

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS
TITLE 22. SOCIAL SECURITY
DIVISION 5. LICENSING AND CERTIFICATION OF HEALTH FACILITIES, HOME
HEALTH
AGENCIES, CLINICS, AND REFERRAL AGENCIES
CHAPTER 3. SKILLED NURSING FACILITIES
ARTICLE 1. DEFINITIONS

s 72001. Meaning of Words.

Words shall have their usual meaning unless the context or a definition clearly indicates a different meaning. Words used in the present tense include the future; words in the singular number include the plural number; words in the plural number include the singular number. Shall means mandatory. May means permissive. Should means suggested and recommended.

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

HISTORY

Repealer of Chapter 3 (Articles 1-6, Sections 72001-272, not consecutive) and new Chapter 3 (Articles 1-7, Sections 72001-72713, not consecutive) filed 2-19-82; effective thirtieth day thereafter (Register 82, No. 8). For prior history, see Registers 81, No. 43; 80, No. 5; 79, No. 49; 79, No. 30; 79, No. 18; 79, No. 15; 79, No. 5; 79, No. 3; 78, No. 51; 78, No. 45; 78, No. 44; 78, No. 26; 77, No. 52; 77, No. 44; 77, No. 27; 77, No. 22; 77, No. 11; 77, No. 6; 77, No. 2; 76, No. 51; 76, No. 46; 76, No. 41; and 76, No. 34.

s 72003. Accredited Record Technician.

Accredited record technician means a person who is accredited as such by the American Medical Record Association.

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

s 72005. Activity Leader.

Activity leader means a person qualified by training and/or experience to develop and implement an activity program.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1276 and 1276.1, Health and Safety Code.

s 72007. Administrator.

Administrator means a person licensed as a nursing home administrator by the California Board of Examiners of Nursing Home Administrators or a person who has a state civil service classification or a state career executive appointment to perform that function in a state facility.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1276 and 1276.1, Health and Safety Code.

s 72009. Alteration.

Alteration means any construction work other than maintenance in an existing building which does not increase the floor area or roof area or the volume of enclosed space.

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

s 72011. Art Therapist.

Art therapist means a person who has a master's degree in art therapy or in art education or psychology with major course work in art, art therapy, including an approved clinical internship in art therapy from an accredited college or university, and a person who is registered or eligible for registration as such with the American Art Therapy Association.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1276 and 1276.1, Health and Safety Code.

s 72013. Audiologist.

Audiologist means a person licensed as such by the California Board of Medical Quality Assurance or a person who has a master's degree in the field and is authorized to practice under the supervision of a licensed audiologist as outlined in Section 2530.5(f), Chapter 5.3, of the Business and Professions Code.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1276 and 1276.1, Health and Safety Code.

s 72015. Authorized Representative.

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

HISTORY

Repealer filed 5-27-92; operative 5-27-92 (Register 92, No. 22).

s 72017. Biological.

Biological means a product, virus, serum, toxin, antitoxin or analogous product derived from living matter applicable to the prevention, treatment or cure of disease or injuries in humans.

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

s 72018. Chemical Restraint.

Chemical restraint means a drug used to control behavior and used in a manner not required to treat the patient's medical symptoms.

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

HISTORY

New section filed 5-27-92; operative 5-27-92 (Register 92, No. 22).

s 72018.1. Consent.

Consent means the voluntary agreement by a patient or a representative of an incapacitated patient to receive an identified treatment or procedure.

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

HISTORY

New section filed 5-27-92; operative 5-27-92 (Register 92, No. 22).

s 72019. Conservator.

Conservator means a person appointed by a court to take care of the person, the property or both of the conservatee under Section 5350 et seq., of the Welfare and Institutions Code or under Section 1800 et seq., of the Probate Code.

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

s 72021. Consultant.

Consultant means a qualified person who gives professional advice or service, with or without remuneration.

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

s 72023. Controlled Drugs.

Controlled drugs means those drugs covered under the Federal Comprehensive Drug Abuse Prevention Control Act of 1970, as amended, or the California Uniform Controlled Substances Act.

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

s 72025. Dance Therapist.

Dance therapist means a person who has a master's degree in dance therapy, including an approved clinical internship from an accredited college or university, or a person who is registered or eligible for registration as such by the American Dance Therapy Association.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1276 and 1276.1, Health and Safety Code.

s 72027. Decubitus Ulcer.

Decubitus ulcer means an ulceration of skin and underlying tissue caused by pressure.

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

s 72029. Defined.

Defined means explained in writing.

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

s 72031. Dentist.

Dentist means a person licensed as such by the California Board of Dental Examiners.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1276 and 1276.1, Health and Safety Code.

s 72033. Department.

Department means the California Department of Health Services or its designee.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1257 and 1276, Health and Safety Code.

s 72035. Dietetic Service Supervisor.

Dietetic service supervisor means a person who meets one of the following requirements:

(a) Is a qualified dietitian.

(b) Has a bachelor's degree with major studies in food and nutrition, dietetics, or food management and has one year of experience in the dietetic service of a health care institution.

(c) Is a graduate of a dietetic technician or dietetic assistant training program approved by the American Dietetic Association.

(d) Is a graduate of a state-approved program that provides 90 or more hours of classroom instruction in food service supervision.

(e) Has training experience in food service supervision and management in a military service equivalent in content to (c) or (d) of the above.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1276 and 1276.1, Health and Safety Code.

s 72037. Dietitian.

Dietitian means a person who is registered or eligible for registration as such by the American Dietetic Association.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Section 1276 and 1276.1, Health and Safety Code.

s 72039. Director.

Director means the director of the California Department of Health Services.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Section 101, Health and Safety Code.

s 72041. Distinct Part.

Distinct part means an identifiable unit accommodating beds including but not limited to contiguous rooms, a wing, floor or building that is approved by the Department for a specific purpose.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1250.1 and 1276, Health and Safety Code.

s 72043. Drug.

(a) Drug means a medication.

(b) Legend drug means any of the following:

(1) Any drug labeled with the statement "Caution: Federal Law prohibits dispensing without prescription" or words of similar import

(2) Any dangerous drug under Section 4211 of the Business and Professions Code.

(c) Psychotropic drug means a medication used to modify behavior.

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

s 72045. Drug Administration.

Drug administration means the act in which a single dose of a prescribed drug or biological is given to a patient. The complete act of administration entails removing an individual dose from a container (including a unit dose container), verifying the dose with the prescriber's orders, giving the individual dose to the patient and promptly recording the time and dose given.

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

s 72047. Drug Dispensing.

Drug dispensing means the act entailing the interpretation of a prescription order for a drug or biological and the proper selection, measuring, packaging, labeling and issuance of the drug or biological for a patient.

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

s 72049. Fomites.

Fomites means an object, or an article of clothing or material that is not in itself contaminated but is able to harbor pathogenic microorganisms which may by that means be transmitted to others.

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

s 72051. Guardian.

Guardian means a person appointed by the court to take care of the persons or the property, or both, of a ward under Section 1500 et seq., of the Probate Code.

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

s 72052. Informed Consent.

Informed consent means the voluntary agreement of a patient or a representative of an incapacitated patient to accept a treatment or procedure after receiving information in accordance with Sections 72527(a)(5) and 72528.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Section 1276, 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 72053. Intermediate Care Bed Classification.

Intermediate care bed classification means beds designated for patients requiring skilled nursing and supported care on less than a continuous basis.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1250, 1250.1 and 1276, Health and Safety Code.

s 72055. Licensed Nurse.

Licensed nurse means a registered nurse or licensed vocational nurse as defined.

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

s 72057. Licensed Psychiatric Technician.

Licensed Psychiatric Technician means a person licensed as such by the California Board of Vocational Nurse and Psychiatric Technician Examiners.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1276 and 1276.1, Health and Safety Code.

s 72059. Licensed Vocational Nurse.

Licensed Vocational Nurse means a person licensed as such by the California Board of Vocational Nurse and Psychiatric Technician Examiners.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1276 and 1276.1, Health and Safety Code.

s 72061. Licensee.

Licensee means the person, persons, firm, partnership, association, organization, company, corporation, business trust, political subdivision of the state, or other governmental agency to whom a license has been issued.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Section 1251, Health and Safety Code.

s 72063. Local Bank.

Local bank means the bank or branch of that bank which is in the vicinity of the facility.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1276 and 1318, Health and Safety Code.

s 72065. Mechanically Altered Diet.

Mechanically altered diet means a diet altered in texture.

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

s 72067. Medication.

Medication means any chemical compound, remedy or noninfectious biological substance, the action of which is not solely mechanical, which may be administered to patients by any route as an aid in the diagnosis, treatment, or prevention of disease or other abnormal condition, for relief of pain or suffering, or to control or improve any psychological or pathological condition. Products which contain medications but which are primarily used for cosmetic or other nonmedication purposes are not medications as defined above.

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

s 72069. Music Therapist.

Music therapist means a person who has a bachelor's degree in music therapy and who is registered or eligible for registration as such with the National Association for Music Therapy.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1276 and 1276.1, Health and Safety Code.

s 72071. Narrative Notes.

Narrative notes means a written record which relates, reports or reviews facts about a patient and which includes but is not limited to observations, patients' reactions to care and response to treatment.

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

s 72073. Nursing Unit.

Nursing unit means a designated patient care area of a facility which is planned, organized, operated and maintained to function as a unit. It includes patients' rooms with adequate support accommodations, services and personnel providing nursing care and necessary management of patients.

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

s 72075. Occupational Therapist.

(a) Occupational therapist means a person who is a graduate of an occupational therapy curriculum accredited jointly by the Council on Medical Education of the American Medical Association and the American Occupational Therapy Association, and who is registered or who is eligible for registration by the American Occupational Therapy Association.

(b) Occupational therapy assistant means a person who is certified or eligible for certification as such by the American Occupational Therapy Association.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1276 and 1276.1, Health and Safety Code.

s 72077. Patient.

(a) Patient means a person admitted to a skilled nursing facility for observation, diagnosis or treatment.

(b) Ambulatory patient means a patient who is able to leave a building unassisted under emergency conditions.

(c) Nonambulatory patient means a patient who is unable to leave a building unassisted under emergency conditions.

(1) The term nonambulatory patient includes, but is not limited to, persons who depend upon mechanical aids such as crutches, walkers, and wheelchairs, and shall include profoundly or severely mentally retarded persons.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1276 and 13131, Health and Safety Code.

s 72081. Pharmacist.

Pharmacist means a person licensed as such by the California Board of Pharmacy.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1276 and 1276.1, Health and Safety Code.

s 72082. Physical Restraint.

For the purposes of informed consent, physical restraint means any physical or mechanical device or material attached or adjacent to a patient's body that the patient cannot remove easily, which has the effect of restricting the patient's freedom of movement. Physical restraint does not include the use of the least restrictive immobilization reasonably necessary to administer necessary treatment of a therapeutic, non-continuous nature, such as a single injection of antibiotics, and where the immobilization is removed upon the administration of such treatment. This exception shall not include immobilizations for continuously administered treatments such as intravenous therapy.

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

HISTORY

New section filed 5-27-92; operative 5-27-92 (Register 92, No. 22).

s 72083. Physical Therapist.

(a) Physical therapist means a person licensed as such by the California Board of Medical Quality Assurance.

(b) Physical therapist assistant means a person who is approved as such by the Physical Therapy Examining Committee of the California Board of Medical Quality Assurance.

(c) Physical therapist aide means a person who, under the direct supervision of the registered physical therapist, assists with physical therapy care.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1276 and 1276.1, Health and Safety Code.

s 72085. Physician.

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

(b) Attending physician means the physician chosen by the patient or the patient's representative to be responsible for the medical treatment of the patient in the facility.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1276 and 1276.1, Health and Safety Code.

HISTORY

Editorial correction of subsection (b) (Register 95, No. 44).

s 72087. Physician's Assistant.

Physician's assistant means a person who is certified as such by the Physician's Assistant Examining Committee of the California Board of Medical Quality Assurance.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1276 and 1276.1, Health and Safety Code.

s 72089. Podiatrist.

Podiatrist means a person licensed as such by the California Board of Medical Quality Assurance.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1276 and 1276.1, Health and Safety Code.

s 72091. Psychologist.

(a) Psychologist means a person licensed as such by the California Board of Medical Quality Assurance.

(b) Clinical psychologist means a psychologist licensed by the Board of Medical Quality Assurance who (1) possesses an earned doctorate degree in psychology from an educational institution meeting the criteria of Subdivision (b) of Section 2914 of the Business and Professions Code and (2) has at least two years of clinical experience in a multidisciplinary facility licensed or operated by this or another state or by the United States to provide health care, or, is listed in the latest edition of the National Register of Health Services Providers in Psychology, as adopted by the Council for the National Register of Health Service Providers in Psychology.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1276, 1276.1, and 1316.5, Health and Safety Code.

s 72092. Psychotherapeutic Drug.

Psychotherapeutic drug means a medication to control behavior or to treat thought disorder processes.

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

HISTORY

New section filed 5-27-92; operative 5-27-92 (Register 92, No. 22).

s 72093. Recreation Therapist.

Recreation therapist means a person with specialization in therapeutic recreation and who is registered or eligible for registration as such by the California Board of Park and Recreation Personnel or the National Therapeutic Recreation Society.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1276 and 1276.1, Health and Safety Code.

s 72095. Registered Nurse.

Registered Nurse means a person licensed as such by the California Board of Registered Nursing.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1276 and 1276.1, Health and Safety Code.

s 72097. Registered Record Administrator.

Registered record administrator means a person who is registered as such by the American Medical Record Association.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1276 and 1276.1, Health and Safety Code.

s 72099. Registry Staff.

Registry staff means staff personnel provided by a placement service on a temporary or on a day-to-day basis, in a facility.

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

s 72101. Skilled Nursing Care Bed Classification.

Skilled nursing care bed classification means beds designated for patients requiring skilled nursing care on a continuous and extended basis.

Note: Authority cited: Sections 208 and 1250.1, Health and Safety Code. Reference: Sections 1250 and 1250.1, Health and Safety Code.

s 72103. Skilled Nursing Facility.

Skilled nursing facility means a health facility or a distinct part of a hospital which provides continuous skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis. It provides 24-hour

inpatient care and, as a minimum, includes physician, skilled nursing, dietary, pharmaceutical services and an activity program.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1250 and 1276, Health and Safety Code.

s 72105. Social Worker.

(a) Clinical social worker means a person who is licensed as such by the California Board of Behavioral Science Examiners.

(b) Social work assistant means a person with a baccalaureate degree in the social sciences or related fields and who receives supervision, consultation and in-service training from a social worker.

(c) Social work aide means a staff person with orientation, on-the-job training, and who receives supervision from a social worker or social work assistant.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1276 and 1276.1, Health and Safety Code.

s 72107. Speech Pathologist.

Speech pathologist means a person licensed as such by the California Board of Medical Quality Assurance or a person who has a master's degree in the field and is authorized to practice under the supervision of a licensed speech pathologist as outlined in Section 2530.5(f), Chapter 5.3, of the Business and Professions Code.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1276 and 1276.1, Health and Safety Code.

s 72109. Standing Orders.

Standing orders means those written orders which are used or intended to be used in the absence of a prescriber's specific order for a specific patient.

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

s 72111. Substantial Compliance.

Substantial compliance means conformity to regulations by a licensee to such an extent that patient safety, welfare and quality of care are assured.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1268.5, 1276 and 1437, Health and Safety Code.

s 72113. Supervision.

(a) Supervision means to instruct an employee or subordinate in their duties and to oversee or direct work, but does not necessarily require the immediate presence of the supervisor.

(b) Direct supervision means that the supervisor shall be present in the same building as the person being supervised, and available for consultation and assistance.

(c) Immediate supervision means that the supervisor shall be physically present while a task is being performed by the person being supervised.

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

s 72115. Therapeutic Diet.

Therapeutic diet means any diet modified from a regular diet in a manner essential to the treatment or control of a particular disease or illness.

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

s 72117. Unit Dose Medication System.

Unit dose medication system means a system in which single dosage units of drugs are prepackaged and prelabeled in accordance with all applicable laws and regulations governing these practices and are made available separated as to patient and by dosage time. The system shall also comprise, but not be limited to, all equipment and appropriate records deemed necessary to make the dose available to the patient in an accurate and safe manner. A pharmacist shall be in charge of and responsible for the system.

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

s 72119. Unit Patient Health Record.

Unit patient health record means a record that organizes all information on the care and treatment rendered to a patient in a facility.

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

ARTICLE 2. LICENSE

s 72201. Application Required.

(a) Whenever either of the following circumstances occur, verified application for a new license completed on forms furnished by the Department shall be submitted to the Department.

(1) Establishment of a skilled nursing facility.

(2) Change of ownership.

(b) Whenever any of the following circumstances occur, the licensee shall submit to the Department a verified application for a corrected license completed on forms furnished by the Department.

(1) Construction of new or replacement skilled nursing facility.

(2) Increase in licensed bed capacity.

(3) Change of name of facility.

(4) Change of licensed category.

(5) Change of location of facility.

(6) Change in bed classification.

(7) Addition or deletion of any special or optional units listed in Article 4.

Note: Authority cited: Sections 208(a), 1254 and 1275, Health and Safety Code.

Reference: Sections 1254, 1265 and 1267.5, Health and Safety Code.

s 72203. Fee.

(a) Each application for a license shall be accompanied by the prescribed fee. The annual license fee under this section shall be effective for the calendar year of 1979.

(1) The annual fee for a license to operate a skilled nursing facility which is being licensed for the first time or upon a change of ownership, change of location or renewal of license shall be that specified in the following schedule:

| Capacity Requested | Fee |
|------------------------|------------------------------------|
| 1-49 inclusive | \$948 plus \$13 per licensed bed |
| 50-99 inclusive | \$1,186 plus \$13 per licensed bed |
| 100 and over inclusive | \$1,540 plus \$13 per licensed bed |

(2) No fee shall be refunded to the applicant if the application is withdrawn or if the application is denied by the Department.

(3) An additional fee of \$25.00 shall be paid for processing any change of name. However, no additional fee shall be charged for any change of name which is processed upon a renewal application or upon application filed because of a change of ownership.

(b) Application fees for licenses which cover periods in excess of 12 months shall be prorated on the basis of the total number of months to be licensed divided by 12 months. (Example: 18 months divided by 12 equals 1.5 times the application fee specified in the fee schedule.)

(c) Applications for provisional licenses (for six-month periods) shall be subject to the full amount of the fee specified in the fee schedule. If upon the expiration of the provisional license a second provisional (six-month period) license is to be issued, the licensee shall receive credit for the unused portion of the fee collected and no additional fee will be required of the licensee.

If a regular license is issued upon the expiration of the first provisional license, the unused portion of the fee collected for the provisional license shall be credited against the annual fee required for the regular license. If neither a second provisional or a regular license is to be issued to the applicant, there will be no refund or any portion of the fee paid for the provisional license.

(d) When there is an increase in licensed bed capacity or a change of classification of licensure, license fees already paid that year shall be credited against the total fee due for the new bed capacity.

Note: Authority cited: Section 1275, Health and Safety Code. Reference: Sections 1266 and 1276, Health and Safety Code.

s 72205. Safety, Zoning and Building Clearance.

(a) A license shall not be issued to any skilled nursing facility which does not conform to the State Fire Marshal's requirements on fire and life safety and the state requirements on environmental impact and to local fire safety, zoning and building ordinances. Evidence of such compliances shall be presented in writing to the Department.

(b) The licensee shall maintain the skilled nursing facility in a safe structural condition. If the Department determines in a written report submitted to the licensee that an evaluation of the structural condition of a skilled nursing facility building is necessary, the licensee may be required to submit a report by a licensed structural engineer which shall establish a basis for elimination or correcting the structural conditions which may be hazardous to occupants. The licensee shall eliminate or correct any hazardous conditions.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1265.8 and 1276, Health and Safety Code.

s 72207. Separate Licenses.

Separate licenses shall be required for skilled nursing facilities which are maintained on separate premises even though they are under the same management. Separate licenses shall not be required for separate buildings on the same grounds or adjacent grounds.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Section 1251, Health and Safety Code.

s 72209. Posting.

The license or a true copy thereof shall be conspicuously posted in a location accessible to public view within the facility.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1253 and 1276, Health and Safety Code.

s 72211. Report of Changes.

(a) The licensee shall notify the Department in writing of any changes in the information provided pursuant to Sections 1265 and 1267.5, Health and Safety Code, within 10 days of such changes. This notification shall include information and documentation regarding such changes.

(b) When a change of administrator occurs, the Department shall be notified within 10 days in writing by the licensee. Such writing shall include the name and license number of the new administrator.

(c) Each licensee shall notify the Department within 10 days in writing of any change of the mailing address of the licensee. Such writing shall include the new mailing address of the licensee.

(d) When a change in the principal officer of a corporate licensee (chairman, president or general manager) occurs the Department shall be notified within 10 days in writing by the licensee. Such writing shall include the name and business address of such officer.

(e) Any decrease in licensed bed capacity of the facility shall require notification by letter to the Department and shall result in the issuance of a corrected license.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1265 and 1267.5, Health and Safety Code.

s 72213. Program Flexibility.

(a) All skilled nursing facilities shall maintain compliance with the licensing requirements. These requirements do not prohibit the use of alternate concepts, methods, procedures, techniques, equipment, personnel qualifications or the conducting of pilot projects, provided such exceptions are carried out with the provisions for safe and adequate care and with the prior written approval of the department. Such approval shall provide for the terms and conditions under which the exception is granted. A written request and substantiating evidence supporting the request shall be submitted by the applicant or licensee to the Department.

(b) Any approval of the Department granted under this Section, or a true copy thereof, shall be posted immediately adjacent to the facility's license.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Section 1268, Health and Safety Code.

s 72215. Voluntary Suspension of License, Service or Licensed Beds.

(a) Any license, or portion thereof, which has been suspended for a period of time approved by the Department shall remain subject to all renewal requirements of an active license, including the payment of license renewal fees during the period of suspension.

(b) If the license is not reinstated during the period of approved suspension, the license shall expire automatically and shall not qualify for reinstatement; however, an application may be submitted for a new license.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Section 1300, Health and Safety Code.

s 72216. Conviction of Crime: Standards for Evaluating Rehabilitation.

When considering the denial, suspension or revocation of a license based on the conviction of a crime in accordance with Section 1265.1 or 1294 of the Health and Safety Code, the following criteria shall be considered in evaluating rehabilitation:

(1) The nature and the seriousness of the crime(s) under consideration.

