial of License Application	87163

TABLE OF CONTENTS (Continued)

Article 4. Operating Requirements

	Section
Fire Clearance	87202
Fire Safety	87203
Limitations -- Capacity and Ambulatory Status	87204
Accountability of Licensee Governing Body	87205
Advertisements and License Number	87206
False Claims	87207
Plan of Operation	87208
Program Flexibility	87209
Reporting Requirements	87211
Emergency Disaster Plan	87212
Finances	87213
Commingling of Money	87215
Bonding	87216
Safeguards for Resident Cash, Personal Property, and Valuables	87217
Theft and Loss	87218
Planned Activities	87219
Resident Councils	87221
Requirements for Emergency Adult Protective Services Placement	87222
Relocation of Resident	87223
Eviction Procedures	87224

Article 5. Physical Environment and Accommodations

Maintenance and Operation	87303
Alterations to Existing Buildings or New Facilities	87305
Personal Accommodations and Services	87307
Resident and Support Services	87308
Storage Space	87309
Telephones	87311
Motor Vehicles Used in Transporting Residents	87312

Article 6. Background Check

Criminal Record Clearance	87355
Criminal Record Exemption	87356

TABLE OF CONTENTS (Continued)

Article 7. Personnel

	Section
Administrator - Qualifications and Duties	87405
Administrator Certification Requirements	87406
Administrator Recertification Requirements	87407
Administrator Certificate Denial or Revocation	87408
Administrator Certificate Forfeiture	87409
Personnel Requirements - General	87411
Personnel Records	87412
Personnel - Operations	87413
Night Supervision	87415

Article 8. Resident Assessments, Fundamental Services and Rights

Renumbered to Section 87756 by Manual Letter No. CCL-08-01, effective 3/5/08	87452
Acceptance and Retention Limitations	87455
Evaluation of Suitability for Admission	87456
Pre-Admission Appraisal	87457
Medical Assessment	87458
Functional Capabilities	87459
Mental Conditions	87461
Social Factors	87462
Reappraisals	87463
Basic Services	87464
Incidental Medical and Dental Care Services	87465
Observation of the Resident	87466
Resident Participation in Decisionmaking	87467
Personal Rights	87468
Advance Health Care Directives, Requests to Forego Resuscitative Measures, and Do-Not-Resuscitate Forms	87469

Article 9. Resident Records

Documentation and Support	87505
Resident Records	87506
Admission Agreements	87507
Register of Residents	87508

TABLE OF CONTENTS (Continued)

Article 10. Food Services

Section

General Food Service Requirements 87555

Article 11. Health-Related Services and Conditions

Health and Safety Protection 87605
Care of Bedridden Residents 87606
Automated External Defibrillators (AEDS) 87607
Postural Supports 87608
Allowable Health Conditions and the Use of Home Health Agencies 87609
General Requirements for Allowable Health Conditions 87611
Restricted Health Conditions 87612
General Requirements for Restricted Health Conditions 87613
Prohibited Health Conditions 87615
Exceptions for Health Conditions 87616
Departmental Review of Health Conditions 87617
Oxygen Administration - Gas and Liquid 87618
Intermittent Positive Pressure Breathing (IPPB) Machine 87619
Colostomy/Ileostomy 87621
Fecal Impaction Removal, Enemas, and/or Suppositories 87622
Indwelling Urinary Catheter 87623
Managed Incontinence 87625
Contractures 87626
Diabetes 87628
Injections 87629
Healing Wounds 87631
Hospice Care Waiver 87632
Hospice Care for Terminally Ill Residents 87633
Health Condition Relocation Order 87637
Resident Request for Review of Health Condition Relocation Order 87638
Administrative Review - Health Conditions 87639

Article 12. Dementia

Care of Persons with Dementia 87705
Advertising Dementia Special Care, Programming, and Environments 87706
Training Requirements if Advertising Dementia Special Care, Programming, and Environments 87707
Repealed by Manual Letter No.CCL-08-01, effective 3/5/08 ..... 87725.2

TABLE OF CONTENTS (Continued)

Article 13. Enforcement

	Section
Inspection Authority of the Licensing Agency	87755
Evaluation Visit	87756
License Complaints	87757
Serious Deficiencies - Examples	87758
Follow-up Visits to Determine Compliance	87759
Penalties	87761
Appeal Process	87763
Denial or Revocation of License for Failure to Pay Civil Penalties	87766
Unlicensed Facility Penalties	87768
Unlicensed Facility Administrative Appeal	87769

Article 14. Administrative Actions - General

Revocation or Suspension of License	87775
Exclusions	87777

Article 15. Administrator Certification Training Programs - Vendor Information

Initial Certification Training Program Approval Requirements	87785
Denial of Request for Approval of an Initial Certification Training Program	87786
Revocation of an Initial Certification Training Program	87787
Continuing Education Training Program Vendor Requirements	87788
Continuing Education Training Program Course Approval Requirements	87789
Administrative Review of Denial or Revocation of a Request for an Approval of a Continuing Education Course	87791
Denial of a Request for an Approval of a Continuing Education Training Program	87792
Revocation of a Continuing Education Training Program	87793

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This Users' Manual is issued as an operational tool.

This Manual contains:

a) Regulations adopted by the Department of Social Services (DSS) for the governance of its agents, licensees, and/or beneficiaries.

b) Regulations adopted by other State Departments affecting DSS programs.

c) Statutes from appropriate Codes which govern DSS programs.

d) Court decisions; and

e) Operational standards by which DSS staff will evaluate performance within DSS programs.

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

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

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

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

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Article 1. Definitions and Forms

87100 GENERAL 87100

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

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

87101 DEFINITIONS 87101

(a) (1) "Administrator" means the individual designated by the licensee to act in behalf of the licensee in the overall management of the facility. The licensee, if an individual, and the administrator may be one and the same person.

(2) "Adult" means a person who is eighteen (18) years of age or older.

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

HANDBOOK BEGINS HERE

Welfare and Institutions Code section 15610.13 provides:

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

HANDBOOK ENDS HERE

(4) "Advance Health Care Directive" means a written instruction that relates to the provision of health care when the individual is incapacitated. Advance directives include, but are not limited to, a Durable Power of Attorney for Health Care, an Individual Health Care Instruction, a Request to Forego Resuscitative Measures, or a Do Not Resuscitate Form. In an advance directive, a person states choices for medical treatment and/or designates who should make treatment choices if the person creating the advance directive should lose decision-making capacity.

(5) "Allowable Health Condition" means any health condition that the licensee is allowed to care for either in accordance with a specific regulation, or with an exception approved by the licensing agency. This includes restricted health conditions as specified in Section 87612, Restricted Health Conditions.

87101 DEFINITIONS (Continued) **87101**

(6) "Ambulatory Person" means a person who is capable of demonstrating the mental competence and physical ability to leave a building without assistance of any other person or without the use of any mechanical aid in case of an emergency.

(7) "Automated External Defibrillator" (AED) means a light-weight, portable device used to administer an electric shock through the chest wall to the heart. Built-in computers assess the patient's heart rhythm, determine whether defibrillation (electrical shock) is needed and then administer the shock. Audible and/or visual prompts guide the user through the process.

(8) "Applicant" means any individual, firm, partnership, association, corporation, county, city, public agency or other government entity that has made application for a residential care facility for the elderly license, administrator certificate, or special permit.

(9) "Appropriately Skilled Professional" means an individual that has training and is licensed to perform the necessary medical procedures prescribed by a physician. This includes but is not limited to the following: Registered Nurse (RN), Licensed Vocational Nurse (LVN), Physical Therapist (PT), Occupational Therapist (OT) and Respiratory Therapist (RT). These professionals may include, but are not limited to, those persons employed by a home health agency, the resident, or facilities and who are currently licensed in California.`

(b) (1) "Basic Rate" means the SSI/SSP established rate, which does not include that amount allocated for the recipient's personal and incidental needs.

(2) "Basic Services" means those services required to be provided by the facility in order to obtain and maintain a license and include, in such combinations as may meet the needs of the residents and be applicable to the type of facility to be operated, the following: safe and healthful living accommodations; personal assistance and care; observation and supervision; planned activities; food service; and arrangements for obtaining incidental medical and dental care.

(c) (1) "California Clearance" means an individual has no felony or misdemeanor convictions reported by the California Department of Justice. However, the individual may have been arrested with no criminal conviction, convicted of a minor traffic offense or adjudicated as a juvenile.

(2) "Capacity" means that maximum number of persons authorized to be provided services at any one time in any licensed facility.

87101 DEFINITIONS (Continued) **87101**

(3) "Care and Supervision" means those activities which if provided shall require the facility to be licensed. It involves assistance as needed with activities of daily living and the assumption of varying degrees of responsibility for the safety and well-being of residents. "Care and Supervision" shall include, but not be limited to, any one or more of the following activities provided by a person or facility to meet the needs of the residents:

(A) Assistance in dressing, grooming, bathing and other personal hygiene;

(B) Assistance with taking medication, as specified in Section 87465, Incidental Medical and Dental Care Services;

(C) Central storing and distribution of medications, as specified in Section 87465, Incidental Medical and Dental Care Services;

(D) Arrangement of and assistance with medical and dental care. This may include transportation, as specified in Section 87465, Incidental Medical and Dental Care Services;

(E) Maintenance of house rules for the protection of residents;

(F) Supervision of resident schedules and activities;

(G) Maintenance and supervision of resident monies or property;

(H) Monitoring food intake or special diets.

(4) "Certificate holder" means a person who has a current administrator's certificate issued by the Department regardless of whether the person is employed as an administrator in a residential care facility for the elderly.

(5) "Certified administrator" means an administrator who has been issued a residential care facility for the elderly administrator certificate by the Department and whose certificate is current.

(6) "Classroom Hour" means sixty (60) minutes of classroom instruction with or without a break. It is recommended that no more than twenty (20) minutes of break time be included in every four (4) hours of instruction. No credit is given for meal breaks.

(7) "Close friend" means a person who is attached to another by feelings of personal regard as indicated by both parties involved.

87101 DEFINITIONS (Continued) **87101**

(8) "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.

(9) "Community Care Facility" means any facility, place or building providing nonmedical care and supervision, as defined in Section 87101(c)(2).

(10) "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.

(11) "Conservator" means a person appointed by the Superior Court pursuant to Probate Code section 1800 et. seq. or Welfare and Institutions Code section 5350, to care for the person, or estate, or person and estate, of an adult.

(12) "Consultant" means a person professionally qualified by training and experience to provide expert information on a particular subject.

(13) "Continuing Care Contract" is defined in Health and Safety Code section 1771(c)(8).

HANDBOOK BEGINS HERE

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

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

HANDBOOK ENDS HERE

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

87101 DEFINITIONS (Continued) **87101**

(15) "Control of Property" means the right to enter, occupy, and maintain the operation of the facility property within regulatory requirements. Evidence of control of property shall include, but is not limited to, the following:

(A) A Grant Deed showing ownership; or

(B) The Lease Agreement or Rental Agreement; or

(C) A court order or similar document which shows the authority to control the property pending outcome of probate proceeding or estate settlement.

(16) "Conviction" means:

(A) A criminal conviction in California; or

(B) Any criminal conviction of another state, federal, military or other jurisdiction, which if committed or attempted in California, would have been punishable as a crime in California.

(17) "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.

(18) "Criminal Record Clearance" means an individual has a California clearance and a FBI clearance.

(d) (1) "Day" means calendar day unless otherwise specified.

(2) "Deficiency" means any failure to comply with any provision of the Residential Care Facilities Act for the Elderly and regulations adopted by the Department pursuant to the Act.

(3) "Delayed Egress Device" means a special egress-control device of the time delay type as specified in Health and Safety Code section 1569.699(a).

87101 DEFINITIONS (Continued) **87101**

HANDBOOK BEGINS HERE

Health and Safety Code section 1569.699(a) provides:

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

(1) Automatic deactivation of the egress-control device upon activation of either the sprinkler system or the detection system.

(2) Automatic deactivation of the egress-control device upon loss of electrical power to any one of the following: The egress-control device; the smoke-detection system; exit illumination as required by Section 1012 of the California Building Code.

(3) Be capable of being deactivated by a signal from a switch located in an approved location.

(4) Initiate an irreversible process that will deactivate the egress-control device whenever a manual force of not more than 15 pounds (66.72N) is applied for two seconds to the panic bar or other door-latching hardware. The egress-control device shall deactivate within an approved time period not to exceed a total of 15 seconds, except that the person responsible for enforcement as described in Section 13146 may approve a delay not to exceed 30 seconds in residential care facilities for the elderly serving patients with Alzheimer's disease. The time delay established for each egress-control device shall not be field adjustable.

(5) Actuation of the panic bar or other door-latching hardware shall activate an audible signal at the door.

(6) The unlatching shall not require more than one operation.

HANDBOOK CONTINUES

87101 DEFINITIONS (Continued) **87101**

HANDBOOK CONTINUES

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

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

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

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

HANDBOOK ENDS HERE

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

(5) "Department" is defined in Health and Safety Code section 1569.2(c).

HANDBOOK BEGINS HERE

Health and Safety Code section 1569.2(c) provides:

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

HANDBOOK ENDS HERE

(6) "Dietitian" means a person who is eligible for registration by the American Dietetic Association.

(7) "Direct care staff" means the licensee, or those individuals employed by the licensee, who provide direct care to the residents, including, but not limited to, assistance with activities of daily living.

(8) "Director" is defined in Health and Safety Code section 1569.2(d).

