



Outline of Residents' Rights

I. Admission Rights

Admission Agreements (Contracts)

- All basic services provided under a single fee must be listed in the agreement. (H&S 1569.884(a), 1569.312, CCR 87507(c)(1))
- All optional services and their costs must be listed in the agreement. (H&S 1569.884(b), CCR 87507 (c)(3)(B))
- Conditions for rate increases pursuant to 1569.655 must be included in the agreement. (H&S 1569.884(f), 1569.655, 87507 (c)(4))
- The agreement must include an explanation of third party services related to the resident's service plan and how they may be arranged. (H&S 1569.884(d))
- The agreement must include a copy of the residents' rights. (H&S 1569.885(d))
- There must be an explanation in the agreement of the availability of special telecommunications devices for the deaf or hard of hearing or for persons with other disabilities. (H&S 1569.159, CCR 87507 (b))
- The agreement must include the facility's visiting policy. (H&S 1569.884(g), 1569.313, CCR 87468(a)(10), 87507 (c)(9))
- Conditions under which the agreement may be terminated must be stated. (H&S 1569.884(i), CCR 87507 (c)(10))
- Residents or resident representatives shall receive a copy of the signed and dated agreement. (H&S 1569.887(c))

Rates and Payment

- The provisions for payment, e.g., payer, due date, etc., must be stated in the agreement. (H&S 1569.884(e), CCR 87507 (c)(3))
- The facility must provide a 60 day written notice for rate increases and increases in any rate structures for services as stated in the admission agreement. (H&S 1569.655)
- The agreement must include the SSI rate and payment provisions for any resident receiving SSI/SSP. (CCR 87101(b)(1), 87507 (c)(4), 87464(e))
- The facility cannot charge any form of pre-admission fee to SSI/SSP recipients. (H&S 1569.651)
- The facility cannot charge any nonrecurring lump-sum fees. (H&S 1569.655)
- A facility may assess a separate charge for an item or service only if it is included in the admission agreement. (H&S 1569.651(d), 1569.884(c))

Financial Pre-Conditions

- The agreement cannot require disclosure of fund sources for fee payment. (CCR 87507 (c)(3)(E))
- The agreement shall not include unlawful waivers of facility liability for the health and safety or personal property of residents. (H&S 1569.883(a), 1569.883(a), CCR 87507 (g))

Security Deposits/Refunds

- Facilities are not allowed to charge security or damage deposits. (H&S 1569.651)
- The facility must make a refund of previously paid monthly fees when the licensing agency orders a relocation of a resident. (CCR 87507 (c)(5)(A))
- Facilities cannot charge beyond the date of a resident's death unless agreed to in writing or ordered by the court. (CCR 87507 (h))

II. Transfer & Discharge Rights

Eviction Criteria

Residents cannot be evicted unless at least one of the following five conditions are met:

- Nonpayment within 10 days of the due date. (CCR 87224(a)(1))
- Failure of the resident to comply with state or local law. (CCR 87224 (a)(2))
- Failure of the resident to comply with general policies of the facility (the policies must be reasonable and included in the admission agreement). (CCR 87224 (a)(3), H&S 1569.885(a))
- It is determined that the facility is no longer appropriate for the resident after reappraisal. (CCR 87224 (a)(4))
- Change of use of the facility. (CCR 87224 (a)(5))

Licensing's Authority to Relocate

- The licensing agency has the authority to relocate residents for "prohibited health conditions" if it provides written notice to the resident and the licensee. (H&S 1569.54(b)(1), CCR 87615)
- If the resident poses immediate danger to self or others, the licensing agency reserves the right to relocate the resident, without notice, after contacting the resident's physician. (H&S 1569.54(a)(2))
- The licensing agency can close a facility under a temporary suspension order, and all residents can be relocated immediately. (H&S 1569.50 & 1569.54(c), CCR 87775(c), 87223)

SSI Residents and Evictions

- Private paying residents of RCFEs cannot be evicted if they later qualify for Supplemental Security Income (SSI). (See CCL Letter 12/09/09)
- 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. (CCR 87464(e))

Transfer and Discharge Protections

- Eviction policies and procedures must be stated in the agreement. (H&S 1569.886, CCR 87507(c)(8), 87224)
- The agreement cannot modify or add to any of the 5 legal conditions for eviction. (H&S 1569.886(b), CCR 87507 (c)(8))

Preparation Prior to Transfer or Eviction

- For licensing ordered relocation, the facility must prepare a written relocation plan to reduce the resident's stress and potential for transfer trauma. (H&S 1569.54(b)(2), CCR 87637(b)(2))

Eviction Notices

- The facility is required to give a 30-day written notice to evict. (CCR 87224(a))
- When the resident is exhibiting behavior threatening to him/herself or others, the licensing agency can permit a 3-day notice of eviction. (CCR 87224 (b))
- The notice must be sent to the resident and his/her agent or legal representative, stating the reason(s) for the eviction. (CCR 87224 (c)&(d))
- *An eviction notice must contain the following:*
 - The effective date of the eviction. (H&S 1569.683(a)(1))
 - Resources available to assist in identifying alternative housing and care options, including public and private referral services and case management organizations. (H&S 1569.683(a)(2))
 - Information about the resident's right to file a complaint with the department regarding the eviction, with the name, address, and telephone number of the nearest office of community care licensing and the State Ombudsman. (H&S 1569.683(a)(3))
 - The following statement: "In order to evict a resident who remains in the facility after the effective date of the eviction, the residential care facility for the elderly must file an unlawful detainer action in superior court and receive a written judgment signed by a judge. If the facility pursues the unlawful detainer action, you must be served with a summons and complaint. You have the right to contest the eviction in writing and through a hearing." (H&S 1569.683(a)(4))