(2) Evidence of conduct subsequent to the crime which suggests responsible or irresponsible character.

(3) The time which has elapsed since commission of the crime(s) or conduct referred to in subdivision (1) or (2).

(4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanction lawfully imposed against the applicant.

(5) Any rehabilitation evidence submitted by the applicant.

Note: Authority cited: Sections 208(a), 1265.2 and 1275, Health and Safety Code. Reference: Sections 1265.1, 1265.2 and 1294, Health and Safety Code.

HISTORY

New section filed 9-13-84; effective thirtieth day thereafter (Register 84, No. 37).

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.

ARTICLE 3. REQUIRED SERVICES

s 72301. Required Services.

- (a) Skilled nursing facilities shall provide, but shall not be limited to, the following required services: physician, skilled nursing, dietary, pharmaceutical and an activity program.
- (b) Skilled nursing facilities caring for patients who are mentally disordered and whose needs for a special treatment program are identified shall also meet the requirements for a special treatment program service.
- (c) Skilled nursing facilities providing intermediate care services shall do so in a distinct part separately approved by the Department and shall be in conformity with the licensing regulations for the type of service provided in that distinct part. The facility license shall indicate approval of the distinct part by the Department.
- (d) Written arrangements shall be made for obtaining all necessary diagnostic and therapeutic services prescribed by the attending physician, podiatrist, dentist, or clinical psychologist subject to the scope of licensure and the policies of the facility. If the service cannot be brought into the facility, the facility shall assist the patient in arranging for transportation to and from the service location.
- (e) Arrangements shall be made for an advisory dentist to participate at least annually in the staff development program for all patient care personnel and to approve oral hygiene policies and practices for the care of patients.
- (f) The facility shall ensure that all orders, written by a person lawfully authorized to prescribe, shall be carried out unless contraindicated.
- (g) The facility shall make arrangements for a physician or physicians to be available to furnish emergency medical care if the attending physician, or designee, is unavailable. The telephone numbers of those physicians shall be posted in a conspicuous place in the facility.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1252, 1276, 1315, 1316 and 1316.5, Health and Safety Code.

HISTORY

Amendment filed 2-8-83; designated effective 3-2-83 (Register 83, No. 7).

s 72303. Physician Services -General Requirements.

- (a) Physician services shall mean those services provided by physicians responsible for the care of individual patients in the facility. All persons admitted or accepted for care by the skilled nursing facility shall be under the care of a physician selected by the patient or patient's authorized representative.

(b) Physician services shall include but are not limited to:

(1) Patient evaluation including a written report of a physical examination within 5 days prior to admission or within 72 hours following admission.

(2) An evaluation of the patient and review of orders for care and treatment on change of attending physicians.

(3) Patient diagnoses.

(4) Advice, treatment and determination of appropriate level of care needed for each patient.

(5) Written and signed orders for diet, care, diagnostic tests and treatment of patients by others. Orders for restraints shall meet the requirements of Section 72319(b).

(6) Health record progress notes and other appropriate entries in the patient's health records.

(7) Provision for alternate physician coverage in the event the attending physician is not available.

(c) Nonphysician practitioners may be permitted to render those medical services which they are legally authorized to perform. Nonphysician practitioners means any of the following:

(1) Physicians' assistants working under the responsibility and supervision of a physician approved as a supervisor by the Board of Medical Quality Assurance and performing only those selected diagnostic and therapeutic tasks identified in Title 16, California Administrative Code, Chapter 13, Subchapter 3, Article 5.

(2) Registered nurses may perform patient care services utilizing "Standardized Procedures" which have been approved by the medical staff, or by the medical director if there is no organized medical staff, the registered nurse and the administrator as authorized in the Business and Professions Code, Chapter 5, Article 2, Section 2725.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Section 1276, Health and Safety Code; and Valdivia, et al. v. Coye, U.S. District Court for the Eastern District of California, Case No. CIV S-90-1226.

HISTORY

Amendment of subsection (b) (5) and Note filed 5-25-95; operative 6-26-95 (Register 95, No. 21).

s 72305. Physician Services -Medical Director.

(a) The facility shall have a medical director who shall be responsible for standards, coordination, surveillance and planning for improvement of medical care in the facility.

(b) The medical director shall:

(1) Act as a liaison between administration and attending physicians.

(2) Be responsible for reviewing and evaluating administrative and patient care policies and procedures.

(3) Act as a consultant to the director of nursing service in matters relating to patient care services.

(4) Be responsible for reviewing employees' preemployment and annual health examination reports.

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

s 72307. Physician Services -Supervision of Care.

(a) Each patient admitted to the skilled nursing facility shall be under the continuing supervision of a physician who evaluates the patient as needed and at least every 30 days unless there is an alternate schedule, and who documents the visits in the patient health record.

(b) Alternate schedules of visits shall be documented in the patient health record with a medical justification by the attending physician. The alternate schedule shall conform with facility policy.

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

s 72309. Nursing Service.

Nursing service means a service staffed, organized and equipped to provide skilled nursing care to patients on a continuous basis.

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

s 72311. Nursing Service –General

(a) Nursing service shall include, but not be limited to, the following:

(1) Planning of patient care, which shall include at least the following:

(A) Identification of care needs based upon an initial written and continuing assessment of the patient's needs with input, as necessary, from health professionals involved in the care of the patient. Initial assessments shall commence at the time of admission of the patient and be completed within seven days after admission.

(B) Development of an individual, written patient care plan which indicates the care to be given, the objectives to be accomplished and the professional discipline responsible for each element of care. Objectives shall be measurable and time-limited.

(C) Reviewing, evaluating and updating of the patient care plan as necessary by the nursing staff and other professional personnel involved in the care of the patient at least quarterly, and more often if there is a change in the patient's condition.

(2) Implementing of each patient's care plan according to the methods indicated. Each patient's care shall be based on this plan.

(3) Notifying the attending physician promptly of:

(A) The admission of a patient.

(B) Any sudden and/or marked adverse change in signs, symptoms or behavior exhibited by a patient.

(C) An unusual occurrence involving a patient, as defined in Section 72541.

(D) A change in weight of five pounds or more within a 30-day period unless a different stipulation has been stated in writing by the patient's physician.

(E) Any untoward response or reaction by a patient to a medication or treatment.

(F) Any error in the administration of a medication or treatment to a patient which is life threatening and presents a risk to the patient.

(G) The facility's inability to obtain or administer, on a prompt and timely basis, drugs, equipment, supplies or services as prescribed under conditions which present a risk to the health, safety or security of the patient.

(b) All attempts to notify physicians shall be noted in the patient's health record including the time and method of communication and the name of the person acknowledging contact, if any. If the attending physician or his designee is not readily available, emergency medical care shall be provided as outlined in Section 72301(g).

(c) Licensed nursing personnel shall ensure that patients are served the diets as prescribed by attending physicians.

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

s 72313. Nursing Service -Administration of Medications and Treatments.

(a) Medications and treatments shall be administered as follows:

(1) No medication or treatment shall be administered except on the order of a person lawfully authorized to give such order.

(2) Medications and treatments shall be administered as prescribed.

(3) Tests and taking of vital signs, upon which administration of medications or treatments are conditioned, shall be performed as required and the results recorded.

(4) Preparation of doses for more than one scheduled administration time shall not be permitted.

(5) All medications and treatments shall be administered only by licensed medical or licensed nursing personnel with the following exceptions:

(A) Students in the healing arts professions may administer medications and treatments only when the administration or medications and treatments is incidental to their course of study as approved by the professional board or organization legally authorized to give such approval.

(B) Unlicensed persons may, under the direct supervision of licensed nursing or licensed medical personnel, during training or after completion of training and demonstrated evidence of competence, administer the following:

1. Medicinal shampoos and baths.

2. Laxative suppositories and laxative enemas.

3. Nonlegend topical ointments, creams, lotions and solutions when applied to intact skin surfaces. Unlicensed persons shall not administer any medication associated with treatment of eyes, ears, nose, mouth, or genitourinary tract.

(6) Medications shall be administered as soon as possible, but no more than two hours after doses are prepared, and shall be administered by the same person who prepares the doses for administration. Doses shall be administered within one hour of the prescribed time unless otherwise indicated by the prescriber.

(7) Patients shall be identified prior to administration of a drug or treatment.

(8) Drugs may be administered in the absence of a specific duration of therapy on a licensed prescriber's new drug order if the facility applies its stop-order policy for such drugs. The prescriber shall be contacted prior to discontinuing therapy as established by stop-order policy.

(b) No medication shall be used for any patient other than the patient for whom it was prescribed.

(c) The time and dose of the drug or treatment administered to the patient shall be recorded in the patient's individual medication record by the person who administers the drug or treatment. Recording shall include the date, the time and the dosage of the medication or type of the treatment. Initials may be used, provided that the signature of the person administering the medication or treatment is also recorded on the medication or treatment record.

(d) Oxygen equipment shall be maintained as follows:

(1) Humidifier bottles on oxygen equipment shall be changed and sterilized at least every 24 hours.

(2) Only sterile distilled, demineralized or de-ionized water shall be used in humidifier bottles.

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

s 72315. Nursing Service -Patient Care.

(a) No patient shall be admitted or accepted for care by a skilled nursing facility except on the order of a physician.

(b) Each patient shall be treated as individual with dignity and respect and shall not be subjected to verbal or physical abuse of any kind.

(c) Each patient, upon admission, shall be given orientation to the skilled nursing facility and the facility's services and staff.

(d) Each patient shall be provided care which shows evidence of good personal hygiene, including care of the skin, shampooing and grooming of hair, oral hygiene, shaving or beard trimming, cleaning and cutting of fingernails and toenails. The patient shall be free of offensive odors.

(e) Each patient shall be encouraged and/or assisted to achieve and maintain the highest level of self-care and independence. Every effort shall be made to keep patients active, and out of bed for reasonable periods of time, except when contraindicated by physician's orders.

(f) Each patient shall be given care to prevent formation and progression of decubiti, contractures and deformities. Such care shall include:

(1) Changing position of bedfast and chairfast patients with preventive skin care in accordance with the needs of the patient.

(2) Encouraging, assisting and training in self-care and activities of daily living.

(3) Maintaining proper body alignment and joint movement to prevent contractures and deformities.

(4) Using pressure-reducing devices where indicated.

(5) Providing care to maintain clean, dry skin free from feces and urine.

(6) Changing of linens and other items in contact with the patient, as necessary, to maintain a clean, dry skin free from feces and urine.

(7) Carrying out of physician's orders for treatment of decubitus ulcers. The facility shall notify the physician, when a decubitus ulcer first occurs, as well as when treatment is not effective, and shall document such notification as required in Section 72311(b).

(g) Each patient requiring help in eating shall be provided with assistance when served, and shall be provided with training or adaptive equipment in accordance with identified needs, based upon patient assessment, to encourage independence in eating.

(h) Each patient shall be provided with good nutrition and with necessary fluids for hydration.

(i) Measures shall be implemented to prevent and reduce incontinence for each patient and shall include:

(1) Written assessment by a licensed nurse to determine the patient's ability to participate in a bowel and/or bladder management program. This is to be initiated within two weeks after admission of an incontinent patient.

(2) An individualized plan, in addition to the patient care plan, for each patient in a bowel and/or bladder management program.

(3) A weekly written evaluation in the progress notes by a licensed nurse of the patient's performance in the bowel and/or bladder management program.

(j) Fluid intake and output shall be recorded for each patient as follows:

(1) If ordered by the physician.

(2) For each patient with an indwelling catheter:

(A) Intake and output records shall be evaluated at least weekly and each evaluation shall be included in the licensed nurses' progress notes.

(B) After 30 days the patient shall be reevaluated by the licensed nurse to determine further need for the recording of intake and output.

(k) The weight and length of each patient shall be taken and recorded in the patient's health record upon admission, and the weight shall be taken and recorded once a month thereafter.

(l) Each patient shall be provided visual privacy during treatments and personal care.

(m) Patient call signals shall be answered promptly.

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

s 72317. Nursing Service -Standing Orders.

Standing orders shall not be used in skilled nursing facilities.

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

s 72319. Nursing Service -Restraints and Postural Supports.

(a) Written policies and procedures concerning the use of restraints and postural supports shall be followed.

(b) Restraints shall only be used with a written order of a physician or other person lawfully authorized to prescribe care. The order must specify the duration and circumstances under which the restraints are to be used. Orders must be specific to individual patients. In accordance with Section 72317, there shall be no standing orders and in accordance with Section 72319(i)(2)(A), there shall be no P.R.N. orders for physical restraints.

(c) The only acceptable forms of physical restraints shall be cloth vests, soft ties, soft cloth mittens, seat belts and trays with spring release devices. Soft ties means soft cloth which does not cause abrasion and which does not restrict blood circulation.

(d) Restraints of any type shall not be used as punishment, as a substitute for more effective medical and nursing care, or for the convenience of staff.

(e) No restraints with locking devices shall be used or available for use in a skilled nursing facility.

(f) Seclusion, which is defined as the placement of a patient alone in a room, shall not be

employed.

(g) Restraints shall be used in such a way as not to cause physical injury to the patient and to insure the least possible discomfort to the patient.

(h) Physical restraints shall be applied in such a manner that they can be speedily removed in case of fire or other emergency.

(i) The requirements for the use of physical restraints are:

(1) Treatment restraints may be used for the protection of the patient during treatment and diagnostic procedures such as, but not limited to, intravenous therapy or catheterization procedures. Treatment restraints shall be applied for no longer than the time required to complete the treatment.

(2) Physical restraints for behavior control shall only be used on the signed order of a physician or other person lawfully authorized to prescribe care, except in an emergency which threatens to bring immediate injury to the patient or others. In such an emergency an order may be received by telephone, and shall be signed within 5 days. Full documentation of the episode leading to the use of the physical restraint, the type of the physical restraint used, the length of effectiveness of the restraint time and the name of the individual applying such measures shall be entered in the patient's health record.

(A) Physical restraints for behavioral control shall only be used with a written order designed to lead to a less restrictive way of managing, and ultimately to the elimination of, the behavior for which the restraint is applied. There shall be no PRN orders for behavioral restraints.

(B) Each patient care plan which includes the use of physical restraint for behavior control shall specify the behavior to be eliminated, the method to be used and the time limit for the use of the method.

(C) Patients shall be restrained only in an area that is under supervision of staff and shall be afforded protection from other patients who may be in the area.

(j) When drugs are used to restrain or control behavior or to treat a disordered thought process, the following shall apply:

(1) The specific behavior or manifestation of disordered thought process to be treated with the drug is identified in the patient's health record.

(2) The plan of care for each patient specifies data to be collected for use in evaluating the effectiveness of the drugs and the occurrence of adverse reactions.

(3) The data collected shall be made available to the prescriber in a consolidated manner at least monthly.

(4) PRN orders for such drugs shall be subject to the requirements of this section.

(k) "Postural support" means a method other than orthopedic braces used to assist patients to achieve proper body position and balance. Postural supports may only include soft ties, seat belts, spring release trays or cloth vests and shall only be used to improve a patient's mobility and independent functioning, to prevent the patient from falling out of a bed or chair, or for positioning, rather than to restrict movement. These methods shall not be considered restraints.

(1) The use of postural support and the method of application shall be specified in the patient's care plan and approved in writing by the physician or other person lawfully authorized to provide care.

(2) Postural supports shall be applied:

(A) Under the supervision of a licensed nurse.

(B) In accordance with principles of good body alignment and with concern for circulation and allowance for change of position.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Section 1276, Health and Safety Code; and Valdivia, et al. v. Coye, U.S. District Court for the Eastern District of California, Case No. CIV S-90-1226.

HISTORY

Amendment of subsection (b) and Note filed 5-25-95; operative 6-26-95 (Register 95, No. 21).

s 72321. Nursing Service -Patients with Infectious Diseases.

(a) Patients with infectious diseases shall not be admitted to or cared for in the facility unless the following requirements are met:

(1) A patient suspected of or diagnosed as having an infectious or reportable communicable disease or being in a carrier state who the attending officer determines is a potential danger, shall be accommodated in a room, vented to the outside, and provided with a separate toilet, hand-washing facility, soap dispenser and individual towels.

(2) There shall be:

(A) Separate provisions for handling contaminated linens.

(B) Separate provisions for handling contaminated dishes.

(b) The facility shall adopt, observe and implement written infection control policies and procedures. These policies and procedures shall be reviewed at least annually and revised as necessary.

(c) The following shall be available in each nurse's station:

(1) The facility's infection control policies and procedures.

(2) Name, address and telephone numbers of local health officers.

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

s 72323. Nursing Service -Cleaning, Disinfecting and Sterilizing.

(a) Each facility shall adopt a written manual on cleaning, disinfecting and sterilizing procedures. The manual shall include procedures to be used in the care of utensils, instruments, solutions, dressings, articles and surfaces and shall be available for use by facility personnel. All procedures shall be carried out in accordance with the manual.

(b) Each facility shall make provisions for the cleaning and disinfecting of contaminated articles and surfaces which cannot be sterilized.

(c) Bedside equipment including but not limited to washbasins, emesis basins, bedpans and urinals shall be sanitized only by one of the following methods:

(1) Submersion in boiling water for a minimum of 30 minutes.

(2) Autoclaving at 15 pounds pressure and 121 degrees C (250) for 20 minutes.

(3) Gas sterilization.

(d) Chemicals shall not be used as a substitute for the methods specified in (c) above.

(e) Electronic thermometers shall be cleaned and disinfected according to the manufacturer's instructions. Glass thermometers shall be cleaned and disinfected for at least 10 minutes with 70 percent ethyl alcohol or 90 percent isopropyl alcohol with 0.2 percent iodine. Oral and rectal thermometers shall be stored separately in clean, labeled containers with fitted lids.

(f) Individual patient care supply items designed and identified by the manufacturer to be disposable shall not be reused.

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

s 72325. Nursing Service -Space.

(a) An office or other suitable space shall be provided for the director of nursing service.

(b) A nursing station shall be maintained in each nursing unit or building.

(c) Each nursing station shall have a cabinet, a desk, space for records, a bulletin board, a telephone and a specifically designated and well illuminated medication storage compartment with a lockable door. If a separate medication room is maintained, it shall have a lockable door and a sink with water connections for care of equipment and for handwashing.

(d) If a refrigerator is provided in a nursing station, the refrigerator shall meet the following standards:

(1) Be located in a clean area not subject to contamination by human waste.

(2) Maintain temperatures at or below 7 degrees C (45 degrees F) for chilling.

(3) Maintain the freezer at minus 18 degrees C (0 degrees F).

(4) Contain an accurate thermometer at all times.

(5) If foods are retained in the refrigerator, they shall be covered and clearly identified as to contents and date initially covered.

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

s 72327. Nursing Service -Director of Nursing Service.

(a) The director of nursing service shall be a registered nurse and shall be employed eight hours a day, on the day shift five days a week.

(b) The director of nursing service shall have at least one year of experience in nursing supervision within the last five years.

(c) The director of nursing service shall have, in writing, administrative authority, responsibility and accountability for the nursing services within the facility and serve only one facility in this capacity at any one time.

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

22 CCR § 72329.1

Cal. Admin. Code tit. 22, § 72329.1

Barclays Official California Code of Regulations

Title 22. Social Security Division 5. Licensing and Certification of Health Facilities, Home Health Agencies, Clinics, and Referral Agencies (Refs & Annos)

Chapter 3. Skilled Nursing Facilities

Article 3. Required Services

§ 72329.1. Nursing Service-Staff.

(a) Nursing service personnel shall be employed and on duty in at least the number and with the qualifications determined by the Department to provide the necessary nursing services for patients admitted for care. The staffing requirements required by this section are minimum standards only.

Skilled nursing facilities shall employ and schedule additional staff as needed to ensure quality resident care based on the needs of individual residents and to ensure compliance with all relevant state and federal staffing requirements. The Department may require a facility to provide additional staff as set forth in Section 72501(g).

(b) Facilities licensed for 59 or fewer beds shall have at least one registered nurse or a licensed vocational nurse, awake and on duty, in the facility at all times, day and night.

(c) Facilities licensed for 60 to 99 beds shall have at least one registered nurse or licensed vocational nurse, awake and on duty, in the facility at all times, day and night, in addition to the director of nursing services. The director of nursing services shall not have charge nurse responsibilities.

(d) Facilities licensed for 100 or more beds shall have at least one registered nurse, awake and on duty, in the facility at all times, day and night, in addition to the director of nursing services. The director of nursing services shall not have charge nurse responsibilities.

(e) Nursing stations shall be staffed with nursing personnel when patients are housed in the nursing unit.

(f) Each facility shall employ sufficient nursing staff to provide a minimum of 3.2 nursing hours per patient day.

(1) Facilities which provide care for mentally disordered patients and in which licensed psychiatric technicians provide patient care shall meet the following standards:

(A) If patients are not certified for special treatment programs, facilities shall employ sufficient staff to provide a minimum of 3.2 nursing hours per patient day.

(B) For patients certified for special treatment programs, facilities shall employ sufficient staff to provide a minimum of 2.3 nursing hours per patient day for each patient certified to the special treatment program, exclusive of additional staff required to meet the staffing standards of the special treatment program.

(g) Only direct caregivers as defined in Section 72038 shall be included in the staff-to-patient ratios.

The ratios shall be based on the anticipated individual patient needs for the activities of each shift and shall be distributed throughout the day to achieve a minimum of 3.2 nursing hours per patient day.

(1) Skilled nursing facilities shall employ and schedule additional staff to ensure patients receive nursing care based on their needs.

(2) The calculation of the staff-to-patient ratio shall be based on the daily census of patients in the skilled nursing facility and not the total number of beds. Bedholds shall not be included in the calculations of the staff-to-patient ratio. If the census changes during a 24 hour period, the calculation shall be based upon the highest number of patients in the facility during the period.

(3) Unless granted a waiver pursuant to subsection (j), facilities shall use the following ratios:

(A) On the day shift, the ratio shall be at least one direct caregiver for every 5 patients or fraction thereof;

(B) On the evening shift, the ratio shall be at least one direct caregiver for every 8 patients or fraction thereof; and,

(C) On the night shift, the ratio shall be at least one direct caregiver for every 13 patients or fraction thereof.

(D) There shall be one licensed nurse for every 8 or fewer patients, based on the facility census for the 24 hour period. These are not in addition to the requirements in subparagraphs (A) through (C) above, and may be assigned to shifts as required by the facility, subject to other statutory and regulatory requirements.