HANDBOOK BEGINS HERE

Health and Safety Code section 1569.2(d) provides:

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

HANDBOOK ENDS HERE

(9) "Do-Not-Resuscitate (DNR) Form" means the pre-hospital do-not-resuscitate forms developed by the California Emergency Medical Services Authority and by other local emergency medical services agencies. These forms, when properly completed by a resident or (in certain instances) a resident's Health Care Surrogate Decision Maker, and by a physician, alert pre-hospital emergency medical services personnel to the resident's wish to forego resuscitative measures in the event of the resident's cardiac or respiratory arrest.

(10) "Documentation" means written supportive information including but not limited to the Licensing Report (Form LIC 809).

(e) (1) "Egress Alert Device" means a wrist band or other device which may be worn by a resident or carried on a resident's person, which triggers a visual or auditory alarm when the resident leaves the facility building or grounds.

(2) "Elderly Person" means, for purposes of admission into a residential care facility for the elderly, a person who is sixty (60) years of age or older.

(3) "Emergency Approval to Operate" (EAO) means a temporary approval to operate a facility for no more than 60 days pending the issuance or denial of a license by the licensing agency.

(4) "Evaluator" means any person who is a duly authorized officer, employee or agent of the Department including any officer, employee or agent of a county or other public agency authorized by contract to license community care facilities.

(5) "Evidence of Licensee's Death" shall include, but is not limited to, a copy of the death certificate, obituary notice, certification of death from the decedent's mortuary, or a letter from the attending physician or coroner's office verifying the death of the licensee.

(6) "Exception" means a variance to a specific regulation based on the unique needs or circumstances of a specific resident or staff person. Requests for exceptions are made to the licensing agency by an applicant or licensee. They may be granted for a particular facility, resident or staff person, but cannot be transferred or applied to other individuals.

87101 DEFINITIONS (Continued) **87101**

(7) "Existing Facility" means any facility operating under a valid license on the date of application for a new license.

(f) (1) "Facility Hospice Care Waiver" means a waiver from the limitation on retention of residents who require more care and supervision than other residents and residents who are bedridden other than for a temporary illness. The Hospice Care Waiver granted by the Department will permit the retention in a facility of a designated maximum number of terminally ill residents who are receiving hospice services from a hospice agency. The Facility Hospice Care Waiver will apply only to those residents who are receiving hospice care in compliance with a hospice care plan meeting the requirements of Section 87633, Hospice Care for Terminally Ill Residents.

(2) "Federal Bureau of Investigation (FBI) Clearance" means an individual has no felony or misdemeanor convictions reported by the FBI. The individual may also have been arrested with no criminal conviction, convicted of a minor traffic offense or adjudicated as a juvenile.

(g) (1) "Guardian" means a person appointed by the Superior Court pursuant to Probate Code section 1500 et seq. to care for the person, or person and estate, of a child.

(h) (1) "Healing wounds" include cuts, stage one and two dermal ulcers as diagnosed by a physician, and incisions that are being treated by an appropriate skilled professional with the affected area returning to its normal state. They may involve breaking or laceration of the skin and usually damage to the underlying tissues.

(2) "Health Care Provider" means those persons described in Probate Code section 4621: "an individual licensed, certified, or otherwise authorized or permitted by the law of this state to provide health care in the ordinary course of business or practice of a profession."

(3) "Health Care Surrogate Decision Maker" means an individual who participates in health care decision making on behalf of an incapacitated resident. Health care surrogate decision maker may be formally appointed (e.g., by the resident in a Durable Power of Attorney for Health Care or by a court in a conservatorship proceeding) or, in the absence of a formal appointment, may be recognized by virtue of a relationship with the resident (e.g., the resident's next of kin). The licensee or any staff member of the facility shall not be appointed health care surrogate decision maker.

(4) "Health Condition Relocation Order" means written notice by the Department to a licensee requiring the relocation of a resident from a residential care facility for the elderly because the resident has a health condition which cannot be cared for within the limits of the license, requires inpatient care in a health facility or has a prohibited health condition as specified in Section 87615, Prohibited Health Conditions.

87101 DEFINITIONS (Continued) **87101**

(5) "Home Economist" means a person who holds a baccalaureate or higher degree in home economics and who specialized in either food and nutrition or dietetics.

(6) "Hospice or Hospice Agency" means an entity which provides hospice services to terminally ill persons, is Medicare certified for hospice, and holds either a Hospice license or a Home Health Agency license from the California Department of Health Services. Any organizations, appropriately skilled professionals, or other professional persons or entities that are subcontracted by the hospice or hospice agency for the provision of specified hospice services to the resident are included within the definition. The hospice agency providing services in an RCFE shall not subcontract with the licensee or any facility staff for the provision of services.

(7) "Hospice Care Plan" means the hospice agency's written plan of care for a terminally ill resident. The hospice shall retain overall responsibility for the development and maintenance of the plan and quality of hospice services delivered.

(i) (1) "Immediate Need" means a situation where prohibiting the operation of the facility would be detrimental to a resident's physical health, mental health, safety, or welfare. Examples of immediate need include but are not limited to:

(A) A change in facility location when residents are in need of services from the same operator at the new location;

(B) A change of facility ownership when residents are in need of services from the new operator.

(2) "Initial Certification Training Program Vendor" means a vendor approved by the Department to provide the initial forty (40) hour certification training program to persons who do not possess a valid residential care facility for the elderly administrator certificate.

(3) "Initial Vendor Application" means the application form, LIC 9141, used to request approval from the Department to become a vendor for the first time.

(4) "Instruction" means to furnish an individual with knowledge or to teach, give orders, or direction of a process or procedure.

87101 DEFINITIONS (Continued) **87101**

(5) "Interdisciplinary Team" means a team that shall assist the Department in evaluating the need for relocating a resident of a residential care facility for the elderly when the resident has requested a review of the Department's health-condition relocation order. This team shall consist of the Department's nurse consultant and a social worker, designated by the Department, with experience in the needs of the elderly. Persons selected for an interdisciplinary team review shall not have been involved in the initial decision to issue a relocation order for the resident in question.

(j) (Reserved)

(k) (Reserved)

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

HANDBOOK BEGINS HERE

Health and Safety Code section 1569.2(g) reads:

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

HANDBOOK ENDS HERE

(2) "Licensed Professional" means a person who is licensed in California to provide medical care or therapy. This includes physicians and surgeons, physician assistants, nurse practitioners, registered nurses, licensed vocational nurses, psychiatric technicians, physical therapists, occupational therapists and respiratory therapists, who are operating within his/her scope of practice.

(3) "Licensee" means the individual, firm, partnership, corporation, association or county having the authority and responsibility for the operation of a licensed facility.

(4) "Licensing Agency" means a state, county or other public agency authorized by the Department to assume specified licensing, approval or consultation responsibilities pursuant to Health and Safety Code section 1569.13.

(m) (1) "Medical Professional" means an individual who is licensed or certified in California to perform the necessary medical procedures within his/her scope of practice. This includes, but is not limited to, Medical Doctor (MD), Registered Nurse (RN) and Licensed Vocational Nurse (LVN).

87101 DEFINITIONS (Continued) **87101**

(2) "Mild cognitive impairment" (MCI) refers to people whose cognitive abilities are in a "conditional state" between normal aging and dementia. Normal age-related memory changes can include forgetting a person's name or the location of an object, however, individuals with MCI have difficulty with short-term memory loss. MCI is a state in which at least one cognitive function, usually short-term memory, is impaired to an extent that is greater than would be anticipated in the normal aging process. MCI is characterized by short-term memory problems, but no other symptoms of dementia (e.g., problems with language, judgment, changes in personality or behavior) that affect a person's daily functioning. Individuals with MCI may experience some difficulty with intellectually demanding activities, but lack the degree of cognitive and functional impairment required to meet diagnostic criteria for dementia.

(n) (1) "New Facility" means any facility applying for an initial license whether newly constructed or previously existing for some other purpose.

(2) "Nonambulatory Person" means a person who is unable to leave a building unassisted under emergency conditions. It includes, but is not limited to, those persons who depend upon mechanical aids such as crutches, walkers, and wheelchairs. It also includes persons who are unable, or likely to be unable, to respond physically or mentally to an oral instruction relating to fire danger and, unassisted, take appropriate action relating to such danger.

(3) "Non-Compliance Conference" means a meeting initiated by the Department that takes place between the licensing agency and the licensee to afford the licensee an opportunity to correct licensing violations other than those that pose an immediate danger to residents and that may result in a corrective plan of action. Its purpose is to review the existing deficiencies and to impress upon the licensee the seriousness of the situation prior to the agency requesting administrative action to revoke the license. The Department may initiate administrative action without a non-compliance conference.

(4) "Nutritionist" means a person holding a master's degree in food and nutrition, dietetics, or public health nutrition, or who is employed by a county health department in the latter capacity.

(o) (Reserved)

(p) (1) "Physician" means a person licensed as a physician and surgeon by the California Board of Medical Examiners or by the California Board of Osteopathic Examiners.

(2) "Placement Agency" as defined in Health and Safety Code section 1569.47(a), means any county welfare department, county social services department, county mental health department, county public guardian, general acute care hospital discharge planner or coordinator, state-funded program or private agency providing placement or referral services, and regional center for persons with developmental disabilities which is engaged in finding homes or other places for the placement of elderly persons for temporary or permanent care.

87101 DEFINITIONS (Continued) **87101**

(3) "PRN Medication" (pro re nata) means any nonprescription or prescription medication which is to be taken as needed.

(4) "Provision" or "Provide." Whenever any regulation specifies that provision be made for or that there be provided any service, personnel or other requirement, it means that if the resident is not capable of doing so himself, the licensee shall do so directly or present evidence satisfactory to the licensing agency of the particular arrangement by which another provider in the community will do so.

(5) "Provisional License" means a temporary, nonrenewable license, issued for a period not to exceed twelve months which is issued in accordance with the criteria specified in Section 87162, Provisional License.

(q) (Reserved)

(r) (1) "Rehabilitation" means the effort to reestablish good character since the date of the last conviction, including, but not limited to, education, counseling or therapy, training, stable employment, restitution, remorse, changes in lifestyle, or community service.

(2) "Relative" means spouse, parent, stepparent, son, daughter, brother, sister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin or any such person denoted by the prefix "grand" or "great", or the spouse of any of the persons specified in this definition, even if the marriage has been terminated by death or dissolution.

(3) "Renewal Vendor Application" means the application form, LIC 9141, used to request approval from the Department to continue another two (2) years as an approved vendor.

(4) "Request to Forego Resuscitative Measures" is defined in Probate Code section 4780.

HANDBOOK BEGINS HERE

Probate Code section 4780 provides:

"(a) As used in this part:

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

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

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

HANDBOOK CONTINUES

HANDBOOK CONTINUES

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

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

HANDBOOK ENDS HERE

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

(6) "Responsible Person" means that individual or individuals, including a relative, health care surrogate decision maker, or placement agency, who assist the resident in placement or assume varying degrees of responsibility for the resident's well-being.

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

(s) (1) "Serious Deficiency" means any deficiency that presents an immediate or substantial threat to the physical health, mental health, or safety of the residents or clients of a community care facility.

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

(3) "Significant Other" means a person, including a person of the same gender, with whom a resident was sharing a partnership prior to his/her placement in a Residential Care Facility for the Elderly (RCFE). The partnership involves two adults who have chosen to share one another's lives in an intimate and committed relationship of mutual caring.

(4) "Simplified Exemption" means an exemption granted on the Department's own motion, as authorized in Health and Safety Code section 1569.17(c)(4), if the individual's criminal history meets specific criteria established by Department regulation.

87101 DEFINITIONS (Continued) **87101**

(5) "Singular-Plural." Whenever in these regulations the singular is used, it can include the plural.

(6) "Social Worker" means a person who has a graduate degree from an accredited school of social work or who has equivalent qualifications as determined by the Department.

(7) "SSI/SSP" means the Supplemental Security Income/State Supplemental Program.

(8) Standard Precautions. See "Universal Precautions."

(9) "Substantial Compliance" means the absence of any deficiencies which would threaten the physical health, mental health, safety or welfare of the residents. Such deficiencies include, but are not limited to, those deficiencies referred to in Section 87758, Serious Deficiencies - Examples, and the presence of any uncorrected serious deficiencies for which civil penalties could be assessed.

(10) "Supervision" means to oversee or direct the work of an individual or subordinate but does not necessarily require the immediate presence of the supervisor.

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

(2) "Transfer Trauma" means the consequences of the stress and emotional shock caused by an abrupt, involuntary relocation of a resident from one facility to another.

(u) (1) "Universal Precautions" means an approach to infection control that treats all human blood and body fluids as if they are infectious. Generally, universal precautions consist of regular hand washing after coming into contact with another person's body fluids (mucous, saliva, urine, etc.) and includes use of gloves when handling blood or body fluids that contain blood. Specifically, universal precautions consist of the following four basic infection control guidelines:

(A) Hand washing - Staff should wash their hands in the following situations, but not limited to these situations:

1. After assisting with incontinent care or wiping a resident's nose.

2. Before preparing or eating food.

87101 DEFINITIONS (Continued) **87101**

3. After using the toilet.

4. Before and after treating or bandaging a cut.

5. After wiping down surfaces, cleaning spills, or any other housekeeping.

6. After being in contact with any body fluids from another person, even if they wore gloves during contact with body fluids.

(B) Gloves

1. Use gloves only one time, for one incident or resident.

   (i) Air dry the hands or dry the hands on a single-use paper towel prior to putting on a new pair of gloves.

   (ii) Dispose of used gloves immediately after use.

2. Staff should always wear gloves in the following situations, but not limited to these situations:

   (i) When they come into contact with blood or body fluids.

   (ii) When they have cuts or scratches on their hands.

   (iv) When administering first aid for a cut, a bleeding wound, or a bloody nose.

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

1. On all surfaces and in the resident's room and on an "as needed" basis on any surface that has come into contact with blood.