Appealing Proposed Transfer or Eviction

- The resident and resident's representative have the right to file a complaint with licensing about the eviction process or reasons for eviction. (H&S 1569.35, CCR 87224 (e))
- In order to evict a resident who remains in the facility after the effective date of the eviction, the residential care facility for the elderly must file an unlawful detainer action in superior court and receive a written judgment signed by a judge. If the facility pursues the unlawful detainer action, you must be served with a summons and complaint. You have the right to contest the eviction in writing and through a hearing. (H&S 1569.683(a)(4), Klarfeld v. Berg, 29 Cal3d 893 (1981))
- The resident or resident's representative can request an independent review by an interdisciplinary team of the licensing agency's relocation order. (H&S 1569.54(b) and CCR 87638)

III. RCFE Closures

The RCFE Relocation Protection Act of 2008 establishes relocation rights and procedures for residents who are being evicted due to the closure of a facility. In this situation, a facility must take all reasonable steps to transfer affected residents safely and shall:

1. Prepare a relocation evaluation for each resident. (H&S 1569.682(a)(1))
2. Provide written notice to the resident or resident's representative at least 60 days before the intended eviction. (H&S 1569.682(a)(2))
3. Discuss the relocation evaluation with the resident and his or her legal representative within 30 days of issuing the notice of eviction. (H&S 1569.682(a)(3))

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4. Submit a closure plan to Community Care Licensing for approval if seven or more residents will be transferred. The facility shall not issue a notice of transfer until licensing approves its closure plan. (H&S 1569.682(b))
 5. Refund prepaid monthly fees on a proportional per diem basis. If the resident gives five days notice before leaving the facility, the refund must be paid at the time the resident leaves the facility, or otherwise within seven days from the date that the resident leaves the facility and the unit is vacated. (H&S 1569.682 (a)(7))
 - Refund of pre-admission fees in excess of \$500: a refund of 100% if paid within 6 months before the notice of eviction; 75% if paid more than 6 months but not more than 12 months; 50% if paid more than 12 months but not more than 18 months; and 25% if paid more than 18 months but not more than 24 months. (Note: No pre-admission fee refund is required, but is permissible, if paid 25 months or more before the notice of eviction.) (H&S 1569.682(a)(6))

See CANHR's Fact Sheet on RCFE Closures for more information about these rights.

IV. Rights within Facility

Notice of Rights

- The admission agreement must include a copy of residents' rights. (H&S 1569.885(d))
- In facilities licensed for 7 or more beds, a copy of residents' rights, or instructions on how to obtain a copy must be prominently posted in areas accessible to residents and relatives. (CCR 87468(c)(2))
- Copies of resident rights shall be posted in English, and in facilities where a significant portion of residents cannot speak English, in the language they can read. (CCR 87468(d))

Basic Needs & Basic Dignity

Residents have the right to the following:

- To be accorded dignity in all relationships. (CCR 87468(a)(1))
- Be in a safe, healthful, and comfortable environment. (CCR 87468(a)(2))
- Be free from corporal or unusual punishment, humiliation, intimidation, mental abuse or other punitive actions. (CCR 87468(a)(3))
- Wear own clothes, keep and use own personal items, and keep and handle own money. (CCR 87468(a)(12))

Health Care Decisions

- The facility cannot require the purchase of medications or medical equipment from a particular source. (H&S 1569.314)
- The resident has the right to execute advance directives. (H&S 1569.156)
- The resident has the right to receive or reject medical care or other services. (CCR 87468(a)(16))
- Family or legal representatives must be regularly informed of care and service activities and ongoing evaluations. (CCR 87468(a)(8))

Autonomy

- Residents have the right to form a resident council. (H&S 1569.157)
- Family members have the right to form a family council. (H&S 1569.158)

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- Residents can attend religious services or activities of choice. (CCR 87468(a)(5))
 - Residents can leave and depart facility freely and not be locked into a room. (CCR 87468(a)(6))
 - Residents have the right to receive assistance in exercising right to vote. (CCR 87468(a)(17))
 - Residents have the right to move from the facility. (CCR 87468(a)(18))

Privacy/Confidentiality/Access

- Residents have the right to visit privately, without prior notice, with persons of their own choosing, including ombudsmen and other advocacy representatives. (W&I 9722 (c) and CCR 87468(a)(11))
- Residents have the right to reasonable access to telephones. (CCR 87468(a)(14))
- Residents have the right to receive mail and correspondence promptly and unopened. (CCR 87468(a)(15))
- The facility must promptly respond to communications by residents' family members and legal representatives. (CCR 87468(a)(9))

Protection of Funds/Property

- The licensee must inform the resident of the facility's obligation to safeguard the resident's property. (H&S 1569.152, 1569.153, 1569.154)
- The licensee shall provide access to individual storage space for private use. (CCR 87468(a)(13))

Filing Complaints

- The facility must inform residents of the right and procedure to file complaints with licensing. (CCR 87468(a)(4))
- Any person can file a complaint with licensing. (H&S 1569.35(a))
- In facilities licensed for 7 or more, the facility must prominently post procedures for filing confidential complaints. (CCR 87468(c)(1))
- The licensee must notify residents that licensing reports are available for review. (H&S 1569.38)

Complainant's Rights (H&S 1569.35)

The licensing department shall:

- Inform complainant promptly of licensing's proposed course of action.
- Make an onsite investigation within 10 days of receiving the complaint.
- Protect, upon request, the confidentiality of the complainant.
- Notify the complainant of the results of the investigation.

H&S refers to California Health and Safety Code; W&I refers to California Welfare and Institutions Code; and CCR refers to the California Code of Regulations, Title 22, Division 6, Chapter 8: Residential Care Facilities for the Elderly.