(4) "Day shift" refers to the 8-hour period during which a facility's patients require the greatest amount of care. "Evening shift" refers to the 8-hour period when the facility's patients require more than minimal care. "Night shift" refers to the 8-hour period during which a facility's patients require the least amount of care. A facility that uses other than 8-hour shifts for its direct caregivers shall seek a waiver under subsection (j) to continue that practice.

(5) A "shift" is defined as the working period of one direct caregiver, or the full time equivalent of one direct caregiver, who performs eight hours of nursing services, as defined in section 72038. Other than time spent on normal rest periods required by section 11020 of Title 8 of the California Code of Regulations, or in the in-service training at the facility required by section 71847, time not spent providing nursing services, such as that spent at meal periods, may not be included in calculating a shift. A facility that uses fractions of a shift to meet the ratios must ensure that the posting required by subsection (i) contains this information in a form that will enable all interested persons to verify that the required staffing is provided and the ratios are met.

(6) A citation for a class "AA", class "A" or class "B" violation may be issued for a violation of this section that meets the requirements specified in Section 1424 of the Health and Safety Code.

(h) The facility shall retain the staff assignment record that it employs to comply with subsection (i) for each shift, the licensing and/or certification status of the staff, and the patient census for each shift. Records documenting staffing, including staff assignment records and payroll records, shall be retained for a minimum of three years. Unless the request is made by Department staff who are present at the facility, in which case it must be provided immediately, documentation of staffing shall be provided to the Department within ten days of the Department's request for the documentation. If the facility is unable to provide the documentation requested by the Department, it shall cease admitting new patients until it demonstrates to the Department that it has the staff necessary to provide the care needed by the patients by submitting the requested documentation. The facility shall also comply with the provisions of Section 1429.1 of the Health and Safety Code.

(i) The facility shall post the patient census and staffing information daily. The posting shall include the actual number of licensed and certified nursing staff directly responsible for the care of patients for that particular day on each shift. The facility may use the form it currently uses to comply with the requirements of section 483.30 of title 42 of the Code of Federal Regulations, but, in addition to the information the federal regulation requires it to contain, it shall also designate the patient assignment by specifying each room and each bed to which each certified nurse assistant is assigned during his or her shift, and shall additionally specify the assignment of each licensed nurse and any other direct caregiver not assigned to a specific room or beds. This posting shall be publicly displayed in a clearly visible place.

(j) The facility may request a waiver for the staff-to-patient ratio in accordance with Section 1276.65 of the Health and Safety Code as long as the facility continues to meet the 3.2 nursing hours per patient day requirement.

(1) The facility shall submit a written request for a waiver with substantiating information to the Department. The facility shall request the waiver by using the program flexibility procedures specified in Section 72213, and the Department shall process the request as required by Section 1276 of the Health and Safety Code.

(2) The facility shall notify the Department if there has been a change in the substantiating information. A request for a waiver with substantiating information included shall be updated and resubmitted annually.

(k) Staffing for a distinct part intermediate care unit in a skilled nursing facility:

(1) Units of less than 50 intermediate care beds shall not be required to provide licensed personnel in addition to those provided in the skilled nursing facility unless the Department determines through a written evaluation that additional licensed personnel are necessary to protect the health and safety of patients.

(2) Units of 50 or more intermediate care beds shall provide a registered nurse or licensed vocational nurse employed 8 hours on the day shift, 7 days per week in the unit.

(3) For purposes of this section intermediate care beds that are licensed as such by the Department shall not be included for establishing licensed nurse staffing as required in subsection (f)(1) if the unit is used exclusively for intermediate care patients.

(1) Initial implementation of this section shall be contingent on an appropriation in the annual Budget Act or another statute, in accordance with Health and Safety Code Section 1276.65(i).

Note: Authority cited: Sections 1275, 1276.5, 1276.65 and 131200, Health and Safety Code.

Reference: Sections 1276, 1276.5, 1276.65 and 131051, Health and Safety Code; and Section

14110.7(c), Welfare and Institutions Code.

HISTORY

1. New section filed 1-22-2009; operative pursuant to Health and Safety Code section 1276.65(i) (Register 2009, No. 4).
22 CCR § 72329.1, 22 CA ADC § 72329.1

This database is current through 11/26/10 Register 2010, No. 48

s 72331. Nursing Service-Nurse Assistant Training and Certificate.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1137.7 through 1338.3, 1439.1 through 1439.8 and 1276, Health and Safety Code.

HISTORY

1. Repealer filed 7-16-91 as an emergency; operative 7-16-91 (Register 91, No. 46). A Certificate of Compliance must be transmitted to OAL by 11-13-91 or emergency repeal will be reinstated by operation of law on the following day.

2. Repealer refiled 11-14-91 as an emergency; operative 11-13-91 (Register 92, No. 8). A Certificate of Compliance must be transmitted to OAL 3-12-92 or emergency language will be repealed by operation of law on the following day.

3. Editorial correction of History 2. filed and repealer refiled 5-6-92 as an emergency; operative 5-6-92 (Register 92, No. 20). A Certificate of Compliance must be transmitted to OAL 9-3-92 or emergency language will be

repealed by operation of law on the following day.

4. Certificate of Compliance as to 5-6-92 order transmitted to OAL 8-27-92 and filed 10-9-92 (Register 92, No. 41).

s 72333. Dietetic Service -General.

"Dietetic service" means a service organized, staffed and equipped to assure that food service to patients is safe, appetizing and provides for their nutritional needs.

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

s 72335. Dietetic Service -Food Service.

(a) The dietetic service shall provide food of the quality and quantity to meet each patient's needs in accordance with the physicians' orders and to meet "The Recommended Daily Dietary Allowance," the most current edition, adopted by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences, and the following:

(1) Not less than 3 meals shall be served daily and with not more than a 14- hour span between the last meal and the first meal of the following day.

(2) Between-meal feeding shall be provided as required by the diet order. Bedtime nourishments shall be offered to all patients unless contraindicated.

(3) Patient food preferences shall be adhered to as much as possible and substitutes for all food refused shall be from appropriate food groups. Condiments such as salt, pepper or sugar shall be available at each meal unless contraindicated by the diet order.

(4) Table service shall be provided for all patients who can and wish to eat at a table. Tables of appropriate height shall be provided for patients in wheelchairs.

(5) No food ordered for the facility shall be diverted or taken from the facility. No rebates shall be received or allowed to the facility or its owners, directors, officers or employees from any commercial food source.

(6) When food is provided by an outside resource, the facility shall ensure that all federal, state and local requirements are met. The facility shall maintain a written plan, adequate space, equipment and food supplies to provide patients' food service in emergencies.

(7) Recipes for all items that are prepared for regular and therapeutic diets shall be available and used to prepare attractive and palatable meals, in which nutritive values, flavor and appearance are conserved. Food shall be served attractively, at appropriate temperatures with appropriate eating utensils and in a form to meet individual needs.

(b) A current profile card shall be maintained for each patient, indicating diet order, likes, dislikes, allergies to foods, diagnosis and instructions or guidelines to be followed in the preparation and serving of food for the patient.

(c) All regular and therapeutic diets shall be prescribed by a person lawfully authorized to give such an order. Verbal orders may be received and recorded by a qualified dietitian and shall be signed by the prescriber within five days.

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

s 72337. Dietetic Service -Diet Manual.

A current therapeutic diet manual, approved by the dietitian and the patient care policy committee, shall be readily available to the attending physician, nursing and dietetic personnel. It shall be reviewed annually and revised at least every five years.

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

s 72339. Dietetic Service -Therapeutic Diets.

Therapeutic diets shall be provided for each patient as prescribed and shall be planned, prepared and served with supervision and/or consultation from the dietitian. Persons responsible for therapeutic diets shall have sufficient knowledge of food values to make appropriate substitutions when necessary.

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

s 72341. Dietetic Service -Menus.

(a) Menus for regular and therapeutic diets shall be written at least one week in advance, dated and posted in the kitchen at least one week in advance.

(b) All menus shall be approved by the dietitian.

(c) If any meal served varies from the planned menu, the change and the reason for the change shall be noted in writing on the posted menu in the kitchen.

(d) Menus shall provide a variety of foods and indicate standard portions at each meal. Menus shall be varied for the same day of consecutive weeks. If a cycle menu is used, the cycle shall be of no less than three weeks duration and shall be revised quarterly.

(e) Menus shall be adjusted to include seasonal commodities.

(f) Menus shall be planned with consideration of cultural background and food habits of patients.

(g) A copy of the menu as served shall be kept on file for at least 30 days.

(h) Itemized records of food purchases shall be kept for one year and available for review by the Department. Food purchases invoices are acceptable provided they list amounts and types of foods purchased.

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

s 72343. Dietetic Service -Food Storage.

(a) Food storage areas shall be clean at all times.

(b) All foods or food items not requiring refrigeration shall be stored above the floor, on shelves, racks, dollies or other surfaces which facilitate thorough cleaning, in a ventilated room, not subject to sewage or wastewater backflow or contamination by condensation, leakage, rodents or vermin. All packaged food, canned foods, or food items stored shall be kept clean and dry at all times.

(c) All readily perishable foods or beverages shall be maintained at temperatures of 7 degrees C (45 degrees F) or below, or at 60 degrees C (140 degrees F) or above, at all times, except during necessary periods of preparation and service. Frozen foods shall be stored at minus 18 degrees C (0 degrees F) or below at all times. There shall be an accurate thermometer in each refrigerator and freezer and in storerooms used for perishable foods. All foods stored in walk-in refrigerators and freezers shall be stored above the floor on shelves, racks, dollies or other surfaces that facilitate thorough cleaning.

(d) Pesticides and other toxic substances and drugs shall not be stored in the kitchen area or in storerooms for food or food preparation equipment and utensils.

(e) Soaps, detergents, cleaning compounds or similar substances shall be stored in separate storage areas.

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

s 72345. Dietetic -Sanitation.

(a) All kitchens and kitchen areas shall be kept clean, free from litter and rubbish and protected from rodents, roaches, flies and other insects.

(b) All utensils, counters, shelves and equipment shall be kept clean, maintained in good repair and shall be free from breaks, corrosion, open seams, cracks and chipped areas.

(c) Plastic ware, china and glassware that cannot be sanitized or are hazardous because of

chips, cracks or loss of glaze shall be discarded.

(d) Ice which is used in connection with food or drink shall be from a sanitary source and shall be handled and dispensed in a sanitary manner.

(e) Kitchen wastes that are not disposed of by mechanical means shall be kept in clean, leakproof, nonabsorbent, tightly closed containers and shall be disposed of as frequently as necessary to prevent a nuisance or unsightliness.

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

s 72347. Dietetic Service -Cleaning and Disinfection of Utensils.

(a) All utensils used for eating, drinking and in the preparation and serving of food and drink shall be cleaned and disinfected or discarded after each usage.

(b) Gross food particles shall be removed by careful scraping and prerinsing in running water.

(c) Utensils not washed by mechanical means shall be placed in hot water with a minimum temperature of 43 degrees C (110 degrees F), washed using soap or detergent, rinsed in hot water to remove soap or detergent and disinfected by one of the following methods or equivalent, as approved by the Department:

(1) Immersion for at least two minutes in clean water at 77 degrees C (170 degrees F).

(2) Immersion for at least 30 seconds in clean water at 83 degrees C (180 degrees F).

(3) Immersion in water containing bactericidal chemical as approved by the Department.

(d) After disinfection the utensils shall be allowed to drain and dry in racks or baskets on nonabsorbent surfaces. Drying cloths shall not be used.

(e) Results obtained with dishwashing machines shall be equal to those obtained by the methods outlined above and all dishwashing machines shall meet the requirements contained in Standard No. 3, as amended in April 1965, of the National Sanitation Foundation. Hot water at a minimum temperature of 83 degrees C (180 degrees F), shall be maintained at the manifold of the final rinse.

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

s 72349. Dietetic Service -Equipment and Supplies.

(a) Equipment of the type and in the amount necessary for the proper preparation, serving and storing of food and for proper dishwashing shall be provided and maintained in good

working order.

(b) Fixed and mobile equipment in the dietetic service area shall be located to assure sanitary and safe operation and shall be of sufficient size to handle the needs of the facility.

(c) The dietetic service area shall be ventilated in a manner that will maintain comfortable working conditions, remove objectionable odors, fumes and prevent excessive condensation.

(d) Food supplies shall meet the following standards:

(1) At least one week's supply of staple foods and at least two days' supply of perishable foods shall be maintained on the premises. Food supplies shall meet the requirements of the weekly menu including the therapeutic diets ordered.

(2) All food shall be of good quality and procured from sources approved or considered satisfactory by federal, state or local authorities. Food in unlabeled, rusty, leaking, broken containers or cans with side seam dents, rim dents or swells shall not be retained or used.

(3) Milk, when served as a beverage, shall be pasteurized Grade A or certified unless otherwise prescribed by the physician's diet order. Milk, milk products and products resembling milk shall be processed or manufactured in milk product plants meeting the requirements of Division 15 of the California Food and Agricultural Code. Powdered milk shall not be used as a beverage but may be used in cooking.

(4) Milk shall be served in individual containers or from a dispensing device which has been approved for such use, by the local health department or from the original container. Milk shall be dispensed directly into the glass or other container from which the patient drinks.

(5) Catered foods and beverages from a source outside the licensed facility shall be prepared, packed, properly identified, stored and transported in compliance with these regulations and other applicable federal, state and local codes.

(6) Foods held in refrigerated or other storage areas shall be covered. Liquids and food which are prepared and not served shall be tightly covered, stored appropriately, clearly labeled and dated. A written procedure shall be established and followed for the safe use of leftover foods.

(7) Spoiled or contaminated food shall not be served.

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

s 72351. Dietetic Service -Staff.

(a) A dietitian shall be employed on a full-time, part-time or consulting basis. Part-time or consultant services shall be provided on the premises at appropriate times on a regularly scheduled basis. A written record of the frequency, nature and duration of the consultant's visits shall be maintained.

(b) If a dietitian is not employed full-time, a full-time person who is a graduate of a state approved course that provides 90 or more hours of classroom instruction in food supervision shall be employed to be responsible for the operation of the food service. The dietetic supervisor may also cook, provided sufficient time is allowed for managerial responsibilities.

(c) Sufficient staff shall be employed, oriented, trained and their working hours scheduled to provide for the nutritional needs of the patients and to maintain the dietetic service areas. If dietetic service employees are assigned duties in other services, those duties shall not interfere with the sanitation, safety or time required for dietetic work assignments.

(d) Current work schedules by job titles and weekly time schedules by job titles shall be posted.

(e) Dietetic service personnel shall be trained in basic food sanitation techniques, wear clean clothing, and a cap or a hair net, and shall be excluded from duty when affected by skin infection or communicable diseases. Beards and mustaches which are not closely cropped and neatly trimmed shall be covered.

(f) Employees' street clothing stored in the kitchen shall be in a closed area separate from food or items used in food service.

(g) Kitchen sinks shall not be used for handwashing. Separate handwashing facilities with soap, running water and individual towels shall be provided.

(h) Persons other than dietetic service personnel shall not be allowed in the kitchen areas unless required to do so in the performance of their duties.

(i) Smoking shall not be permitted in kitchen areas.

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

s 72353. Pharmaceutical Service -General.

(a) Arrangements shall be made to assure that pharmaceutical services are available to provide patients with prescribed drugs and biologicals.

(b) Dispensing, labeling, storage and administration of drugs and biologicals shall be in conformance with state and federal laws.

(c) If a pharmacy is located on the premises, the pharmacy shall be licensed by the California State Board of Pharmacy and approved by the Department. The pharmacy shall not serve the general public unless a separate public entrance or a separate public serving window is utilized. Pharmacies located on the licensed premises of skilled nursing facilities shall be opened for inspection upon the request of an authorized Department representative.

(d) The facility shall not accept money, goods or services free or below cost from any pharmacist or pharmacy as compensation or inducement for referral of business to any pharmacy.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Section 1276, Health and Safety Code; Sections 650 and 651, Business and Professions Code.

s 72355. Pharmaceutical Service -Requirements.

(a) Pharmaceutical service shall include, but is not limited to, the following:

(1) Obtaining necessary drugs including the availability of 24-hour prescription service on a prompt and timely basis as follows:

(A) Drugs ordered "Stat" that are not available in the facility emergency drug supply shall be available and administered within one hour of the time ordered during normal pharmacy hours. For those hours during which the pharmacy is closed, drugs ordered "Stat" shall be available and administered within two hours of the time ordered. Drugs ordered "Stat" which are available in the emergency drug supply shall be administered immediately.

(B) Anti-infectives and drugs used to treat severe pain, nausea, agitation, diarrhea or other severe discomfort shall be available and administered within four hours of the time ordered.

(C) Except as indicated above, all new drug orders shall be available on the same day ordered unless the drug would not normally be started until the next day.

(D) Refill of prescription drugs shall be available when needed.

(2) Dispensing of drugs and biologicals.

(3) Monitoring the drug distribution system which includes ordering, dispensing and administering of medication.

(4) Provision of consultative and other services furnished by pharmacists which assist in the development, coordination, supervision and review of the pharmaceutical services within the facility.

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

s 72357. Pharmaceutical Service -Labeling and Storage of Drugs.

(a) Containers which are cracked, soiled or without secure closures shall not be used. Drug labels shall be legible.

(b) All drugs obtained by prescription shall be labeled in compliance with state and federal laws governing prescription dispensing. No person other than the dispenser of the drug shall alter any prescription label.

(c) Nonlegend drugs shall be labeled in conformance with state and federal food and drug laws.

(d) Test reagents, germicides, disinfectants and other household substances shall be stored separately from drugs and shall not be accessible to patients.

(e) External use drugs in liquid, tablet, capsule or powder form shall be stored separately from drugs for internal use.

(f) Drugs shall be stored in appropriate temperatures. Drugs required to be stored at room temperature shall be stored at a temperature between 15 degrees C (59 degrees F) and 30 degrees C (86 degrees F). Drugs requiring refrigeration shall be stored in a refrigerator between 2 degrees C (36 degrees F) and 8 degrees C (46 degrees F). When drugs are stored in the same refrigerator with food, the drugs shall be kept in a closed container clearly labeled "drugs."

(g) Drugs shall be stored in an orderly manner in cabinets, drawers or carts of sufficient size to prevent crowding.

(h) Dose preparation and administration areas shall be well-lighted.

(i) Drugs shall be accessible only to personnel designated in writing by the licensee.

(j) Storage of nonlegend drugs at the bedside shall meet the following conditions:

(1) The manner of storage shall prevent access by other patients. Lockable drawers or cabinets need not be used unless alternate procedures, including storage on a patient's person or in an unlocked drawer or cabinet are ineffective.

(2) The facility shall record in the patient health record the bedside medications used by the patient, based on observation by nursing personnel and/or information supplied by the patient.

(3) The quantity of each drug supplied to the patient for bedside storage shall be recorded in the health record each time the drug is so supplied.

(k) Storage of legend drugs at the bedside shall meet the conditions of 72357(j) and shall in addition:

(1) Be specifically ordered by the prescriber of the drugs, and

(2) Be limited to sublingual or inhalation forms of emergency drugs.

(l) Drugs shall not be kept in stock after the expiration date on the label and no contaminated or deteriorated drugs shall be available for use.

(m) The drugs of each patient shall be kept and stored in their originally received containers. No drug shall be transferred between containers.

(n) Discontinued drug containers shall be marked, or otherwise identified, to indicate that the drug has been discontinued, or shall be stored in a separate location which shall be identified solely for this purpose. Discontinued drugs shall be disposed of within 90 days of the date the drug order was discontinued, unless the drug is reordered within that time.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1418.5 and 1276, Health and Safety Code.

s 72359. Pharmaceutical Service -Stop Orders.

Written policies shall be established and implemented limiting the duration of new drug orders in the absence of a prescriber's specific indication for duration of therapy. The prescriber shall be contacted for new orders prior to the termination time established by the policy. Such policies shall include all categories of drugs.

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

s 72361. Pharmaceutical Service -Orders for Drugs.

(a) No drugs shall be administered except upon the order of a person lawfully authorized to prescribe for and treat human illness.

(b) All drug orders shall be written, dated, and signed by the person lawfully authorized to give such an order. The name, quantity or specific duration of therapy, dosage and time or frequency of administration of the drug, and the route of administration if other than oral shall be specified. "P.R.N." order shall also include the indication for use of a drug.

(c) Verbal orders for drugs and treatments shall be received only by licensed nurses, psychiatric technicians, pharmacists, physicians, physician's assistants from their supervising physicians only, and certified respiratory therapists when the orders relate specifically to respiratory care. Such orders shall be recorded immediately in the patient's health record by the person receiving the order and shall include the date and time of the

order. The order shall be signed by the prescriber within five days.

(d) The signing of orders shall be by signature or a personal computer key. Signature stamps shall not be used.

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

s 72363. Pharmaceutical Service -Drug Order Processing.

Signed orders for drugs shall be transmitted to the issuing pharmacy within 48 hours, either by written prescription of the prescriber or by an order form which produces a direct copy of the order or by an electronically reproduced facsimile.

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

s 72365. Pharmaceutical Service -Drug Order Records.

Facilities shall maintain a record which includes, for each drug ordered by prescription, the name of the patient, the drug name, and strength, the date ordered, the date and amount received and the name of the issuing pharmacy. The records shall be kept at least one year.

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

s 72367. Pharmaceutical Service -Personal Medications.

(a) Medications brought by or with the patient on admission to the facility shall not be used unless the contents of the containers have been examined and positively identified after admission by the patient's physician or a pharmacist retained by the facility.

(b) The facility may use drugs transferred from other licensed health facilities or those drugs dispensed or obtained after admission from any licensed or governmental pharmacy and may accept the delivery of those drugs by any agent of the patient or pharmacy without the necessity of identification by a physician or pharmacist.

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

s 72369. Pharmaceutical Service -Controlled Drugs.

(a) Drugs listed in Schedules II, III and IV of the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970 shall not be accessible to other than licensed nursing, pharmacy and medical personnel designated by the licensee. Drugs listed in Schedule II of the above Act shall be stored in a locked cabinet or a locked drawer separate from

noncontrolled drugs unless they are supplied on a scheduled basis as part of a unit dose medication system.

(b) Separate records of use shall be maintained on all Schedule II drugs. Such records shall be maintained accurately and shall include the name of the patient, the prescription number, the drug name, strength and dose administered, the date and time of administration and the signature of the person administering the drug. Such records shall be reconciled at least daily and shall be retained at least one year. If such drugs are supplied on a scheduled basis as part of a unit dose medication system, such records need not be maintained separately.