2. Such as a basic bleach solution, made fresh daily by mixing 1/4 cup household liquid chlorine bleach in one gallon of tap water, or one tablespoon bleach in one quart of water.

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

87101 DEFINITIONS (Continued) **87101**

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

HANDBOOK BEGINS HERE

Health and Safety Code section 1569.44(a) provides:

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

(1) The facility is providing care and supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.

(2) The facility is held out as, or represented as, providing care and supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.

(3) The facility accepts or retains residents who demonstrate the need for care and supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.

(4) The facility represents itself as a licensed residential facility for the elderly."

HANDBOOK ENDS HERE

(A) A facility which is "providing care and supervision" as defined in Section 87101(c)(2) includes, but is not limited to, one in which individual has been placed by a placement agency or family members.

(B) A facility which is "held out as or represented as providing care and supervision" includes, but is not limited to:

(1) A facility whose license has been revoked or denied, but the individual continues to provide care for the same or different clients with similar needs.

(2) A facility where change of ownership has occurred and the same clients are retained.

87101 DEFINITIONS (Continued) **87101**

(3) A licensed facility that moves to a new location.

(4) A facility which advertises as providing care and supervision.

(C) A facility which "accepts or retains residents who demonstrate the need for care and supervision" includes, but is not limited to:

(1) A facility with residents requiring care and supervision, even though the facility is providing board and room only, or board only, or room only.

(2) A facility where it is apparent that care and supervision are being provided by virtue of the client's needs being met.

(v) (1) "Vendor" means a Department-approved institution, association, individual(s), or other entity that assumes full responsibility or control over a Department-approved Initial Certification Training Program or a Continuing Education Training Program.

(2) "Vendor applicant" means any institution, association, individual(s), or other entity that submits a request for approval of an Initial Certification Training Program or a Continuing Education Training Program.

(3) "Voluntary" means resulting from free will.

(w) (1) "Waiver" means a variance to a specific regulation based on a facility-wide need or circumstance which is not typically tied to a specific resident or staff person. Requests for waivers are made to the licensing agency, in advance, by an applicant or licensee.

(x) (Reserved)

(y) (Reserved)

(z) (Reserved)

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

87102 DESCRIPTIONS OF FORMS 87102

The following forms, which are incorporated by reference, apply to the regulations in Title 22, Division 6, Chapter 8 (Residential Care Facilities for the Elderly).

(a) LIC 9139 (2/05) - Renewal of Continuing Education Course Approval, Administrator Certification Program.

(b) LIC 9140 (7/04) - Request for Course Approval, Administrator Certification Program.

(c) LIC 9140A (1/06) - Request to Add or Remove Instructor.

(d) LIC 9141 (3/04) - Vendor Application/Renewal, Administrator Certification Program.

(e) PUB 325 (1/04) – Your Right To Make Decisions About Medical Treatment.

(f) Core of Knowledge Guidelines (6/01/01) - RCFE 40-Hour Initial Certification.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Section 1569.616, Health and Safety Code.

Article 2. License

87105 LICENSE REQUIRED 87105

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

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

87106 OPERATION WITHOUT A LICENSE 87106

(a) An unlicensed facility as defined in Section 87101(u)(2) is in violation of section 1569.10, 1569.44, and/or 1569.45 of the Health and Safety Code unless the facility is exempted from licensure under Section 87107(a).

(b) If the facility is alleged to be in violation of section 1569.10 and/or 1569.44 and/or 1569.45 of the Health and Safety Code, the licensing agency shall conduct a site visit and/or evaluation of the facility pursuant to Health and Safety Code section 1569.35.

HANDBOOK BEGINS HERE

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

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

HANDBOOK ENDS HERE

(c) If the facility is operating without a license, the licensing agency shall issue a Notice of Operation in Violation of Law, and shall refer the case for criminal prosecution and/or civil proceedings.

(d) The licensing agency shall issue an immediate civil penalty pursuant to Section 87768, Unlicensed Facility Penalties and Health and Safety Code section 1569.485.

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

HANDBOOK BEGINS HERE

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

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

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

HANDBOOK ENDS HERE

(e) Sections 87106(c) and (d) shall be applied in any combination deemed appropriate by the licensing agency.

(f) The licensing agency shall notify the appropriate local or state Ombudsman, placement, or adult protective service agency if either of the following conditions exist:

(1) There is an immediate threat to the residents' health and safety.

(2) The facility does not submit an application for licensure within 15 calendar days of being served a Notice of Operation in Violation of Law.

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

87107 EXEMPTION FROM LICENSURE **87107**

(a) The following shall be allowed to operate without being licensed as a residential care facility for the elderly:

(1) Any health facility, as defined by Health and Safety Code section 1250.

(2) Any clinic, as defined by Health and Safety Code section 1202.

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

(3) Any facility conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend on prayer or spiritual means for healing in the practice of the religion of such church or denomination. Such facilities shall be limited to those facilities or portions thereof which substitute prayer for medical/nursing services which would otherwise be provided for or required by residents in a health facility, as defined by section 1200 or 1250 of the Health and Safety Code.

(4) Any house, institution, hotel or other similar place that supplies board and room only, or room only, or board only, if no element of care and/or supervision, as defined by this chapter, is provided, made available, or contractually promised, such as in a life care agreement or program agreement with a facility. However, this shall not preclude care and/or supervision provided for brief and irregular periods of time for reasons such as temporary illnesses or emergencies provided that such is determined to be minor and temporary and does not require twenty-four (24) hours supervision of the resident(s).

(5) Recovery houses or other similar facilities providing group living arrangements for persons recovering from alcoholism or drug addiction where the facility provides no care and supervision.

(6) Any alcoholism recovery facility as defined by Health and Safety Code section 11834.02(a) relating to alcohol programs.

HANDBOOK BEGINS HERE

Health and Safety Code section 11834.02(a) provides:

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

HANDBOOK ENDS HERE

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

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

(8) Any arrangement for the care and supervision of a person or persons from only one family by a close friend who is not a licensee or current employee of a Residential Care Facility for the Elderly or of an Adult Residential Facility, and whose friendship pre-existed a provider/recipient relationship, and all of the following conditions are met:

(A) The care and supervision is provided in a home or residence chosen by the recipient, regardless of who owns the home or residence.

(B) The arrangement is not of a business nature, in that the provider does not represent himself or herself as being in the business of provision of care, and any compensation that may be paid to the provider is only for the value of the services rendered.

(C) The arrangement occurs and continues only as long as the needs for care and supervision of the recipient are being adequately met.

(9) Any housing project for elderly or disabled individuals that meets federal requirements as specified in Health and Safety Code section 1569.145(g).

HANDBOOK BEGINS HERE

Health and Safety Code section 1569.145(g) provides:

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

HANDBOOK ENDS HERE

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

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

87108 INTEGRAL FACILITIES 87108

(a) Upon written application, the licensing agency may issue a single license to integral facilities conducting multiple, related programs which would otherwise require separate licenses provided all of the following requirements are met:

(1) Separate buildings or portions of the facility shall be integral components of a single program.

(2) All components of the program shall be managed by the same licensee.

(3) All components of the program shall be conducted at a single site.

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

87109 TRANSFERABILITY OF LICENSE 87109

(a) The license shall not be transferable.

(b) The licensee shall notify the licensing agency and all residents receiving services, or their responsible persons, in writing as soon as possible and in all cases at least sixty (60) days prior to the effective date that any change in ownership of the facility occurs as required by Health and Safety Code section 1569.191(a)(1).

(c) In all other instances, including a change in licensee, type of license, or location of the facility, the licensee shall notify the licensing agency and all residents receiving services, or their responsible persons, in writing as soon as possible and in all cases at least thirty (30) days prior to the effective date of that change.

(d) In the case of change of ownership or licensee a new application for license shall be submitted by the prospective new licensee.

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

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

(a) The licensing agency may consent to a change of location and continuation of the existing license of any facility for a reasonable period of time when the change is requested because of the accidental destruction of the licensed premises or similar emergency conditions, so long as the new location or place of performance conforms to building, fire and life safety standards.

(b) In the event of a licensee's death, an adult who has control of the property, and had been designated by the licensee as the party responsible to continue operation of the facility upon a licensee's death shall:

(1) notify the Department by the next working day of the licensee's death;

(2) inform the Department within 5 working days if the designee decides not to apply for licensure.

(A) If the designee decides not to apply, the Department will help the designee develop and implement a relocation plan for facility residents.

(c) The Department may permit a designee to continue operation of a previously licensed facility, and grant an Emergency Approval to Operate (EAO) to a facility for up to 60 days pending issuance or denial of a license, provided the following requirements of Health and Safety Code section 1569.193 are met:

(1) The designee notifies the Department during the next working day following the death of the licensee, that he/she will continue to operate the facility.

(2) A notarized designation of the adult, authorized by the licensee, to continue operation of the facility in the event of the licensee's death, was filed by the licensee with the Department.

(A) The notarized statement was signed by the designee, and indicated acceptance of the designation.

(B) The notarized statement contains, or is accompanied by a declaration under penalty of perjury, regarding any criminal convictions of the designee.

(3) The designee is able to operate the facility to the satisfaction of the Department.

(4) The designee files an application for licensure, and provides a copy of the licensee's death certificate, obituary notice, certification of death from the decedent's mortuary, or a letter from the attending physician or coroner's office verifying the death of the licensee, within 20 calendar days of the licensee's death.

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

(5) The applicant who is issued an EAO shall perform all the duties, functions, and responsibilities required of a licensee.

(A) Failure to comply with licensing laws and regulations under Section 87111(b) as determined by the licensing agency, shall result in the denial of the application for license. This denial shall also constitute termination of the EAO.

(B) The licensing agency shall provide written notification of the denial and this notice shall be effective immediately upon receipt.

(d) The Department shall determine, within 60 days, after receipt of the completed application, whether a license will be issued.

(e) Following receipt of a completed application, the designee shall not be considered to be operating an unlicensed facility while the Department decides whether to grant the license.

(f) In the event of the sale and transfer of property and business, the applicant (buyer) shall be issued an EAO if the applicant (buyer) complies with Health and Safety Code section 1569.191.

HANDBOOK BEGINS HERE

Health and Safety Code, section 1569.191 provides in part:

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

(1) The licensee shall provide written notice to the department and to each resident or his or her legal representative of the licensee's intent to sell the facility at least 30 days prior to the transfer of property or business, or at the time that a bona fide offer is made, whichever period is longer.

(2) The licensee shall, prior to entering into an admission agreement, inform all residents, or their legal representatives, admitted to the facility after notification to the department, of the licensee's intent to sell the property or business.

HANDBOOK CONTINUES

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

HANDBOOK CONTINUES

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

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

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

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

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

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

HANDBOOK ENDS HERE

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

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

87112 CONDITIONS FOR FORFEITURE OF A LICENSE 87112

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

HANDBOOK BEGINS HERE

Health and Safety Code section 1569.19 provides in part:

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

(a) The licensee sells or otherwise transfers the facility or facility property, except when change of ownership applies to transferring of stock when the facility is owned by a corporation, and when the transfer of stock does not constitute a majority change in ownership. The sale of a facility shall be subject to the requirements of this chapter.

(b) The licensee surrenders the license to the department.

(c) The licensee moves the facility from one location to another. The department shall develop regulations to ensure that the facilities are not charged a full licensing fee and do not have to complete the entire application process when applying for a license for the new location.

(d) The licensee is convicted of an offense specified in Section 220, 243.4, or 264.1, or paragraph (1) of Section 273a, Section 273d, 288, or 289 of the Penal Code, or is convicted of another crime specified in subdivision (c) of Section 667.5 of the Penal Code.

(e) The licensee dies. When a licensee dies, the continued operation shall be subject to the requirements of Section 1569.193.

(f) The licensee abandons the facility."

HANDBOOK ENDS HERE

(1) "Licensee abandons the facility" shall mean either of the following:

(A) The licensee informs the licensing agency that the licensee no longer accepts responsibility for the facility, or

(B) The licensing agency is unable to determine the licensee's whereabouts after the following:

1. The licensing agency requests information of the licensee's whereabouts from the facility's staff if any staff can be contacted; and

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

2. The licensing agency has made at least one (1) phone call per day, to the licensee's last telephone number of record, for five (5) consecutive workdays with no response; and

3. The licensing agency has sent a certified letter, requesting the licensee to contact the licensing agency, to the licensee's last mailing address of record with no response within seven (7) calendar days.

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

87113 POSTING OF LICENSE **87113**

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

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

87114 APPLICANT OR LICENSEE MAILING ADDRESS **87114**

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

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

87118 NONDISCRIMINATION **87118**

(a) Any adult shall be permitted to apply for a license regardless of age, sex, race, religion, color, political affiliation, national origin, disability, marital status, actual or perceived sexual orientation, or ancestry.

(b) All licensed facilities shall receive persons on a nondiscriminatory basis according equal treatment and services without regard to race, color, religion, national origin, actual or perceived sexual orientation or ancestry.

87118 NONDISCRIMINATION (Continued) **87118**

(c) An exception shall be made in the case of any bona fide nonprofit religious, fraternal or charitable organization which can demonstrate to the satisfaction of the Department or the licensing agency that its primary or substantial purpose is not to evade this section.

(1) It may establish reception policies limiting or giving preference to its own members or adherents, provided, however, such membership is nondiscriminatory and such policies shall not be construed as a violation of this section.

(2) Any reception of nonmembers or nonadherents shall be subject to the requirements of this section.

