

CALIFORNIA

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s 72217. Bonds.

(a) The amount of the Bond required in Section 1318 of the Health and Safety Code shall be in accordance with the following schedule:

(1) Total Amount Handled per month Bonds Required \$750 or less..... \$1,000 \$751 to \$1,500..... \$2,000 \$1,501 to \$2,500..... \$3,000

(2) Every further increment of \$1,000 or fraction thereof shall require an additional \$1,000 on the bond.

(b) Each application for an original license or renewal of license shall be accompanied by an affidavit on a form provided by the Department. The affidavit shall state whether the license handles or will handle money of patients and the maximum amount of money to be handled for:

(1) Any patient.

(2) All patients in any month.

(c) No licensee shall either handle money of a patient or handle amounts greater than those stated in the affidavit submitted by him without first notifying the Department and filing a new or revised bond if requested.

(d) Charges for the surety company bond to handle patient monies shall not be paid out of those monies.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Section 1318, Health and Safety Code.

s 72453. Special Treatment Program Service Unit -Rights of Patients.

(a) Each patient admitted to a special treatment program in a skilled nursing facility shall have the following rights, a list of which shall be prominently posted in English and Spanish in all facilities providing such services. The rights shall also be brought to the patient's attention by additional, appropriate means:

(1) To wear their own clothes; to keep and use personal possessions including toilet articles; and to keep and be allowed to spend a reasonable sum of their own money for small purchases.

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

(3) To see visitors each day.

(4) To have reasonable access to telephones, both to make and receive confidential calls.

(5) To have ready access to letter writing materials, including stamps and to mail and receive unopened correspondence.

(6) To refuse shock treatment.

(7) To refuse lobotomy services.

(8) Other rights as provided by law.

(b) The attending physician may, for good cause, deny or limit a patient his or her rights, except the right to refuse lobotomy or shock treatment. Any denial or limitation of a patient's rights shall be entered in the patient's health record.

(c) Information pertaining to denial of rights contained in the patient's health record shall be made available on request to the Department and to the individuals authorized by law.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Section 1276, Health and Safety Code, Section 5325, Welfare and Institutions Code.

s 72501. Licensee -General Duties.

...(f) If language or communication barriers exist between skilled nursing facility staff and patients, arrangements shall be made for interpreters or for the use of other mechanisms to ensure adequate communication between patients and personnel.

s 72503. Consumer Information to Be Posted.

(a) The following consumer information shall be conspicuously posted in a prominent location accessible to the public.

(1) Name, license number and date of employment of the current administrator of the facility.

(2) A listing of all services and special programs provided in the facility and those provided through written contracts.

(3) The current and following week's menus for regular and therapeutic diets.

(4) A notice that the facility's written admission and discharge policies are available upon request.

(5) Most recent licensing visit report supported by the related follow-up plan of correction visit reports.

(6) The names and addresses of all previous owners of the facility.

(7) A listing of all other skilled nursing and intermediate care facilities owned by the same person, firm, partnership, association, corporation or parent or subsidiary corporation, or a subsidiary of the parent corporation.

(8) A statement that an action to revoke the facility's license is pending, if such an action has been initiated by the filing of an accusation, pursuant to Section 11503 of the Government Code, and the accusation has been served on the licensee.

(9) A notice of the name, address and telephone number of the District Office of the Licensing and Certification Division, Department of Health Services, having jurisdiction over the facility.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Section 1276, Health and Safety Code.

s 72523. Patient Care Policies and Procedures.

...(c) Each facility shall establish and implement policies and procedures, including but not limited to:

... (2) Nursing services policies and procedures which include:

... (B) Provision for the inventory and identification of patients' personal possessions, equipment and valuables.

§72527. Patients' Rights.

(a) Patients have the rights enumerated in this section and the facility shall ensure that these rights are not violated. The facility shall establish and implement written policies and procedures which include these rights and shall make a copy of these policies available to the patient and to any representative of the patient. The policies shall be accessible to the public upon request. Patients shall have the right:

(1) To be fully informed, as evidenced by the patient's written acknowledgement prior to or at the time of admission and during stay, of these rights and of all rules and regulations governing patient conduct.