(c) Drug records shall be maintained for drugs listed in Schedules III and IV of the above Act in such a way that the receipt and disposition of each dose of any such drug may be readily traced. Such records need not be separate from other medication records.

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

s 72371. Pharmaceutical Service -Disposition of Drugs.

(a) Drugs which have been dispensed for individual patient use and are labeled in conformance with State and Federal law for outpatient use shall be furnished to patients on discharge on the orders of the discharging physician. If the physician's discharge orders do not include provisions for drug dispositions, drugs shall be furnished to patients unless:

(1) The discharging physician specifies otherwise or,

(2) The patient leaves or is discharged without a physician's order or approval or,

(3) The patient is discharged to a general acute care hospital, acute psychiatric hospital, or acute care rehabilitation hospital or,

(4) The drug was discontinued prior to discharge or,

(5) The labeled directions for use are not substantially the same as most current orders for the drug in the patient's health record.

(b) A record of the drugs sent with the patient shall be made in the patient's health record.

(c) Patient's drugs supplied by prescription which have been discontinued and those which remain in the facility after discharge of the patient shall be destroyed by the facility in the following manner:

(1) Drugs listed in Schedules II, III or IV of the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970 shall be destroyed by the facility in the presence of a pharmacist and a registered nurse employed by the facility. The name of the patient, the name and strength of the drug, the prescription number, the amount destroyed, the date of

destruction and the signatures of the witnesses required above shall be recorded in the patient's health record or in a separate log. Such log shall be retained for at least three years.

(2) Drugs not listed under Schedules II, III or IV of the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970 shall be destroyed by the facility in the presence of a pharmacist or licensed nurse. The name of the patient, the name and strength of the drug, the prescription number if applicable, the amount destroyed, the date of destruction and the signatures of the person named above and one other person shall be recorded in the patient's health record or in a separate log. Such log shall be retained for at least three years.

(d) Unless otherwise prohibited under applicable federal or state laws, individual patient drugs supplied in sealed containers may be returned, if unopened, to the issuing pharmacy for disposition provided that:

(1) No drugs covered under the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970 are returned.

(2) All such drugs are identified as to lot or control number.

(3) The signatures of the receiving pharmacist and a registered nurse employed by the facility are recorded in a separate log which lists the name of the patient, the name, strength, prescription number (if applicable), the amount of the drug returned and the date of return. The log must be retained for at least three years.

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

HISTORY

Change without regulatory effect relettering duplicate subsection (c) to (d) filed 1-11-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 2).

s 72373. Pharmaceutical Service -Unit Dose Medication System.

In facilities utilizing a unit dose medication system, there shall be at least a 24-hour supply of all patient medications on hand at all times, except those drugs which are to be discontinued within the 24-hour period. Drugs that are part of a unit dose medication system shall not exceed a 48-hour supply.

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

s 72375. Pharmaceutical Service -Staff.

(a) Facilities shall retain a consulting pharmacist who devotes a sufficient number of hours during a regularly scheduled visit, for the purpose of coordinating, supervising and reviewing the pharmaceutical service committee, or its equivalent, at least quarterly. The report shall include a log or record of time spent in the facility. There shall be a written agreement between the pharmacist and the facility which includes duties and responsibilities of both.

(b) A pharmacist shall serve on the pharmaceutical service committee and the patient care policy committee.

(c) A pharmacist shall review the drug regimen of each patient at least monthly and prepare appropriate reports. The review of the drug regimen of each patient shall include all drugs currently ordered, information concerning the patient's condition relating to drug therapy, medication administration records, and where appropriate, physician's progress notes, nurse's notes, and laboratory test results. The pharmacists shall be responsible for reporting, in writing, irregularities in the dispensing and administration of drugs and other matters relating to the review of the drug regimen to the administrator and director of the nursing service.

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

s 72377. Pharmaceutical Service -Equipment and Supplies.

(a) There shall be adequate equipment and supplies necessary for the provision of pharmaceutical services within the facility including at least the following:

(1) Refrigerator with an accurate thermometer.

(2) Lockable drug cabinets, drawers, closets or rooms.

(3) Drug service trays and/or carts.

(4) Drug preparation counter area and convenient water source.

(5) Reference materials containing drug monographs on all drugs in use in the facility. Such monographs shall include information concerning generic and brand names, if applicable, available strengths and dosage forms and pharmacological data including indications and side effects.

(b) Emergency supplies as approved by patient care policy committee or pharmaceutical service committee shall be readily available to each nursing station. Emergency drug supplies shall meet the following requirements:

(1) Legend drugs shall not be stored in the emergency supply, except under the following conditions:

(A) Injectable supplies of legend drugs shall be limited to a maximum of three single doses in ampules or vials or one container of the smallest available multi-dose vial and shall be in sealed, unused containers.

(B) Sublingual or inhalation emergency drugs shall be limited to single sealed containers of the smallest available size.

(C) Not more than six emergency drugs in solid, oral dosage form or suppository dosage form for anti-infective, antidiarrheal, antinausea, or analgesic use may be stored if in sealed containers. Not more than four doses of any one drug may be so stored.

(2) The emergency drug supply shall be stored in a portable container which is sealed in such a manner that the tamper-proof seal must be broken to gain access to the drugs. The director of nursing service or charge nurse shall notify the pharmacist when drugs have been used from the emergency kit or when the seal has been broken. Drugs used from the kit shall be replaced within 72 hours and the supply resealed by the pharmacist.

(3) The contents of the supply shall be listed on the outside of the container.

(4) The supply shall be checked at least monthly by the pharmacist.

(5) Separate records of use shall be maintained for drugs administered from the supply. Such records shall include the name and dose of the drug administered, name of the patient, the date and time of administration and the signature of the person administering the dose.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Section 1276, Health and Safety Code; Section 4035, Business and Professions Code.

s 72379. Activity Program -General.

An activity program means a program which is staffed and equipped to encourage the participation of each patient, to meet the needs and interests of each patient and to encourage self-care and resumption of normal activities.

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

s 72381. Activity Program -Requirements.

(a) Patients shall be encouraged to participate in activities planned to meet their individual needs. An activity program shall have a written, planned schedule of social and other purposeful independent or group activities. The program shall be designed to make life more meaningful, to stimulate and support physical and mental capabilities to the fullest extent, to enable the patient to maintain the highest attainable social, physical and emotional functioning but not necessarily to correct or remedy a disability.

(b) The activity program shall consist of individual, small and large group activities which are designed to meet the needs and interests of each patient and which include, but are not limited to:

(1) Social activities.

(2) Indoor and out-of-doors activities, which may include supervised daily walks.

(3) Activities away from the facility.

(4) Religious programs.

(5) Opportunity for patient involvement for planning and implementation of the activity program.

(6) Creative activities.

(7) Educational activities.

(8) Exercise activities.

(c) Activities shall be available on a daily basis.

(d) The activity leader, at a minimum, shall:

(1) Develop, implement and supervise the activity program.

(2) Plan and conduct in-service training of the staff of the facility at least annually.

(3) Coordinate the activity schedule with other patient services.

(4) Maintain a current list of patients from the nursing service who are not physically able to participate in activities.

(5) Post the activity schedule conspicuously, in large visible print, for the information of patients and staff.

(6) Request and maintain equipment and supplies.

(7) Develop and maintain contacts with community agencies and organizations.

(8) Develop and implement activities for patients unable to leave their rooms.

(9) Maintain progress notes specific to the patient's activity plan which are recorded at least quarterly, and more frequently if needed, in the patient's health record.

(10) Maintain a current record of the type f frequency of activities provided and the names of patients participating in each activity.

(e) Where appropriate, the activity leader may recruit, train and supervise a volunteer program to assist with and augment the services of the activity program.

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

s 72383. Activity Program -Activity Plan.

(a) An activity plan shall:

(1) Be developed and implemented for each patient and shall be integrated with the individual interdisciplinary patient care plan.

(2) Be reviewed quarterly and approved, in writing, by the attending physician as not in conflict with the treatment plan.

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

s 72385. Activity Program -Staff.

(a) Activity program personnel with appropriate training and experience shall be available to meet the needs and interests of patients.

(b) An activity program leader shall be designated by and be responsible to the administration. An activity program leader shall meet one of the following requirements:

(1) Have two years of experience in a social or recreational program within the past five years, one year of which was full-time in a patient activities program in a health care setting.

(2) Be an occupational therapist, art therapist, music therapist, dance therapist, recreation therapist or occupational therapy assistant.

(3) Have satisfactorily completed at least 36 hours of training in a course designed specifically for this position and approved by the Department and shall receive regular consultation from an occupational therapist, occupational therapy assistant or recreation therapist who has at least one year of experience in a health care setting.

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

s 72387. Activity Program -Equipment and Supplies.

Each facility shall provide equipment and supplies for both independent and group activities and for patients having special needs.

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

s 72389. Activity Program -Space.

(a) Each facility shall provide a designated activity area which meets the independent and group activity needs of patients. Such areas shall be:

(1) Accessible to wheelchair and ambulatory patients.

(2) Of sufficient size to accommodate necessary equipment and permit unobstructed movement of wheelchair and ambulatory patients or personnel responsible for instruction and supervision.

(b) Storage space for equipment and supplies shall be provided and shall be maintained in a clean and orderly manner.

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

ARTICLE 4. OPTIONAL SERVICES

s 72401. Optional Service Units -General.

(a) "Optional service unit" means a functional unit of a skilled nursing facility which is organized, staffed and equipped to provide a specific type or types of patient care. A facility is not required to operate an optional service unit.

(b) The following types of optional service units may be operated in a skilled nursing facility: physical therapy, occupational therapy, speech therapy, speech pathology, audiology, social work services, and special treatment program services.

(c) If outpatient services are to be provided for physical therapy, occupational therapy, speech pathology, and/or audiology services, the following conditions shall be met:

(1) Outpatient service units shall be located or constructed in a manner that will minimize noise, odors, hazards and unsightliness to the facility's inpatients.

(2) Outpatient access to optional service units shall not traverse a nursing unit.

(3) Separate toilets for men and women outpatients shall be provided.

(4) Drinking water facilities of a type approved by the Department shall be available for outpatients and personnel.

(5) Handwashing facilities with hot and cold water supply shall be provided in the optional service units.

(6) Waiting areas shall be provided with sufficient floor space to seat the maximum number of persons who are expected to be accommodated at any one time.

(d) Each optional service unit within the facility shall be approved by the Department. Any facility desiring approval for an optional service unit shall file an application on forms furnished by the Department.

(e) The Department shall list on the facility license each optional service for which approval is granted.

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

s 72403. Physical Therapy Service Unit -Services.

(a) "Physical therapy service" means those services ordered by a physician for a patient or upon a physician's referral and provided to a patient by or under the supervision of a physical therapist.

(b) Physical therapy services shall include but are not limited to:

- (1) Assisting the physician in an evaluation of the patient's rehabilitation potential.
- (2) Applying muscle, nerve, joint and functional ability tests.
- (3) Treating patients to relieve pain and to develop or restore function.
- (4) Assisting patients to achieve and maintain maximum performance using physical means such as exercise, massage, heat, sound, water, light or electricity.
- (5) Establishing and modifying a treatment program by the physical therapist, as needed, based upon initial and continuing assessment of the patient.
- (6) Maintaining patient health records which contain pertinent information and signed orders for treatment.
 - (A) Notes shall be written and entered in the patient's health record after completion of each procedure. The note shall indicate the procedure(s) and shall be signed by the physical therapist.
 - (B) Initial and continuing assessment, development of a treatment plan and discharge summary shall be written and entered in each patient's health record.
 - (C) Individual progress notes shall be written and signed at least weekly by the physical therapist.

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

s 72405. Physical Therapy Service Unit -Policies and Procedures.

- (a) Each physical therapy service Unit shall have written policies and procedures for the management of the physical therapy service.
- (b) The policies and procedures shall be established and implemented by the patient care policy committee in consultation with a physical therapist.

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

s 72407. Physical Therapy Service Unit -Staff.

- (a) The physical therapy service unit shall be under the direction of a physical therapist.
- (b) A physical therapist assistant shall treat patients only under the supervision of a physical therapist in accordance with the Physical Therapy Practice Act, Article 4.5

(beginning with Section 2655) of the Business and Professions Code.

(c) A physical therapy aide shall work only under the direct supervision of a physical therapist.

(d) There shall be physical therapists, physical therapist assistants and physical therapy aides to meet the identified needs of the patients.

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

s 72409. Physical Therapy Service Unit -Equipment.

(a) Equipment shall be sufficient to provide the physical therapy services offered. The equipment shall include but not be limited to:

(1) Parallel bars.

(2) Full view mirror.

(3) Overhead pulley and weights.

(4) Set of training stairs.

(5) Treatment table enclosed by cubicle curtains for privacy.

(6) Availability of wheelchairs, walkers, canes, crutches and other ambulation aids.

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

s 72411. Physical Therapy Service Unit -Space.

(a) Adequate space shall be maintained for the necessary equipment needed to provide physical therapy service. The minimum floor area for physical therapy service shall be 28 square meters (300 square feet), no dimension of which shall be less than 3.7 meters (12 feet).

(b) A sink shall be provided in the treatment area and shall have controls other than hand controls.

(c) The toilet facilities shall be located nearby and equipped with grab bars on both sides of the commode and the space shall be of sufficient size to allow for patient transfer activities.

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

s 72413. Occupational Therapy Service Unit -Services.

(a) "Occupational therapy service" means those medically prescribed services in which selected purposeful activity is used as treatment in the rehabilitation of persons with a physical or mental disability.

(b) Occupational therapy services shall include but not be limited to:

(1) Assisting the physician in an evaluation of a patient's level of function by applying diagnostic and prognostic tests.

(2) Conducting and preparing written initial and continuing assessment of the patient's condition and modifying treatment goals under the order of a physician, consistent with identified needs of the patient.

(3) Decreasing or eliminating disability during patient's initial phase of recovery following injury or illness.

(4) Increasing or maintaining a patient's capability for independence.

(5) Enhancing a patient's physical, emotional and social well-being.

(6) Developing function to a maximum level.

(7) Guiding patients in their use of therapeutic, creative and self-care activities.

(c) An occupational therapy service unit shall meet the following requirements:

(1) Patient health records shall contain pertinent information and signed orders for treatment.

(2) Notes shall be written and entered in the patient's health record after completion of each procedure. The note shall indicate the procedure(s) performed, the reaction of the patient to the procedure(s) and shall be signed by the occupational therapist.

(3) Initial and continuing assessment, development of a treatment plan and discharge summary shall be written and entered in each patient's health record.

(4) Individual progress notes shall be written and signed at least weekly by the occupational therapist.

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

s 72415. Occupational Therapy Service Unit -Policies and Procedures.

(a) Each occupational therapy service unit shall have written policies and procedures for the management of the occupational therapy service.

(b) The policies and procedures shall be established and implemented by the patient care policy committee in consultation with an occupational therapist.

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

s 72417. Occupational Therapy Service Unit -Staff.

(a) The occupational therapy service unit shall be under the direction of an occupational therapist.

(b) An occupational therapy assistant shall work only under the supervision of an occupational therapist.

(c) There shall be occupational therapists and occupational therapy assistants in the number to meet the identified needs of the patients.

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

s 72419. Occupational Therapy Service Unit -Equipment.

(a) Necessary equipment shall be available to provide the occupational therapy services offered. The equipment shall include but not be limited to:

(1) Supportive slings, supportive and assistive hand splints and the materials from which to fabricate these and other assistive devices.

(2) Adaptive devices to aid in the performance of daily living skills such as eating, dressing, grooming and writing, with instructions for their use.

(3) Equipment and supplies for the development of creative skills.

(4) Means and supplies for adapting equipment for reeducation in activities of daily living.

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

s 72421. Occupational Therapy Service Unit -Space.

(a) Space shall be provided for the necessary equipment needed to provide occupational therapy. The minimum floor area shall be 28 square meters (300 square feet), no dimension of which shall be less than 3.7 meters (12 feet).

(b) A sink shall be provided in the treatment area and shall have controls not requiring the use of hands.

(c) The toilet facilities shall be located nearby and equipped with grab bars on both sides of the commode, and the space shall be of sufficient size to allow for patient transfer activities.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1276 and 18948, Health and Safety Code.

s 72423. Speech Pathology and/or Audiology Service Unit -Services.

(a) "Speech pathology and/or audiology services" means those services referred or ordered by a physician which provide diagnostic screening and preventive and corrective therapy for persons with speech, hearing and/or language disorders.

(b) Speech pathology and/or audiology service shall include but not be limited to the following:

(1) Conducting and preparing written initial and continuing assessment of a patient.

(2) Notes written and entered in the patient's health record after each treatment. The notes shall indicate the treatment performed, the reaction of the patient to the treatment, and be signed by the speech pathologist or audiologist.

(3) Instruction of other health team personnel and family members in methods of assisting the patient to improve or correct a speech or hearing disorder.

(c) A speech pathology and/or audiology service unit shall meet the following requirements:

(1) Patient health records shall contain a patient's history and signed orders for treatment.

(2) Progress notes shall be written at least weekly and entered in the patient health record and shall be signed by the speech pathologist and/or audiologist.

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

s 72425. Speech Pathology and/or Audiology Service Unit -Policies and Procedures.

(a) Each speech pathology and/or audiology service unit shall have written policies and procedures for the management of the speech pathology and/or audiology service.

(b) The policies and procedures shall be established and implemented by the patient care policy committee in consultation with a speech pathologist and/or audiologist.

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

s 72427. Speech Pathology and/or Audiology Service Unit -Staff.

(a) Each speech pathology service unit shall employ a speech pathologist for a sufficient number of hours to meet the needs of the patients and requirements of Section 72469.

(b) Each audiology service unit shall employ an audiologist for a sufficient number of hours to meet the needs of the patients and requirements of Section 72469.

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

s 72429. Speech Pathology and/or Audiology Service Unit -Equipment.

(a) Necessary equipment shall be available to provide the speech pathology and/or audiology services offered. The equipment shall include but not be limited to:

(1) A diagnostic clinical audiometer.

(2) Diagnostic tests and materials.

(3) Other equipment and materials deemed necessary by the speech pathologist and/or audiologist to meet the needs of patients.

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

s 72431. Speech Pathology and/or Audiology Service Unit -Space.

Space free of ambient noise shall be provided by the facility to produce valid test results.

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

s 72433. Social Work Service Unit -Services.

(a) "Social work services" means those services which assist staff, a patient and a patient's family to understand and cope with a patient's personal, emotional and related health and environmental problems.

(b) Social work services unit shall include but not be limited to the following:

(1) Interview and written assessment of each patient within five days after admission to the service.

(2) Development of a plan, including goals and treatment, for social work services for each patient who needs such services, with participation of the patient, the family, the patient's physician, the director of nursing services and other appropriate staff.

(3) Weekly progress reports in the patient's health record written and signed by the social worker, social work assistant or social work aide.

(4) Participation in regular staff conferences with the attending physician, the director of nursing service and other appropriate personnel.

(5) Discharge planning for each patient and implementation of the plan.

(6) Orientation and in-service education of other staff members on all shifts shall be conducted at least monthly by the social worker in charge of the social work service.

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

s 72435. Social Work Service Unit -Policies and Procedures.

(a) Each social work service unit shall have written policies and procedures for the management of the social work service.

(b) The policies and procedures shall be established and implemented by the patientcare policy committee in consultation with a social worker.

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

s 72437. Social Work Service Unit -Staff.

(a) Each social work service unit shall employ a staff for the number of hours to meet the needs of the patients.

(b) The social work service unit shall be organized, directed and supervised by a social worker, who is responsible for supervision of other social work staff, including social work assistants and social work aides.

(c) Social work service staff may include the social work assistant or the social work aide. Assigned functions and tasks shall be supervised by the social worker. Under conditions specified in the written patient care policies, procedures and job descriptions, the social work aide may be under the supervision of the social work assistant.

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

s 72439. Social Work Service Unit - Equipment and Supplies.

(a) Office equipment and supplies necessary for the social work service unit shall be available.

(b) Equipment and supplies shall include but not be limited to:

(1) Literature and references on subjects including psychosocial problems and needs of the patient population in the facility.

(2) Directories, listings and other reference materials on available community resources.

(3) Necessary clerical equipment and supplies.

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

s 72441. Social Work Service Unit -Space.

Accessible space shall be provided for privacy in interviewing, telephoning, conferences and for operation of the unit.

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

s 72443. Special Treatment Program Service Unit -General.

(a) Special treatment programs shall provide programs to serve patients who have a chronic psychiatric impairment and whose adaptive functioning is moderately impaired. Special treatment program services are those therapeutic services, including prevocational preparation and prerelease planning, provided to mentally disordered persons having special needs in one or more of the following general areas: self-help skills, behavior adjustment, interpersonal relationships.

(b) To be eligible for special treatment program services, the patient's condition should be responsive to special treatment program services and prohibitive to placement in a skilled nursing facility.

(c) The facility shall not accept for care any mentally disordered patient who has an identified program need unless the Department of Mental Health has approved the facility's specific special treatment plan.

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

s 72445. Special Treatment Program Service Unit -Services.

(a) The program objective shall be to provide a program aimed at improving the adaptive functioning of chronic mentally disordered patients to enable some patients to move into a less restrictive environment and prevent other patients from regressing to a lower level of functioning.

(b) The facility shall have the capability of providing all of the following special rehabilitation program services. Individual programs shall be provided based on the specific needs identified through patient assessments.

(1) Self-Help Skills Training. This shall include but not be limited to:

(A) Personal care and use of medications

(B) Money management

(C) Use of public transportation

(D) Use of community resources

(E) Behavior control and impulse control

(F) Frustration tolerance

(G) Mental health education

(H) Physical fitness

(2) Behavioral Intervention Training. This shall include but not be limited to:

(A) Behavior modification modalities

(B) Remotivation therapy

(C) Patient government activities

(D) Group counseling

(E) Individual counseling

(3) Interpersonal Relationships. This shall include but not be limited to:

(A) Social counseling

(B) Educational and recreational therapy

(C) Social activities such as outings, dances, etc.

(4) Prevocational Preparation Services. This shall include but not be limited to:

(A) Homemaking

(B) Work activity

(C) Vocational counseling

(5) Prerelease Planning

(A) Out-of-home placement

(c) In order to qualify for special treatment program services approval, the facility shall have, initially, a minimum of 30 patients whose need for special treatment program services is reviewed and approved by the local mental health director or designee.