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

Article 3. Application Procedures

87155 APPLICATION FOR LICENSE 87155

(a) Any individual, firm, partnership, association, corporation or governmental entity desiring to obtain a license shall file with the licensing agency an application on forms furnished by the licensing agency. The licensee shall cooperate with the licensing agency in providing verification and/or documentation as requested by the licensing agency. The application and supporting documents shall contain the following:

(1) Name or proposed name and address of facility.

(2) Name and address of the applicant and documentation verifying completion by the applicant of certification requirements as specified in Section 87406, Administrator Certification Requirements.

(A) This section shall apply to all applications for license, unless the applicant has a current license for another residential care facility for the elderly which was initially licensed prior to July 1, 1989 or has successfully completed an approved certification program within the prior five years.

(B) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or person serving in a like capacity or the designated administrator of the facility shall meet the requirements of this section.

(3) If the applicant is a partnership, the name, signature and principal business address of each partner.

(4) If the applicant is a corporation or association, the name, title and principal business address of each officer, executive director, and member of the governing board. The application shall be signed by the chief executive officer or authorized representative. In addition, a copy of the Articles of Incorporation, Constitution and By-laws, and the name and address of each person owning more than 10 percent of stock in the corporation shall be provided.

(5) If the applicant is a corporation, each member of the board of directors, executive director, and any officer shall list the name of all facilities which they have been licensed to operate, employed by or a member of the board of the directors, executive director or an officer.

(6) Procedures as required pursuant to section 1569.175 of the Health and Safety Code.

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

HANDBOOK BEGINS HERE

Health and Safety Code section 1569.175 provides:

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

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

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

HANDBOOK ENDS HERE

(7) Name and address of owner of facility premises if applicant is leasing or renting.

(8) The category of facility to be operated.

(9) Maximum number to be served.

(10) The name, residence and mailing addresses of the facility administrator, a description of the administrator's background and qualifications, and documentation verifying the required education and administrator certification.

(11) Copy of the current organizational chart showing type and number of positions and line of authority. However, facilities for less than sixteen persons may furnish, in lieu of an organization chart, a list of positions and the periods of time that persons in these positions will be providing services at the facility.

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

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

HANDBOOK BEGINS HERE

Health and Safety Code section 1520(b) provides:

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

HANDBOOK ENDS HERE

(13) A financial plan of operation on forms provided or approved by the Department. Start-up funds shall be sufficient to meet a minimum of three (3) months operating costs. In addition:

(A) Where construction is anticipated to meet the requirements for a license, sufficient financing for the construction shall be available.

(B) The scope of the applicant's services shall be such that an adequate quality of service will be permitted from available funds. The licensing agency shall have the right to verify the availability of these funds.

(14) When there is a change of licensee, the required documentation shall include the information specified in Section 87217(k).

(15) Information concerning insurance carried by the applicant relating to the operation of the facility.

(16) A plan of operation as specified in Section 87208, Plan of Operation.

(17) The fee for processing the application for the requested capacity as specified in Section 87156, Licensing Fees.

(18) Name, address and telephone number of the city or county fire department, the district providing fire protection services, or the State Fire Marshal's Office having jurisdiction in the area where the facility is located.

(19) Such other information as may be required by the licensing agency for the proper administration and enforcement of the licensing law and regulations.

(b) An application shall be filed with the licensing agency which serves the area in which the facility is located.

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

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

87156 LICENSING FEES **87156**

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

HANDBOOK BEGINS HERE

Health and Safety Code section 1569.185 provides:

(a) An application fee adjusted by facility and capacity shall be charged by the department for the issuance of a license to operate a residential care facility for the elderly. After initial licensure, a fee shall be charged by the department annually on each anniversary of the effective date of the license.

The fees are for the purpose of financing activities specified in this chapter. Fees shall be assessed as follows:

Fee Schedule

Capacity	Initial Application	Annual
1-3	$413	$413
4-6	$825	$413
7-15	$1,239	$619
16-30	$1,650	$825
31-49	$2,064	$1,032
50-74	$2,477	$1,239
75-100	$2,891	$1,445
101-150	$3,304	$1,652
151-200	$3,852	$1,926
201-250	$4,400	$2,200
251-300	$4,950	$2,475
301-350	$5,500	$2,750
351-400	$6,050	$3,025
401-500	$7,150	$3,575
501-600	$8,250	$4,125
601-700	$9,350	$4,675
701+	$11,000	$5,500

HANDBOOK CONTINUES

87156 LICENSING FEES (Continued) **87156**

HANDBOOK CONTINUES

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

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

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

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

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

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

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

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

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

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

HANDBOOK CONTINUES

87156 LICENSING FEES (Continued) **87156**

HANDBOOK CONTINUES

(c) (1) The revenues collected from licensing fees pursuant to this section shall be utilized by the department for the purpose of ensuring the health and safety of all individuals provided care or supervision by licensees and to support the activities of the licensing programs, including, but not limited to, monitoring facilities for compliance with licensing laws and regulations pursuant to this chapter, and other administrative activities in support of the licensing program, when appropriated for these purposes. The revenues collected shall be used in addition to any other funds appropriated in the annual Budget Act in support of the licensing program. (2) The department shall not utilize any portion of these revenues sooner than 30 days after notification in writing of the purpose and use, as approved by the Department of Finance, to the Chairperson of the Joint Legislative Budget Committee, and the chairpersons of the committee in each house that considers appropriations for each fiscal year. The department shall submit a budget change proposal to justify any positions or any other related support costs on an ongoing basis.

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

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

HANDBOOK ENDS HERE

(b) The annual fee shall be according to existing licensed capacity unless the licensee requests a lower or higher capacity.

(c) An additional fee shall be charged when the licensee requests an increase or decrease in capacity as specified in Health and Safety Code section 1569.185(b)(1)(C).

(d) When a licensee moves a facility from one location to another, the relocation fee shall be as specified in Health and Safety Code section 1569.185(b)(1)(A).

Capacity	Relocation
1 - 6	$ 50
7 - 15	75
16 - 49	100
50 +	125

87156 LICENSING FEES (Continued) **87156**

(1) To qualify for the relocation fee the following shall apply:

(A) The licensee shall have notified the licensing agency before actually relocating the facility.

(B) The categorical type of facility shall remain the same when relocating the facility.

(C) The fee shall be by requested capacity at the new location.

(e) The fees shall be nonrefundable.

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

87157 APPLICATION REVIEW **87157**

(a) No initial license shall be issued until the licensing agency has completed the following:

(1) A review which includes an on-site survey of the proposed premises and a determination of the qualifications of the applicant.

(2) A determination that the applicant has secured a fire clearance from the State Fire Marshal.

(3) A determination that the applicant and facility comply with the provisions of Chapter 3 (commencing with section 1569) of Division 2 of the Health and Safety Code, and the regulations in this chapter.

(b) The licensing agency shall cease review of any application as specified in Health and Safety Code section 1569.16.

HANDBOOK BEGINS HERE

Health and Safety Code section 1569.16 provides in part:

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

HANDBOOK CONTINUES

87157 APPLICATION REVIEW (Continued) **87157**

HANDBOOK CONTINUES

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

HANDBOOK ENDS HERE

(1) "Application was denied within the last year" as specified in Health and Safety Code section 1569.16(b) shall include initial applications.

(2) If cessation of review occurs, the application shall be returned to the applicant. It shall be the responsibility of the applicant to request resumption of review as specified in Health and Safety Code section 1569.16.

(3) The application fee shall be non-refundable as specified in Section 87156(e).

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

87158 CAPACITY **87158**

(a) A license shall be issued for a specific capacity which shall be the maximum number of residents which can be provided care at any given time. The capacity shall be exclusive of any members of the licensee's own family who reside at the facility. However, the licensing agency shall consider the presence of other family members or other persons who reside in the facility in determining capacity in order to ensure and promote proper living arrangements for both the licensee's family and the residents and to ensure the provision of adequate care and supervision for the residents.

(b) The number of persons that the facility is licensed to admit shall be determined on the basis of the application review by the licensing agency which shall consider:

(1) Physical energy and skills of the licensee as it relates to their ability to meet the needs of the residents.

87158 CAPACITY (Continued) **87158**

(2) Any other household members who may reside at the facility and their individual needs.

(3) Physical features of the facility, such as available living space, which are necessary in order to comply with regulations.

(4) Number of available staff to meet the care needs of the residents.

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

87159 WITHDRAWAL OF APPLICATION **87159**

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

(b) The fee for processing the application shall be forfeited.

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

87161 RESUBMISSION OF APPLICATION **87161**

(a) A new application shall be made whenever there is any change in conditions or limitations described on the current license, including, but not limited to:

(1) Any change in the location of the facility.

(2) Any change in the licensee.

(3) Failure to complete a new application within the required time limit.

(4) Any increase in capacity.

(A) Minor capacity increases may be granted following an evaluation by the licensing agency without the need for resubmission of an application.

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

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

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

87162 PROVISIONAL LICENSE **87162**

(a) The licensing agency may issue a provisional license to an applicant who has submitted a completed application for an initial license if the licensing agency determines that there are no life safety risks, that the facility is in substantial compliance, as defined in Section 87101(s)(6), with applicable law and regulations, and an immediate need for licensure exists as defined in Section 87101(i)(3).

(1) A provisional license shall not be issued as specified in Health and Safety Code section 1569.1515(b).

HANDBOOK BEGINS HERE

Health and Safety Code section 1569.1515(b) provides:

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

HANDBOOK ENDS HERE

(b) The capacity of a provisional license shall be limited to the number of residents for whom immediate need has been established, or the capacity established for the specific facility, whichever is less.

(c) A provisional license shall not be renewable and shall terminate on the date specified on the license, or upon denial of the application, whichever is earlier.

(1) A provisional license may be issued for a maximum of six (6) months when the licensing agency determines that full compliance with licensing regulations will be achieved within that time period.

87162 PROVISIONAL LICENSE (Continued) **87162**

(2) A provisional license may be issued for a maximum of twelve (12) months when the licensing agency determines, at the time of application, that more than six (6) months is required to achieve full compliance with licensing regulations due to circumstances beyond the control of the applicant.

(d) If, during the provisional licensing period, the licensing agency discovers deficiencies which threaten the physical health, mental health, safety or welfare of the residents, the Department may exercise its discretion to institute administrative action or civil proceedings or to refer for criminal prosecution.

(e) If the licensing agency determines after its review, specified in Section 87157, Application Review, that the licensee does not meet the licensing requirements, the application shall be denied, as specified in Section 87163, Denial of License Application.

(f) If the licensing agency denied the application for an initial license, the applicant may appeal the denial, as provided in Section 87163, Denial of License Application. Until the Director adopts a decision on the denial action, the facility shall be unlicensed.

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

87163 DENIAL OF LICENSE APPLICATION **87163**

(a) Except as specified in Section 87162(a), which provides that the applicant may be issued a provisional license based upon substantial compliance and immediate need, the licensing agency shall deny an application for an initial license if it is determined that the applicant is not in compliance with applicable law and regulations.

(b) The licensing agency shall have the authority to deny an application for an initial license if the applicant has failed to pay any civil penalty assessments pursuant to Section 87768, Unlicensed Facility Penalties, and in accordance with a final judgment issued by a court of competent jurisdiction, unless payment arrangements acceptable to the licensing agency have been made.

(c) The licensing agency shall have the authority to deny an initial application if the applicant does not comply with Sections 87155(a)(2) and (9), and Health and Safety Code sections 1569.1515(b) and 1569.50.

87163 DENIAL OF LICENSE APPLICATION (Continued) **87163**

HANDBOOK BEGINS HERE

Health and Safety Code section 1569.1515(b) reads:

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

Health and Safety Code section 1569.50 reads:

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

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

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

"(c) Conduct which is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility or the people of the State of California.

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

"(e) Engaging in acts of financial malfeasance concerning the operation of a facility, including, but limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services for the care of clients."

HANDBOOK ENDS HERE

(d) If the application for an initial license is denied, the application processing fee shall be forfeited.

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

Barclays Official California Code of Regulations Currentness
Title 22. Social Security
Division 6. Licensing of Community Care Facilities
Chapter 8. Residential Care Facilities for the Elderly (Rcfe)
Article 8. Resident Assessments, Fundamental Services and Rights (Refs & Annos)

§ 87452. Deficiencies in Compliance. [Renumbered]

§ 87453. Follow-up Visits to Determine Compliance. [Renumbered]

§ 87454. Penalties. [Renumbered]

§ 87455. Acceptance and Retention Limitations.

(a) Acceptance or retention of residents by a facility shall be in accordance with the criteria specified in this article 8 and Section 87605, Health and Safety Protection, and the following.

(b) The following persons may be accepted or retained in the facility:

(1) Persons capable of administering their own medications.

(2) Persons receiving medical care and treatment outside the facility or who are receiving needed medical care from a visiting nurse.

(3) Persons who because of forgetfulness or physical limitations need only be reminded or to be assisted to take medication usually prescribed for self-administration.

(4) Persons with problems including, but not limited to, forgetfulness, wandering, confusion, irritability, and inability to manage money.

(5) Persons with mild temporary emotional disturbance resulting from personal loss or change in living arrangement.

(6) Persons who are bedridden provided the requirements of Section 87606 are met.

(7) Persons who are under 60 years of age whose needs are compatible with other residents in care, if they require the same amount of care and supervision as do the other residents in the facility.

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(c) No resident shall be accepted or retained if any of the following apply:

(1) The resident has active communicable tuberculosis.

(2) The resident requires 24-hour, skilled nursing or intermediate care as specified in Health and Safety Code Sections 1569.72(a) and (a)(1).

(3) The resident's primary need for care and supervision results from either:

(A) An ongoing behavior, caused by a mental disorder, that would upset the general resident group; or

(B) Dementia, unless the requirements of Section 87705, Care of Persons with Dementia, are met.