(2) To be fully informed, prior to or at the time of admission and during stay, of services available in the facility and of related charges, including any charges for services not covered by the facility's basic per diem rate or not covered under Titles XVIII or XIX of the Social Security Act.

(3) To be fully informed by a physician of his or her total health status and to be afforded the opportunity to participate on an immediate and ongoing basis in the total plan of care including the identification of medical, nursing and psychosocial needs and the planning of related services.

(4) To consent to or to refuse any treatment or procedure or participation in experimental research.

(5) To receive all information that is material to an individual patient's decision concerning whether to accept or refuse any proposed treatment or procedure. The disclosure of material information for administration of psychotherapeutic drugs or physical restraints or the prolonged use of a device that may lead to the inability to regain use of a normal bodily function shall include the disclosure of information listed in [Section 72528\(b\)](#).

(6) To be transferred or discharged only for medical reasons, or the patient's welfare or that of other patients or for nonpayment for his or her stay and to be given reasonable advance notice to ensure orderly transfer or discharge. Such actions shall be documented in the patient's health record.

(7) To be encouraged and assisted throughout the period of stay to exercise rights as a patient and as a citizen, and to this end to voice grievances and recommend changes in policies and services to facility staff and/or outside representatives of the patient's choice, free from restraint, interference, coercion, discrimination or reprisal.

(8) To manage personal financial affairs, or to be given at least a quarterly accounting of financial transactions made on the patient's behalf should the facility accept written delegation of this responsibility subject to the provisions of [Section 72529](#).

(9) To be free from mental and physical abuse.

(10) To be assured confidential treatment of financial and health records and to approve or refuse their release, except as authorized by law.

(11) To be treated with consideration, respect and full recognition of dignity and individuality, including privacy in treatment and in care of personal needs.

(12) Not to be required to perform services for the facility that are not included for therapeutic purposes in the patient's plan of care.

(13) To associate and communicate privately with persons of the patient's choice, and to send and receive personal mail unopened.

(14) To meet with others and participate in activities of social, religious and community groups.

(15) To retain and use personal clothing and possessions as space permits, unless to do so would infringe upon the health, safety or rights of the patient or other patients.

(16) If married, to be assured privacy for visits by the patient's spouse and if both are patients in the facility, to be permitted to share a room.

(17) To have daily visiting hours established.

(18) To have visits from members of the clergy at any time at the request of the patient or the patient's representative.

(19) To have visits from persons of the patient's choosing at any time if the patient is critically ill, unless medically contraindicated.

(20) To be allowed privacy for visits with family, friends, clergy, social workers or for professional or business purposes.

(21) To have reasonable access to telephones and to make and receive confidential calls.

(22) To be free from any requirement to purchase drugs or rent or purchase medical supplies or equipment from any particular source in accordance with the provisions of Section 1320 of the Health and Safety Code.

(23) To be free from psychotherapeutic drugs and physical restraints used for the purpose of patient discipline or staff convenience and to be free from psychotherapeutic drugs used as a chemical restraint as defined in [Section 72018](#), except in an emergency which threatens to bring immediate injury to the patient or others. If a chemical restraint is administered during an emergency, such medication shall be only that which is required to treat the emergency condition and shall be provided in ways that are least restrictive of the personal liberty of the patient and used only for a specified and limited period of time.

(24) Other rights as specified in Health and Safety Code, Section 1599.1.

(25) Other rights as specified in Welfare and Institutions Code, Sections 5325 and 5325.1, for persons admitted for psychiatric evaluations or treatment

(26) Other rights as specified in Welfare and Institutions Code Sections 4502, 4503 and 4505 for patients who are developmentally disabled as defined in Section 4512 of the Welfare and Institutions Code.

(b) A patient's rights, as set forth above, may only be denied or limited if such denial or limitation is otherwise authorized by law. Reasons for denial or limitation of such rights shall be documented in the patient's health record.