(d) The facility program plan shall include provisions for accomplishing the following:

(1) The facility in conjunction with the local mental health director shall make an initial, individual assessment of each patient to identify the current level of functioning and program needs of the patient. The assessment shall be standardized and recorded on forms approved by the Department.

(2) At least every 4 months, the facility, in conjunction with the local mental health director or designee, shall reassess each patient to determine the need for continued certification of the patient in the special treatment program.

(3) A minimum average of 27 hours per week of direct group or individual program service for each patient.

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

s 72447. Special Treatment Program Service Unit -Distinct Part.

(a) A special treatment program service distinct part means an identifiable and physically separate unit of a skilled nursing facility or an entire skilled nursing facility which provides therapeutic programs to an identified mentally disordered population group. The distinct part shall be indicated on the facility license.

(b) A special treatment program means a therapeutic program of services designed, staffed and implemented by the special treatment program service for the purpose of meeting the special needs of an identified population group.

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

s 72449. Special Treatment Program Service Unit -Program Approval.

(a) Annually the facility shall submit to the Department of Mental Health a written description of its Special Treatment Program which shall meet all of the requirements of Section 72461. The facility shall also specify any alternate requirements needed to implement a special program, and shall submit other documents requested by the Department of Mental Health.

(b) The facility shall comply with all requirements of its approved Special Treatment Program and also any approved, specific, alternate requirement which shall govern the operation of the program notwithstanding the provisions of any other regulation contained in this chapter.

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

s 72451. Special Treatment Program Service Unit -Program Requirements.

(a) The facility shall specify each population group that it plans to serve. The program shall be developed to meet specific needs for that group. The program shall consist of the following components:

(1) The description of the population group to be served, shall include the following:

(A) Age range

(B) Sex

(C) Physical characteristics

(D) Emotional characteristics

(E) Number of patients to be served in each population group

(F) Identification of the particular needs within the population group

(G) A written program designed to meet the identified needs of the population

(H) Method and frequency of evaluating patient progress

(b) Each patient admitted shall have an initial evaluation and assessment by facility staff of his medical, nursing dietetic, social and physical needs within 15 days of admission unless an evaluation has been done by the referring agency within 30 days prior to admission to the facility.

(c) Each patient admitted shall have a psychological evaluation and assessment by the appropriate discipline within 45 days of admission.

(d) Consultative sources shall be used in the planning and organization of appropriate programs for the mentally disordered, incorporating discharge planning services intended to enable the patient to function and gain independence.

(e) Skills training programs shall be provided but not limited to techniques of behavior modification training in self-skills, sensory training or the modalities of reality orientation and remotivation therapy, as applicable to patients' needs or as described in the treatment plan.

(f) Orientation and in-service training of staff members by a qualified person to assist them in the recognition and understanding of the emotional problems and social needs of patients and the means of taking appropriate action. Available community resources and services should be included in the orientation.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Section 1276, 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 72455. Special Treatment Program Service Unit -Abuse and Corporal Punishment.

Patients shall not be subjected to verbal or physical abuse of any kind. Corporal punishment of patients is prohibited. Patients shall not discipline other patients.

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

s 72457. Special Treatment Program Service Unit -Restraint and Seclusion.

(a) Restraint and seclusion shall only be used as emergency measures to protect the patient from injury to self or to others. Restraint and seclusion shall not be used as punishment or the convenience of the staff.

(1) Restraints may be used:

(A) For the protection of the patient during treatment and diagnostic procedures, including but not limited to, intravenous therapy, tube feeding and catheterization.

(B) To prevent infirm patients from falling out of bed or chairs or otherwise injuring themselves.

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

s 72459. Special Treatment Program Service Unit -Acceptable Forms of Restraints.

(a) Mechanical or behavior restraints are defined as any apparatus that interferes with the free movement of a patient.

(1) Physical restraint means restraint to control an acutely disturbed person to prevent the person from causing harm to self or others. The tying of hands or feet, whether or not the person is restrained in a bed, chair or wheelchair, shall be considered a physical restraint. A physical restraint shall not be confused with a postural support as defined in Section 72319(k). Only the following types of physical restraint may be used:

(A) Soft tie consisting of cloth which prevents movements of a patient.

(B) Mittens without thumbs which are securely fastened around the wrist with a small tie.

(C) Cloth vests consisting of sleeveless cloth webbing.

(D) Belts and cuffs, which are well padded, used to control a seriously disturbed, assaultive patient.

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

s 72461. Special Treatment Program Service Unit -Orders for Restraint and Seclusion.

(a) Restraint and seclusion shall only be used on the signed order of a physician which shall be renewed every 24 hours. In a documented case of emergency, which threatens to bring immediate injury to the patient or others, a restraint may be applied, and a physician shall give an order for application of the restraint within one hour. A physician may give the order by telephone. In such an event, the physician shall sign the order within 5 days.

(b) A daily log shall be maintained in each facility exercising behavior restraint and seclusion indicating the name of the patient for whom behavior restraint or seclusion is ordered.

(c) Full documentation of the episode leading to the behavior restraint or seclusion, the type of behavior restraint or seclusion used, the length of time that the restraint or seclusion was applied or utilized, and the name of the individual applying such measures shall be entered in the patient's health record.

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

s 72463. Special Treatment Program Service Unit -Restrictions on Applying Restraints and Utilizing Seclusion.

(a) In applying physical restraints, each of the following requirements shall be met in addition to those set forth in Section 72319:

(1) Careful consideration shall be given to the methods by which the restraints may be speedily removed in the event of fire or other emergency.

(2) Patients placed in restraint shall be observed by qualified treatment personnel at least every half hour. This observation shall be noted and initialed in the patient's health record following each observation.

(3) Each individual program plan authorizing restraint shall specify the behavior to be modified, the method to be used, the schedule for use of the method, the person responsible for the program and the effectiveness of the modality in attaining stated objectives.

(4) Opportunity for motion and exercise shall be provided for a period of not less than ten minutes during each two hours in which restraint is applied. The exercise periods shall be documented in the patient's record.

(b) In utilizing seclusion each of the following requirements shall be met:

(1) Patients placed in seclusion shall be observed by qualified treatment personnel at least every half hour. This observation shall be noted and initialed in the patient's health record.

(2) Each individual program plan authorizing seclusion shall specify the behavior to be modified, the method to be used, the schedule for use of the method, the person responsible for the program and the effectiveness of the modality in attaining stated goals.

(3) Opportunity for motion and exercise shall be provided for a period of not less than ten minutes during each two hours in which seclusion is applied. The exercise periods shall be documented in the patient's record.

(c) Medication shall not be used as punishment, as a substitute for a program or for the convenience of staff.

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

s 72465. Special Treatment Program Service Unit -Staff.

(a) A registered nurse, licensed vocational nurse or licensed psychiatric technician shall be employed at least 40 hours a week on the day shift and be responsible for nursing supervision of the distinct part. If the facility has a total licensed capacity of 59 beds or less the director of nursing services may also be the charge nurse for the distinct part.

(b) Nursing service charge personnel on all shifts shall have at least one year of experience or training related to the special treatment program services, or shall participate in in-service provided by the facility.

(c) If the facility is devoted entirely to the care of the mentally disordered, there shall be at least one registered nurse or licensed vocational nurse on duty on all three shifts seven days per week.

(d) A licensed psychiatric technician may:

(1) Serve as a charge nurse.

(2) Administer medications only in a special treatment program.

(e) The Department may require the licensee to provide additional professional, administrative or supportive personnel whenever the Department determines through a written evaluation that additional personnel is needed to provide for the health and safety of patients. Nursing service personnel shall be on duty in the number and with the qualifications, training, and supervision necessary to meet the individual care needs of patients admitted for care.

(f) Interdisciplinary Professional Staff: The facility shall provide either through direct employment or by contractual arrangement, an interdisciplinary professional staff to develop and implement special rehabilitation programs and to provide specific expertise to the program staff, and/or provide direct patient services.

(1) The interdisciplinary professional staff shall be composed of at least two of the following disciplines:

(A) Psychologist

(B) Social Worker

(C) Occupational therapist

(D) Recreation therapist

(E) Art therapist

(F) Dance therapist

(G) Music therapist

(H) Any other related discipline approved by the Department

(2) Each member of the interdisciplinary professional staff shall have a minimum of one year of experience or training in a mental health setting.

(3) In addition to general staffing requirements in Section 72329(f) a facility which provides a special treatment program shall provide interdisciplinary staff as required in Section 72329(f) in accordance with the following schedule:

(A) For facilities having an average of 49 or fewer certified patients per week, 24 hours per week of professional staff time.

(B) For facilities having an average between 50-69 certified patients per week, 32 hours per week of professional staff time.

(C) For facilities having an average between 70-99 certified patients per week, 48 hours per week of professional staff time.

(D) For facilities having an average of more than 100 certified patients per week, 72 hours per week of professional staff time.

(E) The facility shall provide at least one hour of direct program staff time for each six program hours of long-term program rehabilitation services provided. Program staff shall include all persons who directly provide program services to mentally disordered persons and shall not include the program director.

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

s 72467. Special Treatment Program Service Unit -Program Director.

(a) The facility shall have a program director who has been approved by the Department of Mental Health. The program director shall not be the director of nursing service, charge nurse or facility administrator.

(b) The program director shall have at least two years experience or training in a mental health setting, one year of which shall include experience or training in program development for mentally disordered.

(c) The program director shall ensure that the in-service education program is provided.

(d) The program director shall be one of the following:

(1) Licensed vocational nurse.

(2) Art therapist.

(3) Dance therapist.

(4) Music therapist.

(5) Occupational therapist.

(6) Physician.

(7) Licensed psychiatric technician.

(8) Licensed psychologist.

(9) Recreation therapist.

(10) Registered nurse.

(11) Social worker.

(12) Any other related discipline approved by the Department of Mental Health.

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

s 72469. Special Treatment Program Service Unit -In-Service Education.

(a) The facility shall provide to all program staff an average of at least one hour per week of ongoing, planned academic and on-the-job in-service education. The education shall include, but not be limited to the following:

(1) Specific program techniques for the mentally disordered.

(2) Setting behavioral program objectives for patients.

(3) Evaluation and assessment procedures and criteria.

(4) Noting and documenting patient progress in the program.

(b) The facility shall maintain a record of the in-service education. This record shall include the signature of staff in attendance, the number of hours, the date and the subjects covered.

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

s 72471. Special Treatment Program Service Unit -Patient Health Records and Plans for Care.

(a) The facility shall maintain an individual health record for each patient which shall include but not be limited to the following:

(1) A list of the patient's care needs, based upon an initial and continuing individual assessment with input as appropriate from the health professionals involved in the care of the patient. Initial assessments by a licensed nurse shall commence at the time of admission of the patient and shall be completed within seven days after admission.

(2) The plan for meeting behavioral objectives. The plan shall include but not be limited to the following:

(A) Resources to be used.

(B) Frequency of plan review and updating.

(C) Persons responsible for carrying out plans.

(3) Development and implementation of an individual, written care plan based on identified patient care needs. The plan shall indicate the care to be given, the objectives to be accomplished, and the professional discipline responsible for each element of care. The objectives shall be measurable, with time frames, and shall be reviewed and updated at least every 90 days.

(b) There shall be a review and updating of the patient care plan as necessary by the nursing staff and other professional personnel involved in the care of the patient at least quarterly, and more often if there is a change in the patient's condition.

(c) The patient care plan shall be approved, signed and dated by the attending physician.

(d) There shall be at least monthly progress notes in the record for each patient which shall include notes written by all members of the staff providing program services to the patient. The notes shall be specific to the needs of the patients and the program objectives and plans.

(e) At the time of reassessment there shall be a summary of the progress of the patient in the program, the appropriateness of program objectives and the success of the plan.

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

s 72473. Special Treatment Program Service Unit -Equipment.

There shall be sufficient equipment, assistive devices and supplies available to implement the treatment program ordered or indicated for meeting the physical, mental, emotional or recreational needs of patients.

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

s 72475. Special Treatment Program Service Unit -Space.

(a) The special treatment program service shall have accommodations, including dining, recreational and program service areas to meet the needs of the program.

(b) Indoor and outdoor areas shall be designated for special treatment programs.

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

ARTICLE 5. ADMINISTRATION

s 72501. Licensee -General Duties.

(a) The licensee shall be responsible for compliance with licensing requirements and for the organization, management, operation and control of the licensed facility. The delegation of any authority by a licensee shall not diminish the responsibilities of such licensee.

(b) The licensee, if an administrator, may act as the administrator or shall appoint an administrator, to carry out the policies of the licensee. A responsible adult who is knowledgeable in the policies and procedures of the licensee shall be appointed, in writing, to carry out the policies of the licensee in the absence of the administrator. If the administrator is to be absent for more than 30 consecutive days, the licensee shall appoint an acting administrator to carry out the day-to-day functions of the facility.

(c) The licensee shall delegate to the designated administrator, in writing, authority to organize and carry out the day-to-day functions of the facility.

(d) Except where provided for in approved continuing care agreements, or except when approved by the Department, no facility owner, administrator, employee or representative thereof shall act as guardian or conservator of a patient therein or of that patient's estate, unless that patient is a relative within the second degree of consanguinity.

(e) The licensee shall employ an adequate number of qualified personnel to carry out all the functions of the facility and shall provide for initial orientation of all new employees, a continuing in-service training program and competent supervision.

(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.

(g) The Department may require the licensee to provide additional professional, administrative or supportive personnel whenever the Department determines through a written evaluation that additional personnel is needed to provide for the health and safety of patients.

(h) The licensee shall ensure that all employees serving patients or the public shall wear name and title badges unless contraindicated.

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

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 72505. Fire Safety.

The licensee shall conform to the regulations adopted by the State Fire Marshal establishing minimum standards for the prevention of fire and for the protection of life and property against fire and panic. A copy of the State Fire Marshal's current fire clearance shall be available in the facility.

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

s 72507. Smoking.

- (a) Patients shall not be permitted to smoke in or on the bed except when a facility staff member or responsible adult is present in the room to ensure safety against fire hazards.
- (b) The facility shall provide designated areas for smoking. Patients shall be permitted to smoke only in designated areas. The designated area shall be under the periodic

observation of facility personnel or responsible adults. This does not preclude the designation of the patient rooms as smoking areas.

(c) The facility shall provide a designated area for nonsmoking patients. Such a designated area shall be identified by prominently posted "No Smoking" signs.

(d) Smoking or open flames shall not be permitted in any rooms or spaces where oxygen cylinders are stored or where oxygen is in use. Such rooms or spaces shall be identified by prominently posted "No Smoking" or "No Open Flame" signs.

(e) The facility shall make every reasonable effort to assign patients to rooms according to the patient's individual nonsmoking or smoking preferences.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1276, 1286 and 25942, Health and Safety Code.

s 72509. Advertising.

(a) No skilled nursing facility shall make or disseminate false or misleading statements or advertise by any other manner or means any false or misleading claims regarding facilities or services provided.

(b) No skilled nursing facility shall use the words "Approved by the California Department of Health Services" or any other words conveying the same idea in any advertising material.

(c) The term "rehabilitation" shall not be used unless the facility has rehabilitation services which are approved by the Department.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1256 and 1276, Health and Safety Code.

s 72511. Use of Outside Resources.

(a) If a facility does not employ qualified personnel to render a specific service to be provided by the facility, there shall be arrangements through a written agreement with outside resources which shall meet the standards and requirements of these regulations.

(b) Copies of affiliation agreements, contracts or written arrangements for advice, consultation, services, training or transportation, with other facilities, organizations or individuals, public or private agencies, shall be on file in the facility's administrative office. These shall be readily available for inspection and review by the Department.

(c) The affiliation agreement, contracts and written arrangements shall include, but not be limited to:

(1) Description of the services to be provided.

(2) Financial arrangements.

(3) Methods by which the services are to be provided.

(4) Conditions upon which the agreement, contract or written arrangement can be terminated.

(5) Time frame of the affiliation agreement, contract or written arrangement.

(6) Effective date of affiliation agreement, contract or written arrangement.

(7) Date affiliation agreement, contract or written arrangement was signed.

(8) Signatures of all parties to the written agreement.

(d) The outside resource, when acting as a consultant, shall apprise the administrator in writing of recommendations, plans for implementation and continuing assessment through dated and signed reports which shall document the length of the visit and shall be retained by the administrator for follow-up action and evaluation of performance. The administrator shall provide evidence of review of the recommendations.

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

s 72513. Administrator.

(a) Each skilled nursing facility shall employ or otherwise provide an administrator to carry out the policies of the licensee. The administrator shall be responsible for the administration and management of only one skilled nursing facility unless all of the following conditions are met:

(1) If other skilled nursing facilities for which the administrator is responsible are in the same geographic area, and within one hour surface travel time of each other, and are operated by the same governing body.

(2) The administrator shall not be responsible for more than three facilities or a total of no more than 200 beds.

(3) The administrator shall designate a responsible adult who is knowledgeable in the policies and procedures of the licensee in each facility to be responsible for carrying out the policies of the licensee in the administrator's absence.

(b) The administrator shall have sufficient freedom from other responsibilities and shall be on the premises of the skilled nursing facility a sufficient number of hours to permit adequate attention to the management and administration of the facility. The Department may require that the administrator spend additional hours in the facility whenever the

Department determines through a written evaluation that such additional hours are needed to provide adequate administrative management.

(c) A copy of the current skilled nursing facility regulations contained in this chapter shall be maintained by the administrator and shall be available to all personnel.

(d) The administrator shall be responsible for informing appropriate staff of the applicable additions, deletions and changes to skilled nursing facility regulations.

(e) The administrator shall be responsible for informing the Department, via telephone within 24 hours of any unusual occurrences as specified in Section 72541. If the unusual occurrence involves the discontinuance or disruption of services occurring during other than regular business hours of the Department or its designee, a telephone report shall be made immediately upon the resumption of business hours of the Department.

(f) The administrator or designee shall be responsible for screening patients for admission to the facility to ensure that the facility admits only those patients for whom it can provide adequate care. The administrator, or designee, shall conduct preadmission personal interviews as appropriate with the patient's physician, the patient, the patient's next of kin or sponsor or the representative of the facility from which the patient is being transferred. A telephone interview may be substituted when a personal interview is not feasible.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1276 and 1276.1, Health and Safety Code.

s 72515. Admission of Patients.

The licensee shall:

(a) Admit a patient only on physician's orders.

(b) Accept and retain only those patients for whom it can provide adequate care.

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

s 72516. Standard Admission Agreement.

(a) The licensee shall use the California Standard Admission Agreement for Skilled Nursing and Intermediate Care Facilities, form number HS 327 (02/05), which is incorporated by reference herein, as the sole contract of admission between residents and the licensee.

(b) Except to enter information specific to the facility or the resident in blank spaces provided in the Standard Admission Agreement form or its attachments, the licensee shall not alter the Standard Admission Agreement without the prior written authorization of the Department.

(c) No resident or his or her legal representative shall be required to sign any other document at the time of, or as a condition of, admission to the licensee's facility, or as a condition of continued stay in the facility.

(d) The licensee shall not present any arbitration agreement to a prospective resident as a part of the Standard Admission Agreement. Any arbitration agreement shall be separate from the Standard Admission Agreement and shall contain the following advisory in a prominent place at the top of the proposed arbitration agreement, in bold-face font of not less than 12 point type: "Residents shall not be required to sign this arbitration agreement as a condition of admission to this facility, and cannot waive the ability to sue for violation of the Resident Bill of Rights."

Note: Authority cited: Section 1275, Health and Safety Code. Reference: Sections 1276, 1430, 1599.60, 1599.61, 1599.81 and 123222.1, Health and Safety Code.

HISTORY

New section filed 7-6-2005; operative 1-2-2006 (Register 2005, No. 27).

s 72517. Staff Development.

(a) Each facility shall have an ongoing educational program planned and conducted for the development and improvement of necessary skills and knowledge for all facility personnel. Each program shall include, but not be limited to:

- (1) Problems and needs of the aged, chronically ill, acutely ill and disabled patients.
- (2) Prevention and control of infections.
- (3) Interpersonal relationship and communication skills.
- (4) Fire prevention and safety.
- (5) Accident prevention and safety measures.
- (6) Confidentiality of patient information.
- (7) Preservation of patient dignity, including provision for privacy.
- (8) Patient rights and civil rights.
- (9) Signs and symptoms of cardiopulmonary distress.
- (10) Choking prevention and intervention.

(b) In addition to (a) above, all licensed nurses shall have training in cardiopulmonary resuscitation.

(c) Records of each staff development program shall be maintained. The records shall include name and title of presenter, date of presentation, title of subject presented, description of content and the signatures of those attending.

(d) Each facility shall have a written orientation program for all newly hired employees. Each employee shall receive orientation to the facility, the employee's job description and duties, the patient population, the pertinent policies and procedures and the facility staff.

(e) Consultants employed by the facility shall participate in the staff development program.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1276 and 1276.1, Health and Safety Code.

s 72519. Patient Transfer.

(a) The licensee shall maintain written transfer agreements with other nearby health facilities to make the services of those facilities accessible and to facilitate the transfer of patients. Complete and accurate patient information, in sufficient detail to provide for continuity of care shall be transferred with the patient at time of transfer.

(b) When a patient is transferred to another facility, the following shall be entered in the patient health record:

(1) The date, time, condition of the patient and a written statement of the reason for the transfer.

(2) Informed written or telephone acknowledgement of the patient, patient's guardian or authorized representative except in an emergency or as provided in Section 72527(a)(5).

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

s 72520. Bed Hold.

(a) If a patient of a skilled nursing facility is transferred to a general acute care hospital as defined in Section 1250(a) of the Health and Safety Code, the skilled nursing facility shall afford the patient a bed hold of seven (7) days, which may be exercised by the patient or the patient's representative.

(1) Upon transfer to a general acute care hospital, the patient or the patient's representative shall notify the skilled nursing facility within twenty-four (24) hours after being informed of the right to have the bed held, if the patient desires the bed hold.

(2) Except as provided in Section 51535.1, Title 22, California Administrative Code, any patient who exercises the bedhold option shall be liable to pay reasonable charges, not to exceed the patient's daily rate for care in the facility, for bed hold days.

(3) If the patient's attending physician notifies the skilled nursing facility in writing that the patient's stay in the general acute care hospital is expected to exceed seven (7) days, the skilled nursing facility shall not be required to maintain the bed hold.