(d) A resident suspected of having a contagious or infectious disease shall be isolated, and a physician contacted to determine suitability of the resident's retention in the facility.

→§ 87455.1. Denial or Revocation of License for Failure to Pay Civil Penalties. [Renumbered]

→§ 87456. Evaluation of Suitability for Admission.

(a) Prior to accepting a resident for care and in order to evaluate his/her suitability, the facility shall, as specified in this article 8:

(1) Conduct an interview with the applicant and his responsible person.

(2) Perform a pre-admission appraisal.

(3) Obtain and evaluate a recent medical assessment.

(4) Execute the admissions agreement.

→§ 87457. Pre-Admission Appraisal.

(a) Prior to admission, the prospective resident and his/her responsible person, if any, shall be interviewed by the licensee or the employee responsible for facility admissions.

(1) Sufficient information about the facility and its services shall be provided to enable all persons involved

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in the placement to make an informed decision regarding admission.

(2) The prospective resident's desires regarding admission, and his/her background, including any specific service needs, medical background and functional limitations shall be discussed.

(b) No person shall be admitted without his/her consent and agreement, or that of his/her responsible person, if any.

(c) Prior to admission a determination of the prospective resident's suitability for admission shall be completed and shall include an appraisal of his/her individual service needs in comparison with the admission criteria specified in Section 87455, Acceptance and Retention Limitations.

(1) The appraisal shall include, at a minimum, an evaluation of the prospective resident's functional capabilities, mental condition and an evaluation of social factors as specified in Sections 87459, Functional Capabilities and 87462, Social Factors.

(A) The licensee shall be permitted to use the form LIC 603 (Rev. 6/87), Preplacement Appraisal Information, to document the appraisal.

(2) Except as provided in Section 87638(g)(3), if an initial appraisal or any reappraisal identifies an individual resident service need which is not being met by the general program of facility services, advice shall then be obtained from a physician, social worker, or other appropriate consultant to determine if the needs can be met by the facility. If so, the licensee and the consultant shall develop a plan of action which shall include:

(A) Objectives, within a time frame, which relate to the resident's problems and/or unmet needs.

(B) Plans for meeting the objectives.

(C) Identification of any individuals or agencies responsible for implementing each part of the plan.

(D) Method of evaluating progress.

(3) The prospective resident, or his/her responsible person, if any, shall be involved in the development of the appraisal.

(4) If a needs assessment has already been completed by a placement agency or consultant, this shall be obtained and included in the facilities appraisal.

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→§ 87458. Medical Assessment.

(a) Prior to a person's acceptance as a resident, the licensee shall obtain and keep on file, documentation of a medical assessment, signed by a physician, made within the last year. The licensee shall be permitted to use the form LIC 602 (Rev. 9/89), Physician's Report, to obtain the medical assessment.

(b) The medical assessment shall include, but not be limited to:

(1) A physical examination of the resident indicating the physician's primary diagnosis and secondary diagnosis, if any and results of an examination for communicable tuberculosis, other contagious/infectious or contagious diseases or other medical conditions which would preclude care of the person by the facility.

(2) Documentation of prior medical services and history and current medical status including, but not limited to height, weight, and blood pressure.

(3) A record of current prescribed medications, and an indication of whether the medication should be centrally stored, pursuant to Section 87465(h)(1).

(4) Identification of physical limitations of the person to determine his/her capability to participate in the programs provided by the licensee, including any medically necessary diet limitations.

(5) The determination whether the person is ambulatory or nonambulatory as defined in Section 87101(a) or (n), or bedridden as defined in Section 87455(d). The assessment shall indicate whether nonambulatory status is based upon the resident's physical condition, mental condition or both.

(6) Information applicable to the pre-admission appraisal specified in Section 87457, Pre-admission Appraisal.

(c) The licensee shall obtain an updated medical assessment when required by the Department.

→§ 87459. Functional Capabilities.

(a) The facility shall assess the person's need for personal assistance and care by determining his/her ability to perform specified activities of daily living. Such activities shall include, but not be limited to:

(1) Bathing, including need for assistance:

(A) In getting in and out of the bath.

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(B) In bathing one or more parts of the body.

(C) Through use of grab bars.

(2) Dressing and grooming, including the need for partial or complete assistance.

(3) Toileting, including the need for:

(A) Assistance equipment.

(B) Assistance of another person.

(4) Transferring, including the need for assistance in moving in and out of a bed or chair.

(5) Continence, including:

(A) Bowel and bladder control.

(B) Whether assistive devices such as a catheter are used.

(6) Eating, including the need for:

(A) Adaptive devices.

(B) Assistance from another person.

(7) Physical condition, including:

(A) Vision.

(B) Hearing.

(C) Speech.

(D) Walking with or without equipment or other assistance.

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(E) Dietary limitations.

(F) Medical history and problems.

(G) Need for prescribed medications.

→ § 87461. Mental Condition.

(a) The licensee shall determine the amount of supervision necessary by assessing the mental status of the prospective resident to determine if the individual:

(1) tends to wander;

(2) is confused or forgetful;

(3) is capable of managing his/her own cash resources;

(4) actively participates in social activities or is withdrawn;

(5) has a documented history of behaviors which may result in harm to self or others.

→ § 87462. Social Factors.

The facility shall obtain sufficient information about each person's likes and dislikes and interests and activities, to determine if the living arrangements in the facility will be satisfactory, and to suggest the program of activities in which the individual may wish to participate.

→ § 87463. Reappraisals.

(a) The pre-admission appraisal shall be updated, in writing as frequently as necessary to note significant changes and to keep the appraisal accurate. The reappraisals shall document changes in the resident's physical, medical, mental, and social condition. Significant changes shall include but not be limited to:

(1) A physical trauma such as a heart attack or stroke.

(2) A mental/social trauma such as the loss of a loved one.

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(3) Any illness, injury, trauma, or change in the health care needs of the resident that results in a circumstance or condition specified in Sections 87455(c) or 87615, Prohibited Health Conditions.

(b) The licensee shall immediately bring any such changes to the attention of the resident's physician and his family or responsible person.

(c) The licensee shall arrange a meeting with the resident, the resident's representative, if any, appropriate facility staff, and a representative of the resident's home health agency, if any, when there is significant change in the resident's condition, or once every 12 months, whichever occurs first, as specified in Section 87467, Resident Participation in Decision Making.

§ 87464. Basic Services.

(a) The services provided by the facility shall be conducted so as to continue and promote, to the extent possible, independence and self-direction for all persons accepted for care. Such persons shall be encouraged to participate as fully as their conditions permit in daily living activities both in the facility and in the community.

(b) As used in this chapter, basic services are those services required to be provided in order to obtain and maintain a license.

(c) The admission agreement shall specify which of the basic services are desired and/or needed by, and will be provided for, each resident.

(d) A facility need not accept a particular resident for care. However, if a facility chooses to accept a particular resident for care, the facility shall be responsible for meeting the resident's needs as identified in the pre-admission appraisal specified in Section 87457, Pre-admission Appraisal and providing the other basic services specified below, either directly or through outside resources.

(e) If the resident is an SSI/SSP recipient, then the basic services shall be provided and/or made available at the basic rate at 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.

(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.

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(3) An extra charge to the resident shall be allowed for provision of special food services or products beyond that specified in (f)(2) below, when the resident wishes to purchase the services and agrees to the extra charge in the admission agreement.

(f) Basic services shall at a minimum include:

(1) Safe and healthful living accommodations and services, as specified in Section 87307, Personal Accommodations and Services.

(2) Three nutritionally well-balanced meals and snacks made available daily, including low salt or other modified diets prescribed by a doctor as a medical necessity, as specified in Section 87555, General Food Service Requirements.

(3) Personal assistance and care as needed by the resident and as indicated in the pre-admission appraisal, with those activities of daily living such as dressing, eating, bathing, and assistance with taking prescribed medications, as specified in Section 87608, Postural Supports.

(4) Regular observation of the resident's physical and mental condition, as specified in Section 87466, Observation of the Resident.

(5) Arrangements to meet health needs, including arranging transportation, as specified in Section 87465, Incidental Medical and Dental Care Services.

(6) A planned activities program which includes social and recreational activities appropriate to the interests and capabilities of the resident, as specified in Section 87219, Planned Activities.

⇒§ 87465. Incidental Medical and Dental Care Services.

(a) A plan for incidental medical and dental care shall be developed by each facility. The plan shall encourage routine medical and dental care and provide for assistance in obtaining such care, by compliance with the following:

(1) The licensee shall arrange, or assist in arranging, for medical and dental care appropriate to the conditions and needs of residents.

(2) The licensee shall provide assistance in meeting necessary medical and dental needs. This includes transportation which may be limited to the nearest available medical or dental facility which will meet the resident's need. In providing transportation the licensee shall do so directly or make arrangements for this service.

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(3) There shall be arrangements for separation and care of residents whose illness requires separation from others.

(4) When residents require prosthetic devices, vision and hearing aids, the staff shall be familiar with the use of these devices, and shall assist such persons with their utilization as needed.

(5) The licensee shall assist residents with self-administered medications as needed.

(6) Facility staff, except those authorized by law, shall not administer injections, but staff designated by the licensee may assist persons with self-administration as needed. Assistance with self-administered medications shall be limited to the following:

(A) Medications usually prescribed for self-administration which have been authorized by the person's physician.

(B) Medications during an illness determined by a physician to be temporary and minor.

(C) Assistance required because of tremor, failing eyesight and similar conditions.

(D) Assistance with self-administration does not include forcing a resident to take medications, hiding or camouflaging medications in other substances without the resident's knowledge and consent, or otherwise infringing upon a resident's right to refuse to take a medication.

(7) When requested by the prescribing physician or the Department, a record of dosages of medications which are centrally stored shall be maintained by the facility.

(8) There shall be adequate privacy for first aid treatment of minor injuries and for examination by a physician if required.

(9) If a facility has no medical unit on the grounds, a complete first aid kit shall be maintained and be readily available in a specific location in the facility. The kit shall be a general type approved by the American Red Cross, or shall contain at least the following:

(A) A current edition of a first aid manual approved by the American Red Cross, the American Medical Association or a state or federal health agency.

(B) Sterile first aid dressings.

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(C) Bandages or roller bandages.

(D) Scissors.

(E) Tweezers.

(F) Thermometers.

(b) If the resident's physician has stated in writing that the resident is able to determine and communicate his/her need for a prescription or nonprescription PRN medication, facility staff shall be permitted to assist the resident with self-administration of his/her PRN medication.

(c) If the resident's physician has stated in writing that the resident is unable to determine his/her own need for nonprescription PRN medication, but can communicate his/her symptoms clearly, facility staff designated by the licensee shall be permitted to assist the resident with self-administration, provided all of the following requirements are met:

(1) There is written direction from a physician, on a prescription blank, specifying the name of the resident, the name of the medication, all of the information specified in Section 87465(e), instructions regarding a time or circumstance (if any) when it should be discontinued, and an indication of when the physician should be contacted for a medication reevaluation.

(2) Once ordered by the physician the medication is given according to the physician's directions.

(3) A record of each dose is maintained in the resident's record. The record shall include the date and time the PRN medication was taken, the dosage taken, and the resident's response.

(d) If the resident is unable to determine his/her own need for a prescription or nonprescription PRN medication, and is unable to communicate his/her symptoms clearly, facility staff designated by the licensee, shall be permitted to assist the resident with self-administration, provided all of the following requirements are met:

(1) Facility staff shall contact the resident's physician prior to each dose, describe the resident's symptoms, and receive direction to assist the resident in self-administration of that dose of medication.

(2) The date and time of each contact with the physician, and the physician's directions, shall be documented and maintained in the resident's facility record.

(3) The date and time the PRN medication was taken, the dosage taken, and the resident's response shall be documented and maintained in the resident's facility record.

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(e) For every prescription and nonprescription PRN medication for which the licensee provides assistance there shall be a signed, dated written order from a physician on a prescription blank, maintained in the resident's file, and a label on the medication. Both the physician's order and the label shall contain at least all of the following information.

(1) The specific symptoms which indicate the need for the use of the medication.

(2) The exact dosage.

(3) The minimum number of hours between doses.

(4) The maximum number of doses allowed in each 24-hour period.

(f) Emergency care requirements shall include the following:

(1) The name, address, and telephone number of each resident's physician and dentist shall be readily available to that resident, the licensee, and facility staff.

(2) The name, address and telephone number of each emergency agency to be called in the event of an emergency, including but not limited to the fire department, crisis center or paramedical unit or medical resource, shall be posted in a location visible to both staff and residents.

(3) The name and telephone number of an ambulance service shall be readily available.

(g) The licensee shall immediately telephone 9-1-1 if an injury or other circumstance has resulted in an imminent threat to a resident's health including, but not limited to, an apparent life-threatening medical crisis except as specified in Sections 87469(c)(2) or (c)(3).

(h) The following requirements shall apply to medications which are centrally stored:

(1) Medications shall be centrally stored under the following circumstances:

(A) The preservation of medicines requires refrigeration, if the resident has no private refrigerator.

(B) Any medication is determined by the physician to be hazardous if kept in the personal possession of the person for whom it was prescribed.

(C) Because of potential dangers related to the medication itself, or due to physical arrangements in the

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facility and the condition or the habits of other persons in the facility, the medications are determined by either a physician, the administrator, or Department to be a safety hazard to others.

(2) Centrally stored medicines shall be kept in a safe and locked place that is not accessible to persons other than employees responsible for the supervision of the centrally stored medication.

(3) Each container shall carry all of the information specified in (6)(A) through (E) below plus expiration date and number of refills.

(4) All centrally stored medications shall be labeled and maintained in compliance with state and federal laws. No persons other than the dispensing pharmacist shall alter a prescription label.