(c) If a patient lacks the ability to understand these rights and the nature and consequences of proposed treatment, the patient's representative shall have the rights specified in this section to the extent the right may devolve to another, unless the representative's authority is otherwise limited. The patient's incapacity shall be determined by a court in accordance with state law or by the patient's physician unless the physician's determination is disputed by the patient or patient's representative.

(d) Persons who may act as the patient's representative include a conservator, as authorized by Parts 3 and 4 of Division 4 of the Probate Code (commencing with Section 1800), a person designated as attorney in fact in the patient's valid durable power of attorney for health care, patient's next of kin, other appropriate surrogate decision maker designated consistent with statutory and case law, a person appointed by a court

authorizing treatment pursuant to Part 7 (commencing with Section 3200) of Division 4 of the Probate Code, or, if the patient is a minor, a person lawfully authorized to represent the minor.

(e) Patients' rights policies and procedures established under this section concerning consent, informed consent and refusal of treatments or procedures shall include, but not be limited to the following:

(1) How the facility will verify that informed consent was obtained or a treatment or procedure was refused pertaining to the administration of psychotherapeutic drugs or physical restraints or the prolonged use of a device that may lead to the inability of the patient to regain the use of a normal bodily function.

(2) How the facility, in consultation with the patient's physician, will identify consistent with current statutory case law, who may serve as a patient's representative when an incapacitated patient has no conservator or attorney in fact under a valid Durable Power of Attorney for Health Care.

Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1276, 1320, 1599, 1599.1, 1599.2 and 1599.3, Health and Safety Code; and *Cobbs v. Grant* (1972) 8 Cal.3d 229.

HISTORY

1. Amendment of subsections (a) and (b), repealer of subsection (c), and new subsections (c), (d), and (e) filed 5-27-92; operative 5-27-92 (Register 92, No. 22).

s 72528. Informed Consent Requirements.

(a) It is the responsibility of the attending physician to determine what information a reasonable person in the patient's condition and circumstances would consider material to a decision to accept or refuse a proposed treatment or procedure. Information that is commonly appreciated need not be disclosed. The disclosure of the material information and obtaining informed consent shall be the responsibility of the physician.

(b) The information material to a decision concerning the administration of a psychotherapeutic drug or physical restraint, or the prolonged use of a device that may lead to the inability of the patient to regain use of a normal bodily function shall include at least the following:

(1) The reason for the treatment and the nature and seriousness of the patient's illness.

(2) The nature of the procedures to be used in the proposed treatment including their probable frequency and duration.

(3) The probable degree and duration (temporary or permanent) of improvement or remission, expected with or without such treatment.

(4) The nature, degree, duration and probability of the side effects and significant risks, commonly known by the health professions.

(5) The reasonable alternative treatments and risks, and why the health professional is recommending this particular treatment.

(6) That the patient has the right to accept or refuse the proposed treatment, and if he or she consents, has the right to revoke his or her consent for any reason at any time.

(c) Before initiating the administration of psychotherapeutic drugs, or physical restraints, or the prolonged use of a device that may lead to the inability to regain use of a normal bodily function, facility staff shall verify that the patient's health record contains documentation that the patient has given informed consent to the proposed treatment or procedure. The facility shall also ensure that all decisions concerning the withdrawal or withholding of life sustaining treatment are documented in the patient's health record.

(d) This section shall not be construed to require obtaining informed consent each time a treatment or procedure is administered unless material circumstances or risks change.

(e) There shall be no violation for initiating treatment without informed consent if there is documentation within the patient's health record that an emergency exists where there is an unanticipated condition in which immediate action is necessary for preservation of life or the prevention of serious bodily harm to the patient or others or to alleviate severe physical pain, and it is impracticable to obtain the required consent, and provided that the action taken is within the customary practice of physicians of good standing in similar circumstances.

(f) Notwithstanding Sections 72527(a)(5) and 72528(b)(4), disclosure of the risks of a proposed treatment or procedure may be withheld if there is documentation of one of the following in the patient's health record:

(1) That the patient or patient's representative specifically requested that he or she not be informed of the risk of the recommended treatment or procedure. This request does not waive the requirement for providing the other material information concerning the treatment or procedure.