(b) Upon admission of the patient to the skilled nursing facility and upon transfer of the patient of a skilled nursing facility to a general acute care hospital, the skilled nursing facility shall inform the patient, or the patient's representative, in writing of the right to exercise this bed hold provision. No later than June 1, 1985, every skilled nursing facility shall inform each current patient or patient's representative in writing of the right to exercise the bed hold provision. Each notice shall include information that a non-Medical eligible patient will be liable for the cost of the bed hold days, and that insurance may or may not cover such costs.

(c) A licensee who fails to meet these requirements shall offer to the patient the next available bed appropriate for the patient's needs. This requirement shall be in addition to any other remedies provided by law.

The provisions of this section do not apply to patients covered only by Medicare, Title XVIII benefits pursuant to Code of Federal Regulations, Title 42, Subsection 489.22(d)(1).f

Note: Authority cited: Sections 208(a), 1275 and 1276, Health and Safety Code.
Reference: Sections 1275 and 1276, Health and Safety Code; and 42 CFR 489.22 (d)(1).

HISTORY

1. New section filed 12-17-84 as an emergency; effective upon filing (Register 85, No. 1). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 4-16-85.

2. Certificate of Compliance including amendment of subsection (b) transmitted to OAL 4-11-85 and filed 5-15-85 (Register 85, No. 21).

3. Last sentence added to clarify that Section 72520 as originally adopted was not applicable to patients covered only by Medicare, Title XVIII benefits.

(See 42 CFR 489.22(d)(1).)

s 72521. Administrative Policies and Procedures.

(a) Written administrative, management and personnel policies shall be established and implemented to govern the administration and management of the facility.

(b) All policies and procedures required by these regulations shall be in writing and shall be carried out as written. They shall be made available upon request to patients or their agents and to employees and the public. Policies and procedures shall be reviewed at least annually, revised as needed and approved in writing by the governing body or licensee.

(c) Each facility shall establish at least the following:

(1) Personnel policies and procedures which shall include:

(A) Written job descriptions detailing qualifications, duties and limitations of each classification of employee available to all personnel.

(B) Employee orientation to facility, job, patient population, policies, procedures and staff.

(C) Staff Development.

(D) Employee benefits.

(E) Employee health and grooming.

(F) Verification of licensure, credentials and references.

(2) Policies and procedures for patient admission, leave of absence, transfer, pass and discharge, categories of patients accepted and retained, rate of charge for services included in the basic rate, type of services offered, charges for extra services, limitations of services, cause for termination of services and refund policies applying to termination of services.

(3) Policies and procedures for admission or discharge of a patient which state that a patient shall not be admitted or discharged on the basis of race, color, religion, ancestry or national origin except:

Any bona fide nonprofit religious, fraternal or charitable organization which can demonstrate to the satisfaction of the Department that its primary or substantial purpose is not to evade this subsection may establish admission policies limiting or giving preference to its own members or adherents and such policies shall not be construed as a violation of (c)(3) above. Any admission of nonmembers or nonadherents shall be subject to (c)(3) above.

(4) Written policies and procedures governing patient health records which shall be developed with the assistance of a person skilled in record maintenance and preservation.

(A) Policies and procedures governing access to, duplication of and dissemination of, information from the patient's health record.

(B) Policies and procedures shall be established to ensure the confidentiality of patient health information, in accordance with applicable laws and regulations.

(5) Policies and procedures to assure that the facility accepts and retains only those patients for whom it can provide care.

(6) Procedures for reporting of unusual occurrences.

(d) The facility shall have a written organizational chart showing the major programs of the facility, the person in charge of each program, the lines of authority, responsibility and communication and the staff assignments.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1276 and 1285, Health and Safety Code.

s 72523. Patient Care Policies and Procedures.

(a) Written patient care policies and procedures shall be established and implemented to ensure that patient related goals and facility objectives are achieved.

(b) All policies and procedures required of these regulations shall be in writing, made available upon request to physicians and other involved health professionals, patients or their representatives, employees and the public shall be carried out as written. Policies and procedures shall be reviewed at least annually, revised as needed and approved in writing by the patient care policy committee.

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

(1) Physician services policies and procedures which include:

(A) Orientation of new physicians to the facility and changes in physician services and/or policies.

(B) Patient evaluation visits by the attending physician and documentation of alternate schedules for such visits.

(2) Nursing services policies and procedures which include:

(A) A current nursing procedure manual.

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

(C) Screening of all patients for tuberculosis upon admission. These procedures shall be determined by the patient care policy committee. A tuberculosis screening procedure may not be required if there is satisfactory written evidence available that a tuberculosis

screening procedure has been completed within 90 days of the date of admission to the facility. Subsequent tuberculosis screening procedures shall be determined by the attending physician.

(D) Notification of physician regarding sudden or marked adverse change in a patient's condition.

(E) Conditions under which restraints are used, the application of restraints, and the mechanism used for monitoring and controlling their use.

(3) Infection control policies and procedures.

(4) Dietary services policies and procedures which include:

(A) Provision for safe, nutritious food preparation and service.

(B) A provision for maintaining a current dietetic service procedure manual.

(5) Pharmaceutical services policies and procedures.

(6) Activity program policies and procedures.

(7) Housekeeping services policies and procedures which include provision for maintenance of a safe, clean environment for patients, employees and the public.

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

s 72525. Required Committees.

(a) Each facility shall have at least the following committees: patient care policy, infection control and pharmaceutical service.

(b) Minutes of every committee meeting shall be maintained in the facility and indicate names of members present, date, length of meeting, subject matter discussed and action taken.

(c) Committee composition and function shall be as follows:

(1) Patient care policy committee.

(A) A patient care policy committee shall establish policies governing the following services: Physician, dental, nursing, dietetic, pharmaceutical, health records, housekeeping, activity programs and such additional services as are provided by the facility.

(B) The committee shall be composed of: at least one physician, the administrator, the director of nursing service, a pharmacist, the activity leader and representatives of each required service as appropriate.

(C) The committee shall meet at least annually.

(D) The patient care policy committee shall have the responsibility for reviewing and approving all policies relating to patient care. Based on reports received from the facility administrator, the committee shall review the effectiveness of policy implementation and shall make recommendations for the improvement of patient care.

(E) The committee shall review patient care policies annually and revise as necessary. Minutes shall list policies reviewed.

(F) The Patient Care Policy Committee shall implement the provisions of the Health and Safety Code, Sections 1315 and 1316.5, by means of written policies and procedures.

1. Facilities which choose to allow clinical psychologists to refer patients for admission shall do so only if there are physicians who will provide the necessary medical care for the referred patients.

2. Only physicians shall assume overall care of patients, including performing admitting history and physical examinations and issuing orders for medical care.

(G) The Patient Care Policy Committee shall implement the provisions of the Health and Safety Code, Section 1316, by means of written policies and procedures.

1. Facilities which choose to allow podiatrists to refer patients for admission shall do so only if there are physicians who will provide the necessary medical care for the referred patients.

2. Only physicians shall assume overall care of patients, including performing admitting history and physical examinations.

(2) Infection control committee.

(A) An infection control committee shall be responsible for infection control in the facility.

(B) The committee shall be composed of representatives from the following services; physician, nursing, administration, dietetic, pharmaceutical, activities, housekeeping, laundry and maintenance.

(C) The committee shall meet at least quarterly.

(D) The functions of the infection control committee shall include, but not be limited to:

1. Establishing, reviewing, monitoring and approving policies and procedures for investigating, controlling and preventing infections in the facility.

2. Maintaining, reviewing and reporting statistics of the number, types, sources and locations of infections within the facility.

(3) Pharmaceutical service committee.

(A) A pharmaceutical service committee shall direct the pharmaceutical services in the facility.

(B) The committee shall be composed of the following: a pharmacist, the director of nursing service, the administrator and at least one physician.

(C) The committee shall meet at least quarterly.

(D) The functions of the pharmaceutical service committee shall include, but not be limited to:

1. Establishing, reviewing, monitoring and approving policies and procedures for safe procurement, storage, distribution and use of drugs and biologicals.

2. Reviewing and taking appropriate action on the pharmacist's quarterly report.

3. Recommending measures for improvement of services and the selection of pharmaceutical reference materials.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1276, 1315, 1316 and 1316.5, Health and Safety Code.

HISTORY

Amendment filed 2-8-83; designated effective 3-2-83 (Register 83, No. 7).

s 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 decisionmaker 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.

Note: 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

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 72533. Employee Personnel Records.

(a) Each facility shall maintain current complete and accurate personnel records for all employees.

(1) The record shall include:

(A) Full name.

(B) Social Security number.

(C) Professional license or registration number, if applicable.

(D) Employment classification.

(E) Information as to past employment and qualifications.

(F) Date of beginning employment.

(G) Date of termination of employment.

(H) Documented evidence of orientation to the facility.

(I) Performance evaluations.

(2) Such records shall be retained for at least three years following termination of employment. Employee personnel records shall be maintained in a confidential manner, and shall be made available to authorized representatives of the Department upon request.

(b) Records of hours and dates worked by all employees during at least the most recent 12-month period shall be kept on file at the place of employment or at a central location within the State of California. Upon request such records shall be made available, at a time and location specified by the Department.

(c) A permanent log of the temporary health services personnel employed in the facility shall be kept for three years, and shall include the following:

(1) Employee's full name.

(2) Name of temporary health services personnel agency.

(3) Professional license and registration number and date of expiration.

(4) Verification of health status.

(5) Record of hours and dates worked.

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

s 72535. Employees' Health Examination and Health Records.

(a) All employees working in the facility, including the licensee, shall have a health examination within 90 days prior to employment or within seven days after employment and at least annually thereafter by a person lawfully authorized to perform such a procedure. Each such examination shall include a medical history and physical evaluation. The report signed by the examiner shall indicate that the person is sufficiently

free of disease to perform assigned duties and does not have any health condition that would create a hazard for himself, fellow employees, or patients or visitors.

(b) The initial health examination and subsequent annual examination shall include a purified protein derivative intermediate strength intradermal skin test for tuberculosis. A chest X-ray is indicated if the employee has previously had a positive reaction to a tuberculosis skin test or is currently being treated for tuberculosis. Positive reaction to the skin test shall be followed by a 35.56 cm x 43.18 cm (14 " x 17 ") chest X-ray. Evidence of tuberculosis screening within 90 days prior to employment shall be considered as meeting the intent of this Section.

(c) The facility shall maintain a health record of the administrator and for each employee which includes reports of all employment-related health examinations. Such records shall be kept for a minimum of three years following termination of employment.

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

s 72537. Reporting of Communicable Diseases.

All cases of reportable communicable diseases shall be reported to the local health officer in accordance with Section 2500, Article 1, Subchapter 4, Chapter 4, Title 17, California Administrative Code.

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

s 72539. Reporting of Outbreaks.

Any outbreak or undue prevalence of infectious or parasitic disease or infestation shall be reported to the local health officer in accordance with Section 2502, Article 1, Subchapter 4, Chapter 4, Title 17, California Administrative Code.

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

s 72541. Unusual Occurrences.

Occurrences such as epidemic outbreaks, poisonings, fires, major accidents, death from unnatural causes or other catastrophes and unusual occurrences which threaten the welfare, safety or health of patients, personnel or visitors shall be reported by the facility within 24 hours either by telephone (and confirmed in writing) or by telegraph to the local health officer and the Department. An incident report shall be retained on file by the facility for one year. The facility shall furnish such other pertinent information related to such occurrences as the local health officer or the Department may require. Every fire or explosion which occurs in or on the premises shall be reported within 24 hours to the

local fire authority or in areas not having an organized fire service, to the State Fire Marshal.

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

s 72543. Patients' Health Records.

(a) Records shall be permanent, either typewritten or legibly written in ink, be capable of being photocopied and shall be kept on all patients admitted or accepted for care. All health records of discharged patients shall be completed and filed within 30 days after discharge date and such records shall be kept for a minimum of 7 years, except for minors whose records shall be kept at least until 1 year after the minor has reached the age of 18 years, but in no case less than 7 years. All exposed X-ray film shall be retained for seven years. All required records, either originals or accurate reproductions thereof, shall be maintained in such form as to be legible and readily available upon the request of the attending physician, the facility staff or any authorized officer, agent, or employee of either, or any other person authorized by law to make such request.

(b) Information contained in the health records shall be confidential and shall be disclosed only to authorized persons in accordance with federal, state and local laws.

(c) If a facility ceases operation, the Department shall be informed within three business days by the licensee of the arrangements made for the safe preservation of the patients' health records.

(d) The Department shall be informed within three business days, in writing, whenever patient health records are defaced or destroyed before termination of the required retention period.

(e) If the ownership of the facility changes, both the licensee and the applicant for the new license shall, prior to the change of ownership, provide the Department with written documentation stating:

(1) That the new licensee shall have custody of the patients' health records and that these records or copies shall be available to the former licensee, the new licensee and other authorized persons; or

(2) That other arrangements have been made by the licensee for the safe preservation and the location of the patients' health records, and that they are available to both the new and former licensees and other authorized persons; or

(3) The reason for the unavailability of such records.

(f) Patients' health records shall be current and kept in detail consistent with good medical and professional practice based on the service provided to each patient. Such records shall be filed and maintained in accordance with these requirements and shall be

available for review by the Department. All entries in the health record shall be authenticated with the date, name, and title of the persons making the entry.

(g) All current clinical information pertaining to a patient's stay shall be centralized in the patient's health record.

(h) Patient health records shall be filed in an accessible manner in the facility or in health record storage. Storage of records shall provide for prompt retrieval when needed for continuity of care. Health records can be stored off the facility premises only with the prior approval of the Department.

(i) The patient health record shall not be removed from the facility, except for storage after the patient is discharged, unless expressly and specifically authorized by the Department.

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

s 72545. Admission Records.

(a) For each patient a facility shall complete an admission record which shall include the following:

(1) Name and Social Security number.

(2) Current address.

(3) Age and date of birth.

(4) Sex.

(5) Date of admission.

(6) Date of discharge.

(7) Name, address and telephone number of guardian, authorized representative, person or agency responsible for patient and next of kin.

(8) Name, address and telephone number of attending physician and the name, address and telephone number of the podiatrist, dentist or clinical psychologist if such practitioner is primarily responsible for the treatment of the patient.

(9) Name, address and telephone number of the designated alternate physician.

(10) Admission diagnoses, known allergies and final diagnoses.

(11) Medicare and Medi-Cal numbers when appropriate.

(12) An inventory including but not limited to:

(A) Items of jewelry.

(B) Items of furniture.

(C) Radios, television and other appliances.

(D) Prosthetic and orthopedic devices.

(E) Other valuable items, so identified by the patient, family or authorized representative.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1276, 1315, 1316 and 1316.5, Health and Safety Code.

HISTORY

1. Amendment filed 2-8-83; designated effective 3-2-83 (Register 83, No. 7).

2. Editorial correction filed 8-31-83; effective thirtieth day thereafter (Register 83, No. 36).

s 72547. Content of Health Records.

(a) A facility shall maintain for each patient a health record which shall include:

(1) Admission record.

(2) Current report of physical examination, and evidence of tuberculosis screening.

(3) Current diagnoses.

(4) Physician orders, including drugs, treatment and diet orders, progress notes, signed and dated on each visit. Physician's orders shall be correctly recapitulated.

(5) Nurses' notes which shall be signed and dated. Nurses' notes shall include:

(A) Records made by nurse assistants, after proper instruction, which shall include:

1. Care and treatment of the patient.

2. Narrative notes of observation of how the patient looks, feels, eats, drinks, reacts, interacts and the degree of dependency and motivation toward improved health.

3. Notification to the licensed nurse of changes in the patient's condition.

(B) Meaningful and informative nurses' progress notes written by licensed nurses as often as the patient's condition warrants. However, weekly nurses' progress notes shall be written by licensed nurses on each patient and shall be specific to the patient's needs, the patient care plan and the patient's response to care and treatments.

(C) Name, dosage and time of administration of drugs, the route of administration or site of injection, if other than oral. If the scheduled time is indicated on the record, the initial of the person administering the dose shall be recorded, provided that the drug is given within one hour of the scheduled time. If the scheduled time is not recorded, the person administering the dose shall record both initials and the time of administration. Medication and treatment records shall contain the name and professional title of staff signing by initials.

(D) Justification for the results of the administration of all PRN medications and the withholding of scheduled medications.

(E) Record of type of restraint and time of application and removal. The time of application and removal shall not be required for postural supports used for the support and protection of the patient.

(F) Medications and treatments administered and recorded as prescribed.

(G) Documentation of oxygen administration.

(6) Temperature, pulse, respiration and blood pressure notations when indicated.

(7) Laboratory reports of all tests prescribed and completed.

(8) Reports of all X-rays prescribed and completed.

(9) Progress notes written and dated by the activity leader at least quarterly.

(10) Discharge planning notes when applicable.

(11) Observation and information pertinent to the patient's diet recorded in the patient's health record by the dietitian, nurse or food service supervisor.

(12) Records of each treatment given by the therapist, weekly progress notes and a record of reports to the physician after the first 2 weeks of therapy and at least every 30 days thereafter. Progress notes written by the social service worker if the patient is receiving social services.

(13) Consent forms for prescribed treatment and medication not included in the admission consent for care.

(14) Condition and diagnoses of the patient at time of discharge or final disposition.

(15) A copy of the transfer form when the patient is transferred to another health facility.

(16) An inventory of all patients' personal effects and valuables as defined in Section 72545 (a) (12) made upon admission and discharge. The inventory list shall be signed by a representative of the facility and the patient or his authorized representative with one copy to be retained by each.

(17) The name, complete address and telephone number where the patient was transferred upon discharge from the facility.

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

s 72549. Patient Death Reports.

(a) All patients' deaths shall be reported by the licensee when requested by the Department or its designee. The report shall be made accurately at a time and in such a manner as may be requested by the Department or its designee.

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

s 72551. External Disaster and Mass Casualty Program.

(a) A written external disaster and mass casualty program plan shall be adopted and followed. The plan shall be developed with the advice and assistance of county or regional and local planning offices and shall not conflict with county and community disaster plans. A copy of the plan shall be available on the premises for review by the Department.

(b) The plan shall provide procedures in event of community and widespread disasters. The written plan shall include at least the following:

(1) Sources of emergency utilities and supplies, including gas, water, food and essential medical supportive materials.

(2) Procedures for assigning personnel and recalling off-duty personnel.

(3) Unified medical command. A chart of lines of authority in the facility.

(4) Procedures for the conversion of all usable space into areas for patient observation and immediate care of emergency admissions.

(5) Prompt transfer of casualties when necessary and after preliminary medical or surgical services have been rendered, to the facility most appropriate for administering

definitive care. Procedures for moving patients from damaged areas of the facility to undamaged areas.

(6) Arrangements for provision of transportation of patients including emergency housing where indicated. Procedures for emergency transfers of patients who can be moved to other health facilities, including arrangements for safe and efficient transportation and transfer information.

(7) Procedures for emergency discharge of patients who can be discharged without jeopardy into the community, including prior arrangements for their care, arrangements for safe and efficient transportation and at least one follow-up inquiry within 24 hours to ascertain that patients are receiving required care.

(8) Procedures for maintaining a record of patient relocation.

(9) An evacuation plan, including evacuation routes, emergency phone numbers of physicians, health facilities, the fire department and local emergency medical services agencies and arrangements for the safe transfer of patients after evacuation.

(10) A tag containing all pertinent personal and medical information which shall accompany each patient who is moved, transferred, discharged or evacuated.

(11) Procedures for maintaining security in order to keep relatives, visitors and curious persons out of the facility during a disaster.

(12) Procedures for providing emergency care to incoming patients from other health facilities.

(13) Assignment of public relations liaison duties to a responsible individual employed by the facility to release information to the public during a disaster.

(c) The plan shall be reviewed at least annually and revised as necessary to ensure that the plan is current. All personnel shall be instructed in the requirements of the plan. There shall be evidence in the personnel files, or the orientation checklist, indicating that all new employees have been oriented to the plan and procedures at the beginning of their employment.

(d) The facility shall participate in all local and state disaster drills and test exercises when asked to do so by the local or state disaster or emergency medical services agencies.

(e) A disaster drill shall be held by the facility at six-month intervals. There shall be a written report of the facility's participation in each drill or test exercise. Staff from all shifts shall participate in drills or test exercises.

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

s 72553. Fire and Internal Disasters.

(a) A written fire and internal disaster plan incorporating evacuation procedures shall be developed with the assistance of qualified fire, safety and other appropriate experts. A copy of the plan shall be available on the premises for review by the staff and the Department.

(b) The written plan shall include at least the following:

(1) Procedures for the assignment of personnel to specific tasks and responsibilities.

(2) Procedures for the use of alarm systems and signals.

(3) Procedures for fire containment.

(4) Priority for notification of staff including names and telephone numbers.

(5) Location of fire-fighting equipment.

(6) Procedures for evacuation and specification of evacuation routes.

(7) Procedures for moving patients from damaged areas of the facility to undamaged areas.

(8) Procedures for emergency transfer of patients who can be moved to other health facilities, including arrangements for safe and efficient transportation.

(9) Procedures for emergency discharge of patients who can be discharged without jeopardy into the community, including prior arrangements for their care, arrangements for safe and efficient transportation and at least one follow-up inquiry within 24 hours to ascertain that patients are receiving their required care.

(10) A disaster tag containing all pertinent personal and medical information to accompany each patient who is moved, transferred, discharged or evacuated.

(11) Procedures for maintaining a record of patient relocation.

(12) Procedures for handling incoming or relocated patients.

(13) Other provisions as dictated by circumstances.

(c) Fire and internal disaster drills shall be held at least quarterly, under varied conditions for each individual shift of the facility personnel. The actual evacuation of patients to safe areas during a drill is optional.

(d) The evacuation plan shall be posted throughout the facility and shall include at least the following:

- (1) Evacuation routes.
- (2) Location of fire alarm boxes.
- (3) Location of fire extinguishers.
- (4) Emergency telephone number of the local fire department.

(e) A dated, written report and evaluation of each drill and rehearsal shall be maintained and shall include signatures of all employees who participated.

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

s 72555. Patient Identification.

Each patient shall be provided with a wristband identification tag or other means of identification which shall be worn at all times unless the attending physician notes in the health record that the patient's condition would not permit such identification. Minimum information shall include the name of the patient and the name of the facility.

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

s 72557. Equipment and Supplies.

(a) Equipment and supplies in each facility shall be of the quality and in the quantity necessary for care of patients as ordered or indicated. At least the following items shall be provided and properly maintained at all times:

- (1) Airways.
- (2) Bedpans.
- (3) Catheter equipment.
- (4) Clerical supplies and equipment.
- (5) Denture cups.
- (6) Drug service trays and/or carts.
- (7) Ear syringes.