(5) Each resident's medication shall be stored in its originally received container. No medications shall be transferred between containers.

(6) The licensee shall be responsible for assuring that a record of centrally stored prescription medications for each resident is maintained for at least one year and includes:

(A) The name of the resident for whom prescribed.

(B) The name of the prescribing physician.

(C) The drug name, strength and quantity.

(D) The date filled.

(E) The prescription number and the name of the issuing pharmacy.

(F) Instructions, if any, regarding control and custody of the medication.

(i) Prescription medications which are not taken with the resident upon termination of services, not returned to the issuing pharmacy, nor retained in the facility as ordered by the resident's physician and documented in the resident's record nor disposed of according to the hospice's established procedures or which are otherwise to be disposed of shall be destroyed in the facility by the facility administrator and one other adult who is not a resident. Both shall sign a record, to be retained for at least three years, which lists the following:

(1) Name of the resident.

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(2) The prescription number and the name of the pharmacy.

(3) The drug name, strength and quantity destroyed.

(4) The date of destruction.

(j) In all facilities licensed for sixteen (16) persons or more, one or more employees shall be designated as having primary responsibility for assuring that each resident receives needed first aid and needed emergency medical services and for assisting residents as needed with self-administration of medications. The names of the staff employees so responsible and the designated procedures shall be documented and made known to all residents and staff.

→ § 87466. Observation of the Resident.

The licensee shall ensure that residents are regularly observed for changes in physical, mental, emotional and social functioning and that appropriate assistance is provided when such observation reveals unmet needs. When changes such as unusual weight gains or losses or deterioration of mental ability or a physical health condition are observed, the licensee shall ensure that such changes are documented and brought to the attention of the resident's physician and the resident's responsible person, if any.

→ § 87467. Resident Participation in Decisionmaking.

(a) Prior to, or within two weeks of the resident's admission, the licensee shall arrange a meeting with the resident, the resident's representative, if any, appropriate facility staff, and a representative of the resident's home health agency, if any, and any other appropriate parties, to prepare a written record of the care the resident will receive in the facility, and the resident's preferences regarding the services provided at the facility.

(1) At a minimum the written record shall include the date of the meeting, name of individuals who participated and their relationship to the resident, and the agreed-upon services to be provided to the resident.

(2) If the resident has a regular physician, the licensee shall send a copy of the record to the physician.

(3) The licensee shall arrange a meeting with the resident and appropriate individuals identified in Section 87467(a)(1) to review and revise the written record as specified, when there is a significant change in the resident's condition, or once every 12 months, whichever occurs first. Significant changes shall include, but not be limited to occurrences specified in Section 87463, Reappraisals.

(4) The meeting and documentation described in this section may be used to satisfy the reappraisal requirements of Section 87463, Reappraisals.

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→ **§ 87468. Personal Rights.**

(a) Each resident shall have personal rights which include, but are not limited to, the following:

(1) To be accorded dignity in his/her personal relationships with staff, residents, and other persons.

(2) To be accorded safe, healthful and comfortable accommodations, furnishings and equipment.

(3) To be free from corporal or unusual punishment, humiliation, intimidation, mental abuse, or other actions of a punitive nature, such as withholding of monetary allowances or interfering with daily living functions such as eating or sleeping patterns or elimination.

(4) To be informed by the licensee of the provisions of law regarding complaints and of procedures to confidentially register complaints, including, but not limited to, the address and telephone number of the complaint receiving unit of the licensing agency.

(5) To have the freedom of attending religious services or activities of his/her choice and to have visits from the spiritual advisor of his/her choice. Attendance at religious services, either in or outside the facility, shall be on a completely voluntary basis.

(6) To leave or depart the facility at any time and to not be locked into any room, building, or on facility premises by day or night. This does not prohibit the establishment of house rules, such as the locking of doors at night, for the protection of residents; nor does it prohibit, with permission of the licensing agency, the barring of windows against intruders.

(7) To visit the facility prior to residence along with his/her family and responsible persons.

(8) To have his/her family or responsible persons regularly informed by the facility of activities related to his care or services including ongoing evaluations, as appropriate to the resident's needs.

(9) To have communications to the facility from his/her family and responsible persons answered promptly and appropriately.

(10) To be informed of the facility's policy concerning family visits and other communications with residents, as specified in Health and Safety Code Section 1569.313.

(11) To have his/her visitors, including ombudspersons and advocacy representatives permitted to visit privately during reasonable hours and without prior notice, provided that the rights of other residents are not infringed upon.

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(12) To wear his/her own clothes; to keep and use his/her own personal possessions, including his/her toilet articles; and to keep and be allowed to spend his/her own money.

(13) To have access to individual storage space for private use.

(14) To have reasonable access to telephones, to both make and receive confidential calls. The licensee may require reimbursement for long distance calls.

(15) To mail and receive unopened correspondence in a prompt manner.

(16) To receive or reject medical care, or other services.

(17) To receive assistance in exercising the right to vote.

(18) To move from the facility.

(b) At admission, a resident and the resident's responsible person or conservator shall be personally advised of and given a list of these rights. The licensee shall have each resident and the resident's responsible person or conservator sign a copy of these rights, and the signed copy shall be included in the resident's record.

(c) Facilities licensed for seven (7) or more shall prominently post, in areas accessible to the residents and their relatives, the following:

(1) Procedures for filing confidential complaints.

(2) A copy of these rights or, in lieu of a posted copy, instructions on how to obtain additional copies of these rights.

(d) The information in (c) above shall be posted in English, and in facilities where a significant portion of the residents cannot read English, in the language they can read.

→§ 87469. Advanced Health Care Directives, Requests to Forego Resuscitative Measures, and Do-Not-Resuscitate Forms.

(a) Upon admission, a facility shall provide each resident, and representative or responsible person of each resident, with written information about the right to make decisions concerning medical care. This information shall include, but not be limited to, the department's approved brochure entitled "Your Right To Make Decisions About Medical Treatment," PUB 325, (3/99) and a copy of Sections 87469(b) and (c) of the regula-

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tions.

(b) Residents shall be permitted to have a Request to Forego Resuscitative Measures, an Advance Health Care Directive and/or a Do-Not-Resuscitate (DNR) Form in their facility file.

(c) If a resident who has a Request to Forego Resuscitative Measures, and/or an Advance Health Care Directive and/or a DNR form on file experiences a medical emergency, facility staff shall do one of the following:

(1) Immediately telephone 9-1-1, present the Request to Forego Resuscitative Measures, Advance Health Care Directive and/or DNR form to the responding emergency medical personnel and identify the resident as the person to whom the order refers.

(2) Immediately give the Request to Forego Resuscitative Measures, and/or Advance Health Care Directive and/or DNR form to a physician, registered nurse or licensed vocational nurse if the physician or nurse is in the resident's presence at the time of the emergency and assumes responsibility.

(3) Facilities that employ health care providers, other than Home Health Agencies or Hospice Agencies, may comply with Health and Safety Code Section 1569.74.

(d) After following the procedure in Section 87469(c)(1), (2), or (3), facility staff shall notify the resident's hospice agency and health care surrogate decision maker, if applicable.

➡ § 87502. Governing Body. [Renumbered]

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CONTINUING CARE CONTRACT STATUTES

State of California
Health and Safety Code
Chapter 10 of Division 2
January 1, 2012

CHAPTER 10. CONTINUING CARE CONTRACTS

Article 1. General Provisions

1770. Legislative Intent.

The Legislature finds, declares, and intends all of the following:

(a) Continuing care retirement communities are an alternative for the long-term residential, social, and health care needs of California's elderly residents and seek to provide a continuum of care, minimize transfer trauma, and allow services to be provided in an appropriately licensed setting.

(b) Because elderly residents often both expend a significant portion of their savings in order to purchase care in a continuing care retirement community and expect to receive care at their continuing care retirement community for the rest of their lives, tragic consequences can result if a continuing care provider becomes insolvent or unable to provide responsible care.

(c) There is a need for disclosure concerning the terms of agreements made between prospective residents and the continuing care provider, and concerning the operations of the continuing care retirement community.

(d) Providers of continuing care should be required to obtain a certificate of authority to enter into continuing care contracts and should be monitored and regulated by the State Department of Social Services.

(e) This chapter applies equally to for-profit and nonprofit provider entities.

(f) This chapter states the minimum requirements to be imposed upon any entity offering or providing continuing care.

(g) Because the authority to enter into continuing care contracts granted by the State Department of Social Services is neither a guarantee of performance by the providers nor an endorsement of any continuing care contract provisions, prospective residents must carefully consider the risks, benefits, and costs before signing a continuing care contract and should be encouraged to seek financial and legal advice before doing so.

1771. Definitions.

Unless the context otherwise requires, the definitions in this section govern the interpretation of this chapter.

(a)(1) "Affiliate" means any person, corporation, limited liability company, business trust, trust, partnership, unincorporated association, or other legal entity that directly or indirectly controls, is controlled by, or is under common control with, a provider or applicant.

(2) "Affinity group" means a grouping of entities sharing a common interest, philosophy, or connection (e.g., military officers, religion).

(3) "Annual report" means the report each provider is required to file annually with the department, as described in Section 1790.

(4) "Applicant" means any entity, or combination of entities, that submits and has pending an application to the department for a permit to accept deposits and a certificate of authority.

(5) "Assisted living services" includes, but is not limited to, assistance with personal activities of daily living, including dressing, feeding, toileting, bathing, grooming, mobility, and associated tasks, to help provide for and maintain physical and psychosocial comfort.

(6) "Assisted living unit" means the living area or unit within a continuing care retirement community that is specifically designed to provide ongoing assisted living services.

(7) "Audited financial statement" means financial statements prepared in accordance with generally accepted accounting principles including the opinion of an independent certified public accountant, and notes to the financial statements considered customary or necessary to provide full disclosure and complete information regarding the provider's financial statements, financial condition, and operation.

(b) (reserved)

(c)(1) "Cancel" means to destroy the force and effect of an agreement or continuing care contract.

(2) "Cancellation period" means the 90-day period, beginning when the resident physically moves into the continuing care retirement community, during which the resident may cancel the continuing care contract, as provided in Section 1788.2.

(3) "Care" means nursing, medical, or other health-related services, protection or supervision, assistance with the personal activities of daily living, or any combination of those services.

(4) "Cash equivalent" means certificates of deposit and United States treasury securities with a maturity of five years or less.

(5) "Certificate" or "certificate of authority" means the certificate issued by the department, properly executed and bearing the State Seal, authorizing a specified provider to enter into one or more continuing care contracts at a single specified continuing care retirement community.

(6) "Condition" means a restriction, specific action, or other requirement imposed by the department for the initial or continuing validity of a permit to accept deposits, a provisional certificate of authority, or a certificate of authority. A condition may limit the circumstances under which the provider may enter into any new deposit agreement or contract, or may be imposed as a condition precedent to the issuance of a permit to accept deposits, a provisional certificate of authority, or a certificate of authority.

(7) "Consideration" means some right, interest, profit, or benefit paid, transferred, promised, or provided by one party to another as an inducement to contract. Consideration includes some forbearance, detriment, loss, or responsibility, that is given, suffered, or undertaken by a party as an inducement to another party to contract.

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

(9) "Continuing care promise" means a promise, expressed or implied, by a provider to provide one or more elements of care to an elderly resident for the duration of his or her life or for a term in excess of one year. Any such promise or representation, whether part of a continuing care contract, other agreement, or series of agreements, or contained in any advertisement, brochure, or other material, either written or oral, is a continuing care promise.

(10) "Continuing care retirement community" means a facility located within the State of California where services promised in a continuing care contract are provided. A distinct phase of development approved by the department may be considered to be the continuing care retirement community when a project is being developed in successive distinct phases over a period of time. When the services are provided in residents' own homes, the homes into which the provider takes those services are considered part of the continuing care retirement community.

(11) "Control" means directing or causing the direction of the financial management or the policies of another entity, including an operator of a continuing care retirement community, whether by means of the controlling entity's ownership interest, contract, or any other involvement. A parent entity or sole member of an entity controls a subsidiary entity provider for a continuing care retirement community if its officers, directors, or agents directly participate in the management of the subsidiary entity or in the initiation or approval of policies that affect the continuing care retirement community's operations, including, but not limited to, approving budgets or the administrator for a continuing care retirement community.

(d)(1) "Department" means the State Department of Social Services.

(2) "Deposit" means any transfer of consideration, including a promise to transfer money or property, made by a depositor to any entity that promises or proposes to

promise to provide continuing care, but is not authorized to enter into a continuing care contract with the potential depositor.

(3) "Deposit agreement" means any agreement made between any entity accepting a deposit, and a depositor. Deposit agreements for deposits received by an applicant prior to the department's release of funds from the deposit escrow account shall be subject to the requirements described in Section 1780.4.

(4) "Depository" means a bank or institution that is a member of the Federal Deposit Insurance Corporation or a comparable deposit insurance program.

(5) "Depositor" means any prospective resident who pays a deposit. Where any portion of the consideration transferred to an applicant as a deposit or to a provider as consideration for a continuing care contract is transferred by a person other than the prospective resident or a resident, that third-party transferor shall have the same cancellation or refund rights as the prospective resident or resident for whose benefit the consideration was transferred.

(6) "Director" means the Director of *the California Department of* Social Services.

(e)(1) "Elderly" means an individual who is 60 years of age or older.

(2) "Entity" means an individual, partnership, corporation, limited liability company, and any other form for doing business. Entity includes a person, sole proprietorship, estate, trust, association, and joint venture.