(2) That the physician relied upon objective facts, as documented in the health record, that would demonstrate to a reasonable person that the disclosure would have so seriously upset the patient that the patient would not have been able to rationally weigh the risks of refusing to undergo the recommended treatment and that, unless inappropriate, a patient's representative gave informed consent as set forth herein.

(g) A general consent provision in a contract for admission shall only encompass consent for routine nursing care or emergency care. Routine nursing care, as used in this section, means a treatment or procedure that does not require informed consent as specified in Section 72528(b)(1) through (6) or that is determined by the physician not to require the disclosure of information material to the individual patient. Routine nursing care includes, but is not limited to, care that does not require the order of a physician. This section does not preclude the use of informed consent forms for any specific treatment or procedure at the time of admission or at any other time. All consent provisions or forms shall indicate that the patient or incapacitated patient's representative may revoke his or her consent at any time.

(h) If a patient or his or her representative cannot communicate with the physician because of language or communication barriers, the facility shall arrange for an interpreter.

(1) An interpreter shall be someone who is fluent in both English and the language used by the patient and his or her legal representative, or who can communicate with a deaf person, if deafness is the communication barrier.

(2) When interpreters are used, documentation shall be placed in the patient's health record indicating the name of the person who acted as the interpreter and his or her relationship to the patient and to the facility.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1276 and 1599.72, Health and Safety Code; and Cobbs v. Grant (1972) 8 Cal.3d 229. HISTORY New section filed 5-27-92; operative 5-27-92 (Register 92, No. 22).

s 72529. Safeguards for Patients' Monies and Valuables.

(a) Each facility to whom a patient's money or valuables have been entrusted shall comply with the following:

(1) No licensee shall mingle patients' monies or valuables with that of the licensee or the facility. Patients' monies and valuables shall be maintained separate, intact and free from any liability that the licensee incurs in the use of the licensee's or the facility's funds. The provisions of this section shall not be interpreted to preclude prosecution for the fraudulent appropriation of patients' monies or valuables as theft, as defined by Section 484 of the Penal Code.

(2) Each licensee shall maintain safeguards and accurate records of patients' monies and valuables entrusted to the licensee's care including the maintenance of a detailed inventory and at least a quarterly accounting of financial transactions made on the patient's behalf.

(A) Records of patients' monies which are maintained as a drawing account shall include a control account for all receipts and expenditures, supporting vouchers and receipts for all expenditures of monies and valuables entrusted to the licensee, an account for each patient and supporting vouchers filed in chronological order. Each account shall be kept current with columns for debits, credits and balance. All of these records shall be maintained at the facility for a minimum of three years from the date of transaction. At no time may the balance in a patient's drawing account be less than zero.

(B) Records of patients' monies and other valuables entrusted to the licensee for safekeeping shall include a copy of the receipt furnished to the patient or to the patient's authorized representative. Each item of patient property entrusted to the licensee shall be clearly identified as belonging to that patient.

(3) Patients' monies not kept in the facility shall be deposited in a demand trust account in a local bank authorized to do business in California, the deposits of which are insured by the Federal Deposit Insurance Corporation, or in a federally insured bank or savings and loan association under a plan approved by the Department. If a facility is operated by a county, such funds may be deposited with the county treasurer. If a facility is operated by the State, such funds may be deposited with the State Treasurer. All banking records related to these funds, including but not limited to deposit slips, checks, cancelled checks, statements and check registers, shall be maintained in the facility for a minimum of three years from the date of transaction. Identification as a patient trust fund account shall be clearly printed on each patient's trust account checks and bank statements.

(4) A separate list shall be maintained for all checks from patient funds which are, or have been outstanding for 45 days or more as reflected on the most recent bank statement. Bank statements shall be reconciled monthly with copies of the reconciliation maintained by the facility. Any checks on such accounts written off or uncashed shall result in an addition to the appropriate patient's account.