- (8) Emergency oxygen supply and equipment for administration.
- (9) Emesis basins.
- (10) Examination light.
- (11) First aid supplies, as determined by the patient care policy committee.
- (12) Flashlights.
- (13) Gloves (sterile and unsterile).
- (14) Ice caps.
- (15) Intravenous therapy supplies if facility provides such services.
- (16) Medicine droppers.
- (17) Medicine glasses, cups or other small containers which are accurately calibrated.
- (18) Mortar and pestle.
- (19) Rectal speculum.
- (20) Refrigerator with accurate thermometer.
- (21) Rubber tubing.
- (22) Scales for weighing all patients.
- (23) Shower and commode chairs, wheelchairs and walkers.
- (24) Soap for bathing.
- (25) Soap dishes or soap containers.
- (26) Sphygmomanometers.
- (27) Sterile dressings.
- (28) Stethoscopes.
- (29) Suction apparatus.
- (30) Suture tray.

- (31) Suture removal equipment.
- (32) Syringes and needles.
- (33) Test supplies necessary to perform urine sugar and acetone testing.
- (34) Thermometers, oral and rectal.
- (35) Tongue depressors.
- (36) Urinals.
- (37) Vaginal speculum.
- (38) Washbasins.
- (39) Water pitchers and drinking vessels.

(b) The facility shall provide current authoritative, pertinent, basic books, periodicals and reference materials related to all services provided. At least the following shall be provided:

- (1) Dictionaries, medical and standard.
- (2) Directories of available community resources.
- (3) Current publications relating to gerontological nursing.

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

ARTICLE 6. PHYSICAL PLANT

s 72601. Alterations to Existing Buildings or New Construction.

(a) Alterations to existing buildings licensed as skilled nursing facilities or new construction shall be in conformance with Chapter 1, Division 17, Part 6, Title 24, California Administrative Code and requirements of the State Fire Marshal.

(b) Facilities licensed and in operation prior to the effective date of changes in construction regulations shall not be required to institute corrective alterations or construction to comply with such new requirements except where specifically required or where the Department determined in writing that a definite hazard to health and safety exists. Any facility for which preliminary or working drawings and specifications have been approved by the Department prior to the effective date of changes to construction regulations shall not be required to comply with such new requirements provided substantial actual construction is commenced within one year of the effective date of such new requirements.

(c) All facilities shall maintain in operating condition all buildings, fixtures and spaces in the numbers and types as specified in the construction requirements under which the facility or unit was first licensed.

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

s 72603. Space Conversion.

Spaces approved for specific uses at the time of licensure shall not be converted to other uses without the approval of the Department.

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

s 72605. Notice to Department.

The Department shall be notified in writing, by the owner or licensee of the skilled nursing facility, within five days of the commencement of any construction, remodeling or alterations to such facility.

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

s 72607. Patient Capacity.

(a) A facility shall not have more patients or beds set up for use than the number for which it is licensed except in case of emergency when temporary permission may be granted by the Director or designee.

(b) Patients shall not be housed in areas which have not been approved by the Department for patient housing and which have not been given a fire clearance by the State Fire Marshal except as provided in (a) above.

(c) The number of licensed beds shown on a license shall not exceed the number of beds for which the facility meets applicable construction and operational requirements.

(d) In the event that a vacant licensed bed is not available for training purposes, facilities with approved precertification training programs may request approval from the appropriate district office for the designation of a certain bed for clinical practice which would not be included as a bed licensed for the use of patients. The following criteria must be met in order to obtain approval:

(1) The bed is to be designated and utilized for training purposes only.

(2) The bed is to be located in nonpatient sleeping areas, e.g., class -room, examining room, etc. The location of the bed is to be indicated.

(3) The bed shall not be equipped with linen except during staff training hours.

(4) Under no circumstances is a patient to be assigned to the bed designated for training purposes.

(5) The approval of a bed for training purposes only shall be contingent upon the approval of the facility's precertification training program. If the facility discontinues its precertification training program, the approval for use of this bed for training purposes is automatically cancelled.

Note: Authority cited: Section 208(a), Health and Safety Code. Reference: Section 437.10(a), Health and Safety Code.

s 72609. Patient Rooms.

(a) Each patient room shall be labeled with a number, letter or combination of the two for identification.

(b) Patients' rooms shall not be kept locked when occupied except in rooms approved by the Department for seclusion of psychiatric patients.

(c) Only upon the written approval of the Department may any exit door, corridor door, yard enclosures or perimeter fences be locked to egress.

(d) Patient rooms approved for use by ambulatory patients only shall be identified as follows: The words "Reserved for Ambulatory Patient" in letters at least 1.25 centimeters (one-half inch) high shall be posted on the outside of the door or on the wall alongside the door where they are visible to persons entering the room.

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

s 72611. Special Rooms.

Special rooms shall be maintained to meet the requirements of Section T17-410 of Title 24.

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

s 72613. Patient's Property Storage and Room Furnishings.

(a) Each patient room shall be provided with a closet or locker space for clothing, toilet articles and other personal belongings.

(b) For each licensed bed there shall be provided:

(1) A clean comfortable bed with an adequate mattress, sheets, pillow, pillow case and blankets, all of which shall be in good repair, and consistent with individual patient needs.

(2) A bedside table, chair, overbed table and reading light all of which shall be in good repair.

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

s 72615. Provision for Privacy.

Visual privacy for each patient shall be provided to meet the requirements of Section T17-070 of Title 24. Doors providing access to the corridor shall not be considered as meeting this requirement.

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

s 72619. Space and Equipment for Autoclaving, Sterilizing and Disinfecting.

(a) A facility shall:

(1) Maintain disposable sterile supplies in the amount necessary to meet the anticipated needs of the patients, or

(2) Maintain autoclave equipment, or

(3) Make contractual arrangements for outside autoclaving and sterilizing services.

(b) If a facility maintains a central supply and sterilizing area, it shall include but not be limited to:

(1) An autoclave or sterilizer, which shall be maintained in operating condition at all times.

(A) Autoclaves shall be equipped with time recording thermometers in addition to the standard mercury thermometers, except for portable sterilizers and autoclaves.

(B) Instructions for operating autoclaves and sterilizers shall be posted in the area where the autoclaves and sterilizers are located.

(2) Work space.

(3) Storage space for sterile supplies.

(4) Storage space for unsterile supplies.

(5) Equipment for cleaning and sterilizing of utensils and supplies.

(c) The facility shall provide for:

(1) Effective separation of soiled and contaminated supplies and equipment from the clean and sterilized supplies and equipment.

(2) Clean cabinets for the storage of sterile supplies and equipment.

(3) An orderly system of rotation of supplies so that the supplies stored first shall be used first and that multi-use supplies shall be reautoclaved as they become outdated.

(4) Dating of materials sterilized.

(5) Loading of the autoclave or sterilizer.

(6) Checking of recording and indicating thermometers. Recording thermometer charts shall be on file for one year.

(7) Conducting monthly bacteriological tests. Reports of test results for the last 12 months shall be retained on file.

(8) Length of aeration time for materials that are gas-sterilized.

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

s 72621. Housekeeping.

(a) Each facility shall routinely clean articles and surfaces such as furniture, floors, walls, ceilings, supply and exhaust grills and lighting fixtures.

(b) Schedules and procedures shall be posted which indicate the areas of the facility which shall be cleaned daily, weekly or monthly. The cleaning schedules and procedures shall be implemented.

(c) Cleaning supplies and equipment shall be available to housekeeping staff. Such cleaning supplies and equipment shall meet the following requirements:

(1) Cleaning supplies and equipment shall be stored in rooms for housekeeping use only.

(2) A commercial detergent germicide shall be used for all cleaning.

(3) Mop heads shall be removable and changed at least daily.

(d) Housekeeping personnel shall be employed to maintain the interior of the facility in a safe, clean, orderly and attractive manner free from offensive odors.

(e) A person qualified by experience and training shall be in charge of the housekeeping department.

(f) Janitor's closets, service sinks and storage areas shall be clean and maintained to meet the needs of the facility.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1276 and 1599.1, Health and Safety Code.

s 72623. Laundry.

(a) When a facility operates its own laundry, such laundry shall be:

- (1) Located in relationship to other areas so that steam, odors, lint and objectionable noises do not reach patient or personnel areas.
- (2) Adequate in size, well-lighted and ventilated to meet the needs of the facility.
- (3) Laundry equipment shall be of a suitable capacity, kept in good repair and maintained in a sanitary condition.

(4) The laundry space shall be maintained in a clean and sanitary condition.

(b) If the facility does not maintain a laundry service, the commercial laundry utilized shall meet the standards of this section.

(c) Laundry areas shall have, at a minimum, the following:

(1) Separate rooms for the storage of clean linen and soiled linen.

(2) Handwashing and toilet facilities maintained at locations convenient for laundry personnel.

(3) Separate linen carts labeled "soiled" or "clean linen" and constructed of washable materials which shall be laundered or suitably cleaned as needed to maintain sanitation.

(d) Written procedures for handling, storage, transportation and processing of linens shall be posted in the laundry and shall be implemented.

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

s 72625. Clean Linen.

(a) Clean linen shall be stored, handled and transported in a way that precludes cross-contamination.

(b) Clean linen shall be stored in clean, ventilated closets, rooms or alcoves, used only for that purpose.

(c) Clean linen not in covered storage shall be covered.

(d) Clean linen from a commercial laundry shall be delivered to a designated clean area in a manner that prevents contamination.

(e) Linens shall not be threadbare and shall be maintained in good repair.

(f) A supply of linen shall be provided sufficient for not less than three complete bed changes for the facility's licensed capacity.

(g) A supply of clean wash cloths and towels shall be provided and available to staff to meet the care needs of the patients.

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

s 72627. Soiled Linen.

(a) Soiled linen shall be handled, stored and processed in a manner that will prevent the spread of infection.

(b) Soiled linen shall be sorted in a separate room by methods affording protection from contamination.

(c) Soiled linen shall be stored and transported in a closed container which does not permit airborne contamination of corridors and areas occupied by patients and precludes cross contamination of clean linen.

(d) When laundry chutes are used to transport soiled linen, they shall be maintained in a clean, sanitary state.

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

s 72629. Provisions for Emptying Bedpans.

Bedpans shall be emptied and cleaned in utility rooms unless toilets adjoining patients' rooms are equipped with flushing attachments and vacuum breakers. Bathtubs, lavatories or laundry sinks shall not be used for cleaning and emptying bedpans.

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

s 72631. Signal Systems.

(a) A nurses' signal system shall be maintained in operating order as required by Section E702-30 of Title 24.

(b) Detachable extension cords shall be readily accessible to patients at all times.

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

s 72633. Utility Rooms.

Utility rooms shall be maintained as required by Section T17-408 of Title 24.

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

s 72635. Handrails.

Corridors shall be equipped with firmly secured handrails as required by Section T17-058(e), Title 24.

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

s 72637. General Maintenance.

(a) The facility, including the grounds, shall be maintained in a clean and sanitary condition and in good repair at all times to ensure safety and well-being of patients, staff and visitors.

(b) Buildings and grounds shall be free of environmental pollutants and such nuisances as may adversely affect the health or welfare of patients to the extent that such conditions are within the reasonable control of the facility.

(c) All buildings, fixtures, equipment and spaces shall be maintained in operable condition.

(d) Personnel shall be employed to provide preventive maintenance and to carry out the required maintenance program.

(e) Equipment provided shall meet all applicable California Occupational Safety and Health Act requirements in effect at the time of purchase. All portable electrical medical equipment designed for 110-120 volts, 60 hertz current, shall be equipped with a three wire grounded power cord with a hospital grade three prong plug. The cord shall be an integral part of the plug.

(f) The facility shall be maintained free from vermin and rodents through operation of a pest control program. The pest control program shall be conducted in the main patient buildings, all outbuildings on the property and all grounds.

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

s 72639. Air Filters.

(a) The licensee shall be responsible for regular inspection, cleaning or replacement of all filters installed in heating, air conditioning and ventilating systems, as necessary to maintain the systems in normal operating condition.

(b) A written record of inspection, cleaning or replacement, including static pressure

drop, shall be maintained and available for inspection. The record shall include a description of the filters originally installed, the American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE) efficiency rating and the criteria established by the manufacturer or supplier to determine when replacement or cleaning is necessary.

(c) Following filter replacement or cleaning, the installation shall be visually inspected for torn media and by-pass in filter frames by means of a flashlight or equivalent, both with fans in operation and stopped. Tears in filter media and by-pass in filter frames shall be eliminated in accordance with the manufacturer's directions and as required by the Department.

(d) Where a filter maintenance is performed by an equipment service company, a certification shall be provided to the licensee that the requirements listed in this section have been accommodated.

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

s 72641. Emergency Lighting and Power System.

(a) Auxiliary lighting and power facilities shall be provided as required by Sections E702-5, E702-6, E702-8 and E702-21 of Title 24, California Administrative Code. Flashlights shall be in readiness for use at all times. Open-flame type of light shall not be used.

(b) The licensee shall provide and maintain an emergency electrical system in safe operating condition and in compliance with subsections (d), (e), and (f). The system shall serve all lighting, signals, alarms and equipment required to permit continued operation of all necessary functions of the facility for a minimum of six hours.

(c) If the Department determines that an evaluation of the emergency electrical system of a facility or portion thereof, is necessary, the Department may require the licensee to submit a report by a registered electrical engineer which shall establish a basis for alteration of the system to provide reasonable compliance with Subarticle E702-B, Part 3, Title 24, California Administrative Code (Emergency Electrical Systems for Existing Nursing Homes). Essential engineering data, including load calculations, assumptions and tests, and where necessary, plans and specifications, acceptable to the Department, shall be submitted in substantiation of the report. When corrective action is determined to be necessary, the work shall be initiated and completed within an acceptable time limit.

(d) The emergency lighting and power system shall be maintained in operating condition to provide automatic restoration of power for emergency circuits within ten seconds after normal power failure.

(e) Emergency generators shall be tested at least every 14 days under full load condition for a minimum of 30 minutes.

(f) A written record of inspection, performance, exercising period and repair of the emergency electrical system shall be regularly maintained on the premises and available for inspection by the Department.

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

s 72643. Storage and Disposal of Solid Wastes.

(a) Solid wastes shall be stored and eliminated in a manner to preclude the transmission of communicable disease. These wastes shall not be a nuisance or a breeding place for insects or rodents nor be a food source for either.

(b) Solid waste containers shall be stored and located in a manner that will minimize odors in patient or dietary areas.

(c) Syringes and needles, before being discarded into waste containers, shall be rendered unusable.

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

s 72645. Solid Waste Containers.

(a) All containers, except movable bins used for storage of solid wastes, shall have tight-fitting covers in good repair, external handles and be leakproof and rodent proof.

(b) Movable bins when used for storing or transporting solid wastes from the premises shall have approval of the local health department and shall meet the following requirements:

(1) Have tight-fitting covers, closed when not being loaded.

(2) Be in good repair.

(3) Be leakproof.

(4) Be rodent proof unless stored in a room or screened enclosure.

(c) All containers receiving putrescible wastes shall be emptied at least every four days or more if necessary.

(d) Solid waste containers, including movable bins, shall be thoroughly washed and cleaned each time they are emptied unless soil contact surfaces have been completely protected from contamination by disposable liners, bags or other devices removed with

the waste. Each movable bin shall be accessible and shall have a drainage device to allow complete cleaning at the storage area.

Note: Authority cited: Sections 208(a), 1254 and 1276, Health and Safety Code.
Reference: Sections 1250, 1276 and 25157.3, Health and Safety Code.

HISTORY

1. Repealer of subsection (e) filed 12-30-83 as an emergency; effective upon filing (Register 84, No. 3). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 4-29-84.
2. Certificate of Compliance transmitted to OAL 4-30-84 and withdrawn 5-30-84 (Register 84, No. 24).
3. Repealer of subsection (e) filed 5-30-84 as an emergency; effective upon filing (Register 84, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-27-84.
4. Certificate of Compliance transmitted to OAL 9-26-84 and filed 10-16-84 (Register 84, No. 42).

s 72647. Infectious Waste.

Infectious waste, as defined in Health and Safety Code Section 25117.5, shall be handled and disposed of in accordance with the Hazardous Waste Control Law, Chapter 6.5, Division 20, Health and Safety Code (beginning with Section 25100) and the regulations adopted thereunder (beginning with Section 66100 of this Title).

Note: Authority cited: Sections 208, 1254, 25150 and 25157.3, Health and Safety Code.
Reference: Sections 1250, 25117 and 25117.5, Health and Safety Code.

HISTORY

1. Repealer and new section filed 12-30-83 as an emergency; effective upon filing (Register 84, No. 3). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 4-29-84.
2. Certificate of Compliance transmitted to OAL 4-30-84 and withdrawn 5-30-84 (Register 84, No. 24).
3. Repealer and new section filed 5-30-84 as an emergency; effective upon filing (Register 84, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-27-84.

4. Certificate of Compliance transmitted to OAL 9-26-84 and filed 10-16-84 (Register 84, No. 42).

s 72649. Gases for Medical Use.

(a) Gases for medical use covered by this section are: carbon dioxide, cyclopropane, ethylene, helium, nitrous oxide, oxygen, helium-oxygen mixtures and carbon dioxide-oxygen mixtures.

(b) Provision shall be made for safe handling and storage of medical gas cylinders.

(c) Transfer of gas by facility personnel from one cylinder to another shall not be permitted.

(d) The piped oxygen or nitrous oxide system(s) shall be tested in accordance with the National Fire Protection Association Bulletin, NFPA No. 56F, Nonflammable Medical Gas Systems, 1973, by the National Fire Protection Association, 470 Atlantic Avenue, Boston, MA 02210, and a written report shall be maintained in each of the following instances:

(1) Upon completion of initial installation.

(2) Whenever changes are made to a system.

(3) Whenever the integrity of a system has been breached.

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

s 72651. Water Supply and Plumbing.

(a) Where water for human consumption is from an independent source, it shall be subjected to bacteriological analysis by the local health department or a licensed commercial laboratory at least every three months. A copy of the most recent laboratory report shall be available for inspection.

(b) Plumbing and drainage facilities shall be maintained in compliance with Part 5, Title 24, California Administrative Code, Basic Plumbing Requirements. Drinking water supplies shall comply with Group 4, Subchapter 1, Chapter 5, Division T17, Part 6, of Title 24, California Administrative Code.

(c) Vacuum breakers shall be maintained in operating condition where required by Section T17-210(c), Division T17, Part 6, Title 24, California Administrative Code.

(d) Hot water temperature controls shall be maintained to automatically regulate temperature of hot water delivered to plumbing fixtures used by patients to attain a hot

water temperature in compliance with Section T17- 210(e), Title 24, California Administrative Code.

(e) Minimum hot water temperature shall be maintained at the final rinse section of dishwashing facilities as required by Section T17-210(f), Division T17, Part 6, Title 24, California Administrative Code unless alternate methods are approved by the Department.

(f) Taps delivering water at or above the stated temperatures shall be in compliance with requirements specified in Section T17-214(e), Division T17, Part 6, Title 24, California Administrative Code. Special precautions shall be taken to prevent the scalding of patients.

(g) Grab bars, readily accessible to patients, shall be maintained at each toilet, bathtub and shower used by patients.

(h) Toilet, handwashing and bathing facilities shall be maintained in operating condition and in the number and types specified in construction requirements in effect at the time the building or unit was constructed. Those handwashing facilities listed in Section T17-208, Division T17, Part 6, of Title 24, California Administrative Code, shall not be equipped with aerators.

(i) If the facility accepts physically handicapped patients, the water closets, bathing and toileting appliances shall be equipped for use by the physically handicapped.

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

s 72653. Lighting.

(a) All rooms, attics, basements, passageways, and other spaces shall be provided with artificial illumination. As set forth in Parts 2 and 3 and Sections E702-e and E702-4, Part 3, Title 24, California Administrative Code.

(b) All patient rooms shall have a minimum of 30 foot candles of light delivered to reading or working surfaces and not less than 20 foot candles of light in the rest of the room.

(c) All accessible areas of corridors, storerooms, stairways, ramps, exits and entrances shall have a minimum of 20 foot candles of light.

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

s 72655. Maintenance Manual.

(a) A written manual on maintenance of heating, air conditioning and ventilation systems shall be adopted by each facility.

(b) A log shall be utilized to document maintenance work performed.

(c) When maintenance is performed by an equipment service company, a certification shall be provided to the licensee that the required work has been performed in accordance with acceptable standards. This certification shall be retained on file in the facility for review by the Department.

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

s 72657. Mechanical Systems.

Heating, air conditioning and ventilating systems shall be maintained in normal operating conditions to provide a comfortable temperature and shall meet the requirements of Section T17-105, Title 24, California Administrative Code.

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

s 72659. Screens.

Screens shall be provided as required by Section T17-066, Title 24, California Administrative Code.

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

s 72661. Storage.

Combined general and specialized storage space shall be maintained in accordance with Section T17-440, Title 24, California Administrative Code.

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

s 72663. Space.

All spaces located in the facility or internally connected to a licensed facility shall be considered a part of the facility and shall be subject to licensing regulations.

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

s 72665. Centralized Services Shared by Several Facilities.

Services shared by several facilities shall meet the requirements of Section T17-101(3), Title 24, California Administrative Code.

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

ARTICLE 7. VIOLATIONS AND CIVIL PENALTIES

s 72701. Definitions.

(a) The following definitions shall apply to this Article:

(1) Substantial probability means that the likelihood of an event is real, actual and not imaginary, insignificant or remote.

(2) Serious physical harm means that type of dangerous bodily injury, illness or condition in which:

(A) A part of the body would be permanently removed, rendered functionally useless or substantially reduced in capacity, either temporarily or permanently and/or

(B) A part of an internal function of the body would be inhibited in its normal performance to such a degree as to temporarily or permanently cause a reduction in physical or mental capacity or shorten life.

(3) Direct relationship means one in which a significant risk or effect is created and does not include a remote or minimal risk or effect.

(4) A class "C" violation is any violation of a statute or regulation relating to the operation or maintenance of a skilled nursing facility which the Department determines has only a minimal relationship to the health, safety or security of the skilled nursing facility patients.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1276, 1424 and 1427, Health and Safety Code.

s 72703. Class "A" Violations -Examples.

Note: Authority cited: Sections 100275(a) and 1275, Health and Safety Code. Reference: Sections 1276, 1424 and 1426, Health and Safety Code.