(3) "Entrance fee" means the sum of any initial, amortized, or deferred transfer of consideration made or promised to be made by, or on behalf of, a person entering into a continuing care contract for the purpose of ensuring care or related services pursuant to that continuing care contract or as full or partial payment for the promise to provide care for the term of the continuing care contract. Entrance fee includes the purchase price of a condominium, cooperative, or other interest sold in connection with a promise of continuing care. An initial, amortized, or deferred transfer of consideration that is greater in value than 12 times the monthly care fee shall be presumed to be an entrance fee.

(4) "Equity" means the value of real property in excess of the aggregate amount of all liabilities secured by the property.

(5) "Equity interest" means an interest held by a resident in a continuing care retirement community that consists of either an ownership interest in any part of the continuing care retirement community property or a transferable membership that entitles the holder to reside at the continuing care retirement community.

(6) "Equity project" means a continuing care retirement community where residents receive an equity interest in the continuing care retirement community property.

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(7) "Equity securities" shall refer generally to large and midcapitalization corporate stocks that are publicly traded and readily liquidated for cash, and shall include shares in

mutual funds that hold portfolios consisting predominantly of these stocks and other qualifying assets, as defined by Section 1792.2. Equity securities shall also include other similar securities that are specifically approved by the department.

(8) "Escrow agent" means a bank or institution, including, but not limited to, a title insurance company, approved by the department to hold and render accountings for deposits of cash or cash equivalents.

(f) "Facility" means any place or accommodation where a provider provides or will provide a resident with care or related services, whether or not the place or accommodation is constructed, owned, leased, rented, or otherwise contracted for by the provider.

(g) (reserved)

(h) (reserved)

(i) (1) "Inactive certificate of authority" means a certificate that has been terminated under Section 1793.8.

(2) "Investment securities" means any of the following:

(A) Direct obligations of the United States, including obligations issued or held in book-entry form on the books of the United States Department of the Treasury, or obligations the timely payment of the principal of, and the interest on, which are fully guaranteed by the United States.

(B) Obligations, debentures, notes, or other evidences of indebtedness issued or guaranteed by any of the following:

(i) The Federal Home Loan Bank System.

(ii) The Export-Import Bank of the United States.

(iii) The Federal Financing Bank.

(iv) The Government National Mortgage Association.

(v) The Farmer's Home Administration.

(vi) The Federal Home Loan Mortgage Corporation of the Federal Housing Administration.

(vii) Any agency, department, or other instrumentality of the United States if the obligations are rated in one of the two highest rating categories of each rating agency rating those obligations.

(C) Bonds of the State of California or of any county, city and county, or city in this state, if rated in one of the two highest rating categories of each rating agency rating those bonds.

(D) Commercial paper of finance companies and banking institutions rated in one of the two highest categories of each rating agency rating those instruments.

(E) Repurchase agreements fully secured by collateral security described in subparagraph (A) or (B), as evidenced by an opinion of counsel, if the collateral is held by the provider or a third party during the term of the repurchase agreement, pursuant

to the terms of the agreement, subject to liens or claims of third parties, and has a market value, which is determined at least every 14 days, at least equal to the amount so invested.

(F) Long-term investment agreements, which have maturity dates in excess of one year, with financial institutions, including, but not limited to, banks and insurance companies or their affiliates, if the financial institution's paying ability for debt obligations or long-term claims or the paying ability of a related guarantor of the financial institution for these obligations or claims, is rated in one of the two highest rating categories of each rating agency rating those instruments, or if the short-term investment agreements are with the financial institution or the related guarantor of the financial institution, the long- or short-term debt obligations, whichever is applicable, of which are rated in one of the two highest long- or short-term rating categories, of each rating agency rating the bonds of the financial institution or the related guarantor, provided that if the rating falls below the two highest rating categories, the investment agreement shall allow the provider the option to replace the financial institution or the related guarantor of the financial institution or shall provide for the investment securities to be fully collateralized by investments described in subparagraph (A), and, provided further, if so collateralized, that the provider has a perfected first security lien on the collateral, as evidenced by an opinion of counsel and the collateral is held by the provider.

(G) Banker's acceptances or certificates of deposit of, or time deposits in, any savings and loan association that meets any of the following criteria:

(i) The debt obligations of the savings and loan association, or in the case of a principal bank, of the bank holding company, are rated in one of the two highest rating categories of each rating agency rating those instruments.

(ii) The certificates of deposit or time deposits are fully insured by the Federal Deposit Insurance Corporation.

(iii) The certificates of deposit or time deposits are secured at all times, in the manner and to the extent provided by law, by collateral security described in subparagraph (A) or (B) with a market value, valued at least quarterly, of no less than the original amount of moneys so invested.

(H) Taxable money market government portfolios restricted to obligations issued or guaranteed as to payment of principal and interest by the full faith and credit of the United States.

(I) Obligations the interest on which is excluded from gross income for federal income tax purposes and money market mutual funds whose portfolios are restricted to these obligations, if the obligations or mutual funds are rated in one of the two highest rating categories by each rating agency rating those obligations.

(J) Bonds that are not issued by the United States or any federal agency, but that are listed on a national exchange and that are rated at least "A" by Moody's Investors Service, or the equivalent rating by Standard and Poor's Corporation or Fitch Investors Service.

(K) Bonds not listed on a national exchange that are traded on an over-the-counter basis, and that are rated at least "Aa" by Moody's Investors Service or "AA" by Standard and Poor's Corporation or Fitch Investors Service.

(j) (reserved)

(k) (reserved)

(l) "Life care contract" means a continuing care contract that includes a promise, expressed or implied, by a provider to provide or pay for routine services at all levels of care, including acute care and the services of physicians and surgeons, to the extent not covered by other public or private insurance benefits, to a resident for the duration of his or her life. Care shall be provided under a life care contract in a continuing care retirement community having a comprehensive continuum of care, including a skilled nursing facility, under the ownership and supervision of the provider on or adjacent to the premises. No change may be made in the monthly fee based on level of care. A life care contract shall also include provisions to subsidize residents who become financially unable to pay their monthly care fees.

(m)(1) "Monthly care fee" means the fee charged to a resident in a continuing care contract on a monthly or other periodic basis for current accommodations and services including care, board, or lodging. Periodic entrance fee payments or other prepayments shall not be monthly care fees.

(2) "Monthly fee contract" means a continuing care contract that requires residents to pay monthly care fees.

(n) "Nonambulatory person" means a person who is unable to leave a building unassisted under emergency conditions in the manner described by Section 13131.

(o) (reserved)

(p)(1) "Per capita cost" means a continuing care retirement community's operating expenses, excluding depreciation, divided by the average number of residents.

(2) "Periodic charges" means fees paid by a resident on a periodic basis.

(3) "Permanent closure" means the voluntary or involuntary termination or forfeiture, as specified in subdivisions (a), (b), (g), (h), and (i) of Section 1793.7, of a provider's certificate of authority or license, or another action that results in the permanent relocation of residents. Permanent closure does not apply in the case of a natural disaster or other event out of the provider's control.

(4) "Permit to accept deposits" means a written authorization by the department permitting an applicant to enter into deposit agreements regarding a single specified continuing care retirement community.

(5) "Prepaid contract" means a continuing care contract in which the monthly care fee, if any, may not be adjusted to cover the actual cost of care and services.

(6) "Preferred access" means that residents who have previously occupied a residential living unit have a right over other persons to any assisted living or skilled nursing beds that are available at the community.

(7) "Processing fee" means a payment to cover administrative costs of processing the application of a depositor or prospective resident.

(8) "Promise to provide one or more elements of care" means any expressed or implied representation that one or more elements of care will be provided or will be available, such as by preferred access.

(9) "Proposes" means a representation that an applicant or provider will or intends to make a future promise to provide care, including a promise that is subject to a condition, such as the construction of a continuing care retirement community or the acquisition of a certificate of authority.

(10) "Provider" means an entity that provides continuing care, makes a continuing care promise, or proposes to promise to provide continuing care. "Provider" also includes any entity that controls an entity that provides continuing care, makes a continuing care promise, or proposes to promise to provide continuing care. The department shall determine whether an entity controls another entity for purposes of this article. No homeowner's association, cooperative, or condominium association may be a provider.

(11) "Provisional certificate of authority" means the certificate issued by the department, properly executed and bearing the State Seal, under Section 1786. A provisional certificate of authority shall be limited to the specific continuing care retirement community and number of units identified in the applicant's application.

(q) (reserved)

(r)(1) "Refund reserve" means the reserve a provider is required to maintain, as provided in Section 1792.6.

(2) "Refundable contract" means a continuing care contract that includes a promise, expressed or implied, by the provider to pay an entrance fee refund or to repurchase the transferor's unit, membership, stock, or other interest in the continuing care retirement community when the promise to refund some or all of the initial entrance fee extends beyond the resident's sixth year of residency. Providers that enter into refundable contracts shall be subject to the refund reserve requirements of Section 1792.6. A continuing care contract that includes a promise to repay all or a portion of an entrance fee that is conditioned upon reoccupancy or resale of the unit previously occupied by the resident shall not be considered a refundable contract for

purposes of the refund reserve requirements of Section 1792.6, provided that this conditional promise of repayment is not referred to by the applicant or provider as a "refund."

(3) "Resale fee" means a levy by the provider against the proceeds from the sale of a transferor's equity interest.

(4) "Reservation fee" refers to consideration collected by an entity that has made a continuing care promise or is proposing to make this promise and has complied with Section 1771.4.

(5) "Resident" means a person who enters into a continuing care contract with a provider, or who is designated in a continuing care contract to be a person being provided or to be provided services, including care, board, or lodging.

(6) "Residential care facility for the elderly" means a housing arrangement as defined by Section 1569.2.

(7) "Residential living unit" means a living unit in a continuing care retirement community that is not used exclusively for assisted living services or nursing services.

(8) "Residential temporary relocation" means the relocation of one or more residents, except in the case of a natural disaster that is out of the provider's control, from one or more residential living units, assisted living units, skilled nursing units, or a wing, floor, or entire continuing care retirement community building, due to a change of use or major repairs or renovations. A residential temporary relocation shall mean a relocation pursuant to this subdivision that lasts for a period of at least nine months but that does not exceed 18 months without the written agreement of the resident.

(s) (reserved)

(t)(1) "Termination" means the ending of a continuing care contract as provided for in the terms of the continuing care contract.

(2) "Transfer trauma" means death, depression, or regressive behavior, that is caused by the abrupt and involuntary transfer of an elderly resident from one home to another and results from a loss of familiar physical environment, loss of well-known neighbors, attendants, nurses and medical personnel, the stress of an abrupt break in the small routines of daily life, or the loss of visits from friends and relatives who may be unable to reach the new facility.

(3) "Transferor" means a person who transfers, or promises to transfer, consideration in exchange for care and related services under a continuing care contract or proposed continuing care contract, for the benefit of another. A transferor shall have the same rights to cancel and obtain a refund as the depositor under the deposit agreement or the resident under a continuing care contract.

1771.2. Permit to Accept Deposits; Certificate of Authority; Required.

Article 5. Contract

1787. Agreements Between Provider and Transferor; Contents; Forms; Filing and Approval; Size of Print.

(a) All continuing care contracts shall be in writing and shall contain all the information required by Section 1788.

(b) All continuing care contract forms, including all addenda, exhibits, and any other related documents, incorporated therein, as well as any modification to these items, shall be approved by the department prior to their use.

(c) The department shall approve continuing care contract forms that comply with this chapter. The requirements of this chapter and Chapter 3.2 (commencing with Section 1569) shall be the bases for approval by the department. To the extent that this chapter conflicts with Chapter 3.2 (commencing with Section 1569), this chapter shall prevail.

(d) A continuing care contract approved by the department shall constitute the full and complete agreement between the parties.

(e) More than one continuing care contract form may be used by a provider if multiple program options are available.

(f) All text in continuing care contract forms shall be printed in at least 10-point typeface.

(g) A clearly legible copy of the continuing care contract, executed by each provider named on the provisional certificate of authority or the certificate of authority, the resident, and any transferor, shall be furnished with all required or included attachments to the resident at the time the continuing care contract is executed. A copy shall also be furnished within 10 calendar days to any transferor who is not a resident.

(h) The provider shall require a written acknowledgment from the resident (and any transferor who is not a resident) that the executed copy of the continuing care contract and attachments have been received.

(i) The continuing care contract shall be an admission agreement for purposes of the residential care facility for the elderly and long-term health care facility requirements and shall state the resident's entitlement to receive these levels of care. The continuing care contract may state the entitlement for skilled nursing care in accordance with the provisions of law governing admissions to long-term health care facilities in effect at the time of admission to the skilled nursing facility. The parties may agree to the terms of nursing facility admission at the time the continuing care contract is executed, or the provider may present an exemplar of the then-current nursing facility admission agreement and require the resident to execute the form of agreement in effect at the time of admission to the nursing facility. The terms shall include the nursing fee, or the

method of determining the fee, at the time of the execution of the continuing care contract, the services included in and excluded from the fee, the grounds for transfers and discharges, and any other terms required to be included under applicable law.

(j) Only the skilled nursing admission agreement sections of continuing care contracts which cover long-term health care facility services are subject to Chapter 3.95 (commencing with Section 1599.60). The provider shall use a skilled nursing admission agreement that complies with the requirements of Chapter 3.95 (commencing with Section 1599.85).

1788. Provisions of Contract.

(a) A continuing care contract shall contain all of the following:

(1) The legal name and address of each provider.

(2) The name and address of the continuing care retirement community.

(3) The resident's name and the identity of the unit the resident will occupy.

(4) If there is a transferor other than the resident, the transferor shall be a party to the contract and the transferor's name and address shall be specified.

(5) If the provider has used the name of any charitable or religious or nonprofit organization in its title before January 1, 1979, and continues to use that name, and that organization is not responsible for the financial and contractual obligations of the provider or the obligations specified in the continuing care contract, the provider shall include in every continuing care contract a conspicuous statement which clearly informs the resident that the organization is not financially responsible.