(5) Expenditures, for a particular patient, from the patient fund account as specified in (3) above may not exceed the drawing right that the patient has in the account. Expenditures from the patient fund account shall only be for the immediate benefit of that particular patient. No more than one month's advance payment for care may be received from a patient's account.

(6) A person, firm partnership, association or corporation which is licensed to operate more than one health facility shall maintain a separate demand trust account as specified in (3) above for each such facility. Records relating to these accounts shall be maintained at each facility as specified in (2) above. Patient funds from one facility shall not be mingled with funds from another facility.

(7) When the amount of patients' money entrusted to a licensee exceeds \$500, all money in excess of \$500 shall be deposited in a demand trust account as specified in (3) and (5) above unless the licensee provides a fireproof safe and the licensee desires the protection accorded by Section 1860 of the Civil Code.

(8) Upon discharge of a patient, all money and valuables of that patient which have been entrusted to the licensee and kept within the facility shall be surrendered to the patient or authorized representative in exchange for a signed receipt. Monies in a demand trust account or with the county treasurer shall be made available within three normal banking days. Upon discharge, the patient or authorized representative shall be given a detailed list of personal property and a current copy of the debits and credits of the patient's monies.

(9) Within 30 days following the death of a patient, except in a coroner or medical examiner case, all money and valuables of that patient which have been entrusted to the licensee shall be surrendered to the person responsible for the patient or to the executor or the administrator of the estate in exchange for a signed receipt. Whenever a patient without known heirs dies, written notice within five working days, shall be given by the facility to the public administrator of the county as specified by Section 1145 of the California Probate Code and a copy of said notice shall be available in the facility for review by the Department.

(10) Upon change of ownership of a facility, there shall be a written verification by a public accountant of all patients' monies which are being transferred to the custody of the new owner(s). A signed receipt for the amount of funds in the patients' trust account shall be given by the new owner to the previous owner.

(11) Upon closure of a facility a written verification by a public accountant of all patients' monies shall be available for review by the Department. Each patients' monies shall be transferred with the patient.

(b) If property is purchased for use of more than one patient, from patient trust funds, the facility shall secure a written agreement between all patients whose funds are used, or their authorized representatives. The agreement shall expressly acknowledge consent of all parties and shall provide for disposition of the property in the event of disagreements, discharge, transfer or death.

(c) No licensee, owner, administrator, employee or their immediate relative or representatives of the aforementioned may act as an authorized representative of patients'

monies or valuables, unless the patient is a relative within the second degree of consanguinity.

(d) The facility shall make reasonable efforts to safeguard patients' property and valuables that are in possession of the patient.

(e) For purposes of this section, patients' funds maintained in a financial institution shall be deemed to be entrusted to a facility if the licensee, or any agent or employee thereof, is an authorized signatory to said account. Records maintained and provided by the financial institution in accordance with a plan which has obtained the written approval of the Department, may fulfill the obligation of the facility with regard to the maintenance of records for such funds.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Section 1276, Health and Safety Code.

s 72531. Liability for Rent and Return of Rental Advance.

(a) This section shall apply to all rental agreements executed on or after January 1, 1982.

(b) Whenever accommodations in a skilled nursing facility are rented by or for a patient on a month to month basis, the renter or his heir, legatee or personal representative shall not be liable for any rent due under the rental agreement for accommodations beyond the date on which the patient died.

(c) Any advance of rent by the renter shall be returned to the heir, legatee or personal representative of the patient no later than two weeks after discharge or death of the patient.

(d) The rights described in (b) and (c) above shall not be modified or waived in the rental agreement.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Section 1934.5, Civil Code; and Section 1276, Health and Safety Code.

s 72617. Public Telephone.

(a) A telephone shall be installed to meet the requirements of Section E702-32 of Title

24. This may not be required in separate buildings having six beds or less which are restricted to occupancy by ambulatory patients.

(b) The telephone at the nurses station shall not be considered as meeting the requirements of this section.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Section 1276, Health and Safety Code.