(6) The date the continuing care contract is signed by the resident and, where applicable, any other transferor.

(7) The duration of the continuing care contract.

(8) A list of the services that will be made available to the resident as required to provide the appropriate level of care. The list of services shall include the services required as a condition for licensure as a residential care facility for the elderly, including all of the following:

(A) Regular observation of the resident's health status to ensure that his or her dietary needs, social needs, and needs for special services are satisfied.

(B) Safe and healthful living accommodations, including housekeeping services and utilities.

(C) Maintenance of house rules for the protection of residents.

(D) A planned activities program, which includes social and recreational activities appropriate to the interests and capabilities of the resident.

(E) Three balanced, nutritious meals and snacks made available daily, including special diets prescribed by a physician as a medical necessity.

(F) Assisted living services.

(G) Assistance with taking medications.

(H) Central storing and distribution of medications.

(I) Arrangements to meet health needs, including arranging transportation.

(9) An itemization of the services that are included in the monthly fee and the services that are available at an extra charge. The provider shall attach a current fee schedule to the continuing care contract.

(10) The procedures and conditions under which a resident may be voluntarily and involuntarily transferred from a designated living unit. The transfer procedures, at a minimum, shall include provisions addressing all of the following circumstances under which a transfer may be authorized:

(A) A continuing care retirement community may transfer a resident under the following conditions, taking into account the appropriateness and necessity of the transfer and the goal of promoting resident independence:

(i) The resident is nonambulatory. The definition of "nonambulatory," as provided in Section 13131, shall either be stated in full in the continuing care contract or be cited. If Section 13131 is cited, a copy of the statute shall be made available to the resident, either as an attachment to the continuing care contract or by specifying that it will be provided upon request. If a nonambulatory resident occupies a room that has a fire clearance for nonambulatory residence, transfer shall not be necessary.

(ii) The resident develops a physical or mental condition that endangers the health, safety, or well-being of the resident or another person.

(iii) The resident's condition or needs require the resident's transfer to an assisted living care unit or skilled nursing facility, because the level of care required by the resident exceeds that which may be lawfully provided in the living unit.

(iv) The resident's condition or needs require the resident's transfer to a nursing facility, hospital, or other facility, and the provider has no facilities available to provide that level of care.

(B) Before the continuing care retirement community transfers a resident under any of the conditions set forth in subparagraph (A), the community shall satisfy all of the following requirements:

(i) Involve the resident and the resident's responsible person, as defined in paragraph (6) of subdivision (r) of Section 87101 of Title 22 of the California Code of Regulations, and upon the resident's or responsible person's request, family members, or the resident's physician or other appropriate health professional, in the assessment process that forms the basis for the level of care transfer decision by the provider. The provider shall offer an explanation of the assessment process. If an assessment tool or tools, including scoring and evaluating criteria, are used in the determination of the appropriateness of the transfer, the provider shall make copies of the completed

assessment available upon the request of the resident or the resident's responsible person.

(ii) Prior to sending a formal notification of transfer, the provider shall conduct a care conference with the resident and the resident's responsible person, and upon the resident's or responsible person's request, family members, and the resident's health care professionals, to explain the reasons for transfer.

(iii) Notify the resident and the resident's responsible person of the reasons for the transfer in writing.

(iv) Notwithstanding any other provision of this subparagraph, if the resident does not have impairment of cognitive abilities, the resident may request that his or her responsible person not be involved in the transfer process.

(v) The notice of transfer shall be made at least 30 days before the transfer is expected to occur, except when the health or safety of the resident or other residents is in danger, or the transfer is required by the resident's urgent medical needs. Under those circumstances, the written notice shall be made as soon as practicable before the transfer.

(vi) The written notice shall contain the reasons for the transfer, the effective date, the designated level of care or location to which the resident will be transferred, a statement of the resident's right to a review of the transfer decision at a care conference, as provided for in subparagraph (C), and for disputed transfer decisions, the right to review by the Continuing Care Contracts Branch of the State Department of Social Services, as provided for in subparagraph (D). The notice shall also contain the name, address, and telephone number of the department's Continuing Care Contracts Branch.

(vii) The continuing care retirement community shall provide sufficient preparation and orientation to the resident to ensure a safe and orderly transfer and to minimize trauma.

(C) The resident has the right to review the transfer decision at a subsequent care conference that shall include the resident, the resident's responsible person, and upon the resident's or responsible person's request, family members, the resident's physician or other appropriate health care professional, and members of the provider's interdisciplinary team. The local ombudsperson may also be included in the care conference, upon the request of the resident, the resident's responsible person, or the provider.

(D) For disputed transfer decisions, the resident or the resident's responsible person has the right to a prompt and timely review of the transfer process by the Continuing Care Contracts Branch of the State Department of Social Services.

(E) The decision of the department's Continuing Care Contracts Branch shall be in writing and shall determine whether the provider failed to comply with the transfer

process pursuant to subparagraphs (A) to (C), inclusive. Pending the decision of the Continuing Care Contracts Branch, the provider shall specify any additional care the provider believes is necessary in order for the resident to remain in his or her unit. The resident may be required to pay for the extra care, as provided in the contract.

(F) Transfer of a second resident when a shared accommodation arrangement is terminated.

(11) Provisions describing any changes in the resident's monthly fee and any changes in the entrance fee refund payable to the resident that will occur if the resident transfers from any unit, including, but not limited to, terminating his or her contract after 18 months of residential temporary relocation, as defined in paragraph (8) of subdivision (r) of Section 1771.

(12) The provider's continuing obligations if any, in the event a resident is transferred from the continuing care retirement community to another facility.

(13) The provider's obligations, if any, to resume care upon the resident's return after a transfer from the continuing care retirement community.

(14) The provider's obligations to provide services to the resident while the resident is absent from the continuing care retirement community.

(15) The conditions under that the resident must permanently release his or her living unit.

(16) If real or personal properties are transferred in lieu of cash, a statement specifying each item's value at the time of transfer, and how the value was ascertained.

(A) An itemized receipt that includes the information described above is acceptable if incorporated as a part of the continuing care contract.

(B) When real property is or will be transferred, the continuing care contract shall include a statement that the deed or other instrument of conveyance shall specify that the real property is conveyed pursuant to a continuing care contract and may be subject to rescission by the transferor within 90 days from the date that the resident first occupies the residential unit.

(C) The failure to comply with paragraph (16) shall not affect the validity of title to real property transferred pursuant to this chapter.

(17) The amount of the entrance fee.

(18) In the event two parties have jointly paid the entrance fee or other payment that allows them to occupy the unit, the continuing care contract shall describe how any refund of entrance fees is allocated.

(19) The amount of any processing fee.

(20) The amount of any monthly care fee.

(21) For continuing care contracts that require a monthly care fee or other periodic payment, the continuing care contract shall include the following:

(A) A statement that the occupancy and use of the accommodations by the resident is contingent upon the regular payment of the fee.

(B) The regular rate of payment agreed upon (per day, week, or month).

(C) A provision specifying whether payment will be made in advance or after services have been provided.

(D) A provision specifying *whether* the provider will adjust monthly care fees for the resident's support, maintenance, board, or lodging, when a resident requires medical attention while away from the continuing care retirement community.

(E) A provision specifying whether a credit or allowance will be given to a resident who is absent from the continuing care retirement community or from meals. This provision shall also state, when applicable, that the credit may be permitted at the discretion or by special permission of the provider.

(F) A statement of billing practices, procedures, and timelines. A provider shall allow a minimum of 14 days between the date a bill is sent and the date payment is due. A charge for a late payment may only be assessed if the amount and any condition for the penalty is stated on the bill.

(22) All continuing care contracts that include monthly care fees shall address changes in monthly care fees by including either of the following provisions:

(A) For prepaid continuing care contracts, which include monthly care fees, one of the following methods:

(i) Fees shall not be subject to change during the lifetime of the agreement.

(ii) Fees shall not be increased by more than a specified number of dollars in any one year and not more than a specified number of dollars during the lifetime of the agreement.

(iii) Fees shall not be increased in excess of a specified percentage over the preceding year and not more than a specified percentage during the lifetime of the agreement.

(B) For monthly fee continuing care contracts, except prepaid contracts, changes in monthly care fees shall be based on projected costs, prior year per capita costs, and economic indicators.

(23) A provision requiring that the provider give written notice to the resident at least 30 days in advance of any change in the resident's monthly care fees or in the price or scope of any component of care or other services.

(24) A provision indicating whether the resident's rights under the continuing care contract include any proprietary interests in the assets of the provider or in the continuing care retirement community, or both. Any statement in a contract concerning an ownership interest shall appear in a large-sized font or print.

(25) If the continuing care retirement community property is encumbered by a

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security interest that is senior to any claims the residents may have to enforce continuing care contracts, a provision shall advise the residents that any claims they may have under the continuing care contract are subordinate to the rights of the secured lender. For equity projects, the continuing care contract shall specify the type and extent of the equity interest and whether any entity holds a security interest.

(26) Notice that the living units are part of a continuing care retirement community that is licensed as a residential care facility for the elderly and, as a result, any duly authorized agent of the department may, upon proper identification and upon stating the purpose of his or her visit, enter and inspect the entire premises at any time, without advance notice.

(27) A conspicuous statement, in at least 10-point boldface type in immediate proximity to the space reserved for the signatures of the resident and, if applicable, the transferor, that provides as follows: "You, the resident or transferor, may cancel the transaction without cause at any time within 90 days from the date you first occupy your living unit. See the attached notice of cancellation form for an explanation of this right."

(28) Notice that during the cancellation period, the continuing care contract may be canceled upon 30 days' written notice by the provider without cause, or that the provider waives this right.

(29) The terms and conditions under which the continuing care contract may be terminated after the cancellation period by either party, including any health or financial conditions.

(30) A statement that, after the cancellation period, a provider may unilaterally terminate the continuing care contract only if the provider has good and sufficient cause.

(A) Any continuing care contract containing a clause that provides for a continuing care contract to be terminated for "just cause," "good cause," or other similar provision, shall also include a provision that none of the following activities by the resident, or on behalf of the resident, constitutes "just cause," "good cause," or otherwise activates the termination provision:

(i) Filing or lodging a formal complaint with the department or other appropriate authority.

(ii) Participation in an organization or affiliation of residents, or other similar lawful activity.

(B) The provision required by this paragraph shall also state that the provider shall not discriminate or retaliate in any manner against any resident of a continuing care retirement community for contacting the department, or any other state, county, or city agency, or any elected or appointed government official to file a complaint or for any other reason, or for participation in a residents' organization or association.

(h) Persons other than residents of the live/work quarters are not permitted to work in the live/work quarters.

(i) Live/work quarters shall not be used for mercantile, classroom instructional use, storage of flammable liquids or hazardous materials, welding or any open-flame work, or offices or establishments with employees.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§141.0312 Residential Care Facilities

Residential care facilities provide in-house treatment or rehabilitation programs for residents on a 24-hour basis. Residential care facilities include drug and alcohol rehabilitation and recovery facilities and residential and community care facilities as defined by the state or county. Housing for senior citizens, nursing homes, convalescent homes, work furlough and probationary residential facilities, and emergency shelters are not residential care facilities.

Residential care facilities for 7 to 12 persons may be permitted with a Conditional Use Permit decided in accordance with Process Three, and residential care facilities for 13 or more persons may be permitted with a Conditional Use Permit decided in accordance with Process Four, in the zones indicated with a "C" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

(a) Residential care facilities are not permitted in agricultural zones in *Proposition A Lands*

(b) Only one residential care facility may be permitted per *lot* or *premises*.

(c) Residential care facilities are not permitted within 1/4 mile of another residential care facility, measured from *property line* to *property line* in accordance with Section 113.0225.

(d) The facility shall provide at least 70 square feet of sleeping space for each resident, not including closet or storage space, multipurpose rooms, bathrooms, dining rooms, and halls.

(e) Sleeping areas shall not be used as a public or general passageway to another room, bath, or toilet.

(f) The facility shall provide at least 5 square feet of living area per bed, not including sleeping space, dining, and *kitchen* areas.

(g) The facility shall provide at least 8 square feet of storage area (closet or drawers) per bed.

(h) The facility shall provide one full bathroom including sink, toilet, and shower or bathtub for every seven beds.

(i) The center shall provide at least one *off-street parking space* for each employee and one *off-street parking space* for every seven beds. Additional parking may be required by the decision maker.

(j) Conversion of an existing garage or reduction in the amount of off-*street* parking to provide a residential care facility is not permitted.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000; amended 6-19-2000 by O-18814 N.S.)
(Amended 4-8-2008 by O-19734 N.S; effective 5-8-2008.)

§141.0313 Transitional Housing Facilities

Transitional housing facilities offer residential accommodations for a specified period of time, counseling services, and other support services to prepare *families* and individuals for independent living.

Transitional housing may be permitted with a Conditional Use Permit decided in accordance with Process Five, in the zones indicated with a "C" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations. Section 112.0509(b) requiring a Planning Commission recommendation, shall not be applicable to transitional housing facilities.

(a) Transitional housing is not permitted in agricultural zones in *Proposition A Lands*.

(b) Only one transitional housing facility may be permitted per *lot* or *premises*.

(c) The facility shall provide at least 70 square feet of sleeping space for each resident, not including closet or storage space, multipurpose rooms, bathrooms, dining rooms, and halls.

(d) Sleeping areas shall not be used as a public or general passageway to another room, bath, or toilet.

(e) The facility shall provide at least 5 square feet of living area per bed, not including sleeping space, dining areas, and *kitchen* areas.