HISTORY

Repealer of section and amendment of Note filed 5-30-96; operative 6-29-96
(Register 96, No. 22).

s 72705. Class "B" Violations -Examples.

Note: Authority cited: Sections 100275(a) and 1275, Health and Safety Code. Reference: Sections 1276, 1424 and 1426, Health and Safety Code.

HISTORY

Repealer of section and amendment of Note filed 5-30-96; operative 6-29-96

(Register 96, No. 22).

s 72707. Filing of Names and Addresses.

(a) The licensee of each skilled nursing facility shall file with the Department the address of the licensee to whom all citations and notices concerning any class "A" or class "B" violations shall be mailed by the Department.

(b) Each such licensee shall also designate one or more persons who is authorized to accept on the licensee's behalf any citations to be served by any representative of the Department.

(c) Each such licensee shall file with the Department the names or titles of those persons who are such designees of the licensee.

(d) Each such licensee shall also file with the Department a written notice of any change in address or of any change of designee. The Department shall mail all citations or notices to the latest address on file with the Department.

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

s 72709. Issuance of Citations.

(a) Each citation shall be in writing and shall include at least the following in addition to that required in Section 1423(a), Health and Safety Code:

(1) The earliest feasible time for the elimination of the condition constituting the violation. Such time shall be the shortest possible time within which the licensee reasonably can be expected to correct the alleged violation. In prescribing such time, the Department shall consider the following factors:

(A) The seriousness of the alleged violation.

(B) The number of patients affected.

(C) The availability of required equipment or personnel.

(D) The estimated time required for delivery, and any installation of required equipment.

(E) Any other relevant circumstances.

(2) The name, address and telephone number of the district administrator of the district in which the facility is located.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1276 and 1423(a), Health and Safety Code.

s 72711. Penalties.

(a) In fixing the amount of the civil penalty to be imposed for a class "A" violation, the district administrator or his designee, shall consider:

(1) The gravity of the violation which shall include:

(A) The degree of substantial probability that death or serious physical harm to the patient would result and if applicable, did result, from the violation.

(B) The severity of serious physical harm to a patient or guest which was likely to result and if applicable, that did result, from the violation.

(C) The extent to which the provisions of the applicable statutes or regulations were violated.

(2) The "Good Faith" exercised by the licensee. Indications of good faith include awareness of the applicable statutes and regulations and reasonable diligence in complying with such requirements, prior accomplishments manifesting the licensee's desire to comply with such requirements, and any other mitigating factors in favor of the licensee.

(3) Any previous violations committed by the licensee.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1276, 1424, 1425, 1426 and 1427, Health and Safety Code.

s 72713. Citation Review Conference.

(a) At a citation review conference:

(1) The licensee shall have the right to be represented by legal counsel, or a person of the licensee's choosing, to present oral or written information on the licensee's behalf, and to explain any mitigating circumstances.

(2) The representatives of the Department who issued the citation should attend the conference and present information, oral or written, in substantiation of the alleged violation.

(3) The conference shall be an informal proceeding, and shall not be conducted in the manner of a judicial hearing or as a hearing under the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and need not be conducted according to technical rules relating to evidence and witnesses.

(4) Neither the licensee nor the Department shall have the right to subpoena any witness to attend the conference, to record testimony at the conferences, nor to formally cross-examine any person testifying at the conference. However, the licensee and the Department may present any witness on its behalf at the conference.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1276 and 1428, Health and Safety Code.

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS
TITLE 22. SOCIAL SECURITY
DIVISION 5. LICENSING AND CERTIFICATION OF HEALTH FACILITIES, HOME
HEALTH
AGENCIES, CLINICS, AND REFERRAL AGENCIES
CHAPTER 3.5. RECEIVERSHIP MANAGEMENT OF LONG-TERM CARE
FACILITIES

s 72801. Minimum Qualifications for a Receiver.

(a) In order to be on the Department list of potential receivers an individual or entity shall be a:

(1) Nursing Home Administrator licensed by the California Board of Examiners of Nursing Home Administrators, or

(2) responsible person, which shall mean a retired nursing home administrator, other person with experience in management of a health facility, public health administrator, or corporate officer or,

(3) responsible entity, which shall mean a public agency, a corporation, or a partnership that provides health facility management consultation and has been or is currently a California health facility licensee.

(b) If the potential receiver is an individual with professional licensure, he or she shall be in good standing with the applicable professional licensing board at the time of appointment.

(c) If the potential receiver is an entity, the entity shall be currently licensed to operate a health facility, or must be able to meet current standards for health facility licensing at the time of appointment.

(d) The potential receiver shall have experience in the delivery of health care services which means:

(1) If an individual, at least 12 consecutive months experience as an administrator or assistant administrator of a health facility licensed by the State of California.

(2) If an entity, shall have operated a California licensed health facility for a minimum of 12 consecutive months.

Note: Authority cited: Sections 208(a), 1275 and 1335, Health and Safety Code.

Reference: Section 1327(b), Health and Safety Code.

HISTORY

1. New section filed 10-15-91; operative 11-14-91 (Register 92, No. 3).

s 72803. Receivership Investigation.

(a) Any person having knowledge of circumstances which may warrant the petitioning of the court for appointment of a receiver according to the provisions of Health and Safety Code Sections 1325-1335 may notify the Director of the Department of Health Services and request that the Department initiate a receivership investigation.

(b) A request for a receivership investigation shall be made in writing and shall include the following:

(1) The name and address of the facility for which the investigation is being requested.

(2) The basis for the request as specified in Health and Safety Code Section 1327(a).

(3) All facts upon which the request is based.

(4) The name, address and phone number of the person or persons making the request for investigation.

(c) Within 45 days of receipt of a request for receivership investigation, the Department shall notify the person or persons making the request whether the Department intends to petition the court for the appointment of a receiver for the long-term care health facility which was the subject of the requested investigation.

Note: Authority cited: Sections 208(a), 1275 and 1335, Health and Safety Code.

Reference: Sections 1327(a) and 1327.1, Health and Safety Code.

HISTORY

1. New section filed 10-15-91; operative 11-14-91 (Register 92, No. 3).

s 72805. Duties of a Receiver.

(a) A receiver shall comply with the provisions of Health and Safety Code Section 1336 in the transfer of any patient from the facility while acting in the capacity of receiver.

(b) A receiver shall not interfere with the health facility licensee's attempt to secure a change in ownership or to secure a new licensee to operate the facility.

(c) If the receiver needs the assistance of staff other than those needed for the operation of the facility, he or she shall notify the Department in writing and request the court to authorize any expenditures.

(d) The receiver shall comply with all licensing requirements applicable to the type of long-term health care facility for which he or she is a receiver.

(e) No later than 45 days after appointment as the receiver for a facility, the receiver shall

make a written report to the court and to the Department which includes the following information:

(1) A description of the physical condition of the long-term health facility plant including:

(A) Any deficiencies in the facility plant which affect facility operation.

(B) A recommendation whether the physical condition of the facility will allow for its continued operation as a long-term health care facility.

(2) The receiver's assessment of the probability that the long-term health care facility will meet State standards for operation by the end of 4 months under receivership or by an alternate date specified by the Department.

(3) The number of patients remaining in the facility and the number of patients transferred during the receivership.

Note: Authority cited: Sections 208(a), 1275 and 1335, Health and Safety Code.

Reference: Sections 1329, 1331(c) and 1336, Health and Safety Code.

HISTORY

1. New section filed 10-15-91; operative 11-14-91 (Register 92, No. 3).

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HEALTH AND SAFETY CODE SECTION 1416-1416.6

1416. This chapter shall be known and may be cited as the Nursing Home Administrators' Act.

1416.1. There is hereby established in the State Department of Health Services a Nursing Home Administrator Program (NHAP), which shall license and regulate nursing home administrators.

1416.2. (a) The following definitions shall apply to this chapter:

(1) "Department" means the State Department of Health Services.

(2) "NHAP" or "Program" means the Nursing Home Administrator Program.

(3) "State" means California, unless applied to the different parts of the United States. In this latter case, "state" includes the District of Columbia and the territories.

(4) "Nursing home" means any institution, facility, place, building, or agency, or portion thereof, licensed as a skilled nursing facility, intermediate care facility, or intermediate care facility/developmentally disabled, as defined in Chapter 2 (commencing with Section 1250).

"Nursing home" also means an intermediate care facility/developmentally disabled habilitative, intermediate care facility/developmentally disabled-nursing, or congregate living health facility, as defined in Chapter 2 (commencing with Section 1250), if a licensed nursing home administrator is charged with the general administration of the facility.

(5) "Nursing home administrator" means an individual educated and trained within the field of nursing home administration who carries out the policies of the licensee of a nursing home and is licensed in accordance with this chapter. The nursing home administrator is charged with the general administration of a nursing home, regardless of whether he or she has an ownership interest and whether the administrator's function or duties are shared with one or more other individuals.

(6) "Administrator-in-Training Program" or "AIT Program" means a program that is approved by the NHAP in which qualified persons participate under the coordination, supervision, and teaching of a preceptor, as described in Section 1416.57, who has obtained approval from the NHAP.

(b) Nothing in this section shall be construed to allow the program to have jurisdiction over an administrator of an intermediate care facility/developmentally disabled-nursing or an intermediate care facility/developmentally disabled habilitative, if the administrator of the facility is not using licensure under this chapter to qualify as an administrator in accordance with subdivision (d) of Section 1276.5.

(c) Nothing in this section shall be construed to define an intermediate care facility/developmentally disabled-nursing or an intermediate care facility/developmentally disabled habilitative as a nursing home for purposes other than the licensure of nursing home administrators under this chapter.

1416.4. The program shall adopt rules and regulations that are reasonably necessary to carry out this chapter. The rules and regulations shall be adopted, amended, and repealed in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. To the extent that the regulations governing the nursing home administrator program that are in effect prior to January 1, 2002, are not in conflict with this chapter, they shall remain in effect until new regulations are implemented for purposes of this chapter.

1416.6. (a) It shall be a misdemeanor for any person to act or serve in the capacity of a nursing home administrator, unless he or she is the holder of an active nursing home administrator's license issued in accordance with this chapter. Persons carrying out functions and duties delegated by a licensed nursing home administrator shall not be acting in violation of this chapter.

(b) (1) This chapter shall not apply to any person who serves as an acting administrator as provided in this subdivision when a licensed administrator is not available because of death, illness, or any other reason.

(2) A person who is acting as an administrator shall notify the program in writing within five days of acting in this capacity and provide factual information and specific circumstances necessitating the use of an acting administrator.

(3) No person shall act as an administrator for more than 10 days unless arrangements have been made for part-time supervision of his or her activities by a nursing home administrator who holds a license or provisional license under this chapter. Supervision shall include at least 8 hours per week of direct onsite supervision by the licensed administrator. The program shall be notified in writing of the nature of this arrangement. No person shall act as an administrator for more than two months without the written approval of the program. The program shall not approve a person to act as an administrator for more than six months.

(4) If the acting administrator is an administrator in training, then the supervision required by paragraph (3) may be counted towards the total hours of supervised training required by subdivision (f) of Section 1416.57.

AuthorityforRegulations

ActingAdministrator

(c) Notwithstanding subdivision (b), an individual acting as an administrator for more than 10 days must have management experience in a health facility.

HEALTH AND SAFETY CODE SECTION 1416.10-1416.12

1416.10. In conformity with the requirements of Section 1908(c) of the Social Security Act (42 U.S.C. Sec. 1396g(c)), the program shall have all of the following powers and duties:

(a) To develop, impose, and enforce standards that shall be met by individuals in order to receive a license as a nursing home administrator. At a minimum, the standards shall be designed to ensure that nursing home administrators shall be individuals who have not committed acts or crimes constituting grounds for denial of licensure and who are qualified by training or experience in the field of institutional administration to serve as nursing home administrators.

(b) To develop and apply procedures, including examinations and investigations, for determining whether an individual meets the standards.

(c) To issue licenses to individuals who have been determined to meet the standards, and to revoke or suspend licenses where grounds exist for those actions.

(d) To establish and carry out procedures designed to ensure that individuals licensed as nursing home administrators will, during any period that they serve as an administrator, comply with the required standards.

(e) To receive, investigate, and take appropriate action with respect to any charge or complaint filed with the program alleging that an individual licensed as a nursing home administrator has failed to comply with the required standards.

(f) To conduct studies of the administration of nursing homes within the state, with a view to the improvement of the standards imposed for the licensing of nursing home administrators, and of procedures and methods for the enforcement of standards with respect to administrators of nursing homes who have been licensed under this chapter.

(g) To receive and administer all funds and grants as are made available to the program in order to carry out the purposes of this chapter.

(h) To encourage qualified educational institutions and other qualified organizations to establish, provide, and conduct training and instruction programs and courses that will enable all otherwise qualified individuals to attain the qualifications necessary to meet the standards set by the program for licensed nursing home administrators, and to enable licensed nursing home administrators to meet the continuing education requirements for the renewal of their licenses.

(i) To consult with and seek the recommendations of the appropriate statewide professional societies, associations, institutional organizations, and educational institutions in the development of educational programs.

(j) To give due consideration to the recommendations of the National Advisory Council on Nursing Home Administration, in accordance with the provisions of subdivision (f) of Section 1908 of Title XIX of the Social Security Act (42 U.S.C. Sec. 1396g(f)).

1416.12. The following enforcement actions taken by the department against a facility and the name of the licensed administrator of the facility shall be reported to the program.

(a) Temporary suspension orders.

(b) Final decertification from the Medi-Cal or Medicare programs based on failure to meet certification requirements.

(c) Service of an accusation to revoke a facility's license.

(d) All class "AA" citations and three class "A" citations issued to a facility with the same administrator within a one-calendar year period. The department shall notify the program in the event that citations are overturned or modified in citation review conference, through binding arbitration, or on appeal.

HEALTH AND SAFETY CODE SECTION 1416.20-1416.50

1416.20. (a) The nursing home administrator licensing examination shall cover the broad aspects of nursing home administration.

(b) Unless otherwise provided in this article, every applicant for an initial license as a nursing home administrator shall pass a nursing home administrator licensing examination, which shall consist of a state and national examination. The state examination shall be held at least four times a year, at a time and place determined by the program. The national examination is computer-based and shall be scheduled by the applicant after the applicant is notified by the program of his or her eligibility to take the examination.

“AA” – “A” Citations

Article 3 –Licensing Examination

(c) If an applicant for licensure under this article, submits an endorsement certificate from another state indicating that he or she scored at least 75 percent on the national examination, the applicant shall be required to take only the California state part of the licensing examination. If the applicant scored less than 75 percent on the national examination, he or she shall take both the state and national examination.

1416.22. (a) To qualify for the licensing examination, an applicant must be at least 18 years of age, be a citizen of the United States or a legal resident, be of reputable and responsible character, demonstrate an ability to comply with this chapter, and comply with at least one of the following requirements:

(1) Have a master's degree in nursing home administration or a related health administration field. The master's program in which the degree was obtained must have included an internship or residency of at least 480 hours in a skilled nursing facility or intermediate care facility.

(2) (A) With regard to applicants who have a current valid license as a nursing home administrator in another state and apply for licensure in this state, meet the minimum education requirements that existed in this state at the time the applicant was originally licensed in the other state.

(B) The minimum education requirements that have existed in California are as follows:

Prior to 7/1/73 None

From 7/1/73 to 6/30/74 30 semester units

From 7/1/74 to 6/30/75 45 semester units

From 7/1/75 to 6/30/80 60 semester units

From 7/1/80 to 1/1/02 Baccalaureate degree

(3) A doctorate degree in medicine and a current valid license as a physician and surgeon with 10 years of recent work experience, and the completion of a program-approved AIT Program of at least 1,000 hours.

(4) A baccalaureate degree, and the completion of a program-approved AIT Program of at least 1,000 hours.

(5) Ten years of recent full-time work experience, and a current license, as a licensed registered nurse, and the completion of a program-approved AIT Program of at least 1,000 hours. At least the most recent five years of the 10 years of work experience shall be in a supervisory or director of nursing position.

U.S.CitizenOrLegalResident

(6) Ten years of full-time work experience in any department of a skilled nursing facility, an intermediate care facility, or an intermediate care facility developmentally/disabled with at least 60 semester units (or 90 quarter units) of college or university courses, and the completion of a program-approved AIT Program of at least 1,000 hours. At least the most recent five years of the 10 years of work experience shall be in a position as a department manager.

(7) Ten years of full-time hospital administration experience in an acute care hospital with at least 60 semester units (or 90 quarter units) of college or university courses, and the completion of a program-approved AIT Program of at least 1,000 hours. At least the most recent five years of the 10 years of work experience shall be in a supervisory position.

(8) If the applicant and the preceptor provide compelling evidence that previous work experience of the applicant directly relates to nursing home administrator duties, the program may accept a waiver exception to a portion of the AIT program that requires 1,000 hours.

(b) The applicant shall submit an official transcript that evidences the completion of required college and university courses, degrees, or both. An applicant who applies for the licensing examination on the basis of work experience shall submit a declaration signed under penalty of perjury, verifying his or her work experience. This declaration shall be signed by a licensed nursing home administrator, physician and surgeon, chief of staff, director of nurses, or registered nurse who can attest to the applicant's work experience.

1416.24. (a) An application for a nursing home administrator license shall be submitted to the program on a form provided by the program, with the appropriate nonrefundable fee for any required examination, the application, and licensure. The application shall contain information the program deems necessary to determine the applicant's qualifications and a statement whether the individual has been convicted of any crime other than a minor traffic violation. Each applicant shall meet the current requirements for any required examination and licensure. Applicants for licensure shall submit evidence of electronic transmission of fingerprints or fingerprint cards to the program.

(b) A completed application package, together with the examination application, and licensure fees must be received by the program at least 30 days prior to the examination date.

(c) (1) The withdrawal of an application for a license after it has been filed with the department shall not, unless the department consents in writing to the withdrawal, deprive the department 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 that ground.

Application

(2) The suspension, expiration, or forfeiture by operation of law of a license issued by the department, the suspension, forfeiture, or cancellation by order of the department or a court of law of a license, or the surrender without the written consent of the department of a license, shall not deprive the department of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any grounds.

(d) An application that is submitted to the program is valid for only one year after the date of receipt. An applicant who fails to meet all requirements for licensure, including successfully passing the national and state examinations during that one-year period, shall be required to submit another application and appropriate application and examination fees to the program before attempting further examinations.

(e) The program may extend the one-year period described in subdivision (d) upon a showing of good cause. For purposes of this subdivision, good causes shall include, but shall not be limited to, delays in the processing of the application, or delays in applying for and taking the examination caused by illness, accident, or other extenuating circumstances.

(f) An applicant shall submit documentation and evidence to the program of his or her eligibility for licensure.

(g) At the time of the examination, the applicant shall read and sign the Examination Security Agreement and comply with its terms.

1416.26. (a) As part of the application process for a nursing home administrator license, an applicant shall submit to the department two sets of completed fingerprint cards for a criminal record clearance through the Department of Justice and the Federal Bureau of Investigation. As an alternative, the applicant may also provide proof of electronic transmission of fingerprints to the Department of Justice and the Federal Bureau of Investigation. Upon receipt of the fingerprints, the Department of Justice and the Federal Bureau of Investigation shall notify the department of the criminal record information. If no criminal record information has been recorded, the Department of Justice and the Federal Bureau of Investigation shall provide the department with a statement of that fact.

(b) This criminal record clearance shall be completed prior to issuing a license. Applicants shall be responsible for any costs associated with the criminal record clearance. The fee to cover the processing costs of the Department of Justice, not including the costs associated with rolling the fingerprint cards, shall not exceed thirty-two dollars (\$32) per card for state fingerprints, and shall not exceed twenty-four dollars (\$24) per card for federal fingerprints.

Fingerprints

1416.28. (a) Notwithstanding any other law, the program shall at the time of application, issuance, or renewal of a nursing home administrator license require that the applicant or licensee provide his or her federal employer identification number or his or her social security number.

(b) Any applicant or licensee failing to provide his or her federal identification number or social security number shall be reported by the program to the Franchise Tax Board and, if failing to provide after notification pursuant to paragraph (1) of subdivision (b) of Section 19528 of the Revenue and Taxation Code, shall be subject to the penalty provided in paragraph (2) of subdivision (b) of Section 19528 of the Revenue and Taxation Code.

(c) In addition to the penalty specified in subdivision (b), the program may not process any application, original license, or renewal of a license unless the applicant or licensee provides his or her federal employer identification number or social security number where requested on the application.

(d) The program shall, upon request of the Franchise Tax Board, furnish to the Franchise Tax Board the following information with respect to every licensee:

- (1) Name.
- (2) Address or addresses of record.
- (3) Federal employer identification number or social security number.
- (4) Type of license.
- (5) Effective date of license or renewal.
- (6) Expiration date of license.
- (7) Whether license is active or inactive, if known.
- (8) Whether license is new or a renewal.

(e) The reports required under this section shall be filed on magnetic media or in other machine-readable form, according to standards furnished by the Franchise Tax Board.

(f) The program shall provide to the Franchise Tax Board the information required by this section at a time that the Franchise Tax Board may require.

(g) Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, the social security number and federal employer identification number furnished pursuant to this section shall not be deemed to be a public record and shall not be open to the public for inspection.

(h) Any deputy, agent, clerk, officer, or employee of the program described in this chapter, any former officer or employee, or other individual who in the course of his or her employment or duty has or has had access to the information required to be furnished under this chapter, may not disclose or make known in any manner that information, except as provided in this section to the Franchise Tax Board or as provided in subdivision (j).

FranchiseTax

(i) It is the intent of the Legislature in enacting this section to utilize the social security account number or federal employer identification number for the purpose of establishing the identification of persons affected by state tax laws and for purposes of compliance with Section 17520 of the Family Code and, to that end, the information furnished pursuant to this section shall be used exclusively for those purposes.

(j) If the program utilizes a national examination to issue a license, and if a reciprocity agreement or comity exists between California and the state requesting release of the social security number, any deputy, agent, clerk, officer, or employee of the program described in this chapter may release a social security number to an examination or licensing entity, only for the purpose of verification of licensure or examination status.

1416.30. (a) The program shall require compliance with any judgment or order for support prior to issuance or renewal of a license.

(b) Each applicant for the issuance or renewal of a nursing home administrator license, who is not in compliance with a judgment or order for support shall be subject to Section 11350.6 of the Welfare and Institutions Code.

(c) "Compliance with a judgment or order of support" has the same meaning as specified in paragraph (4) of subdivision (a) of Section 11350.6 of the Welfare and Institutions Code.

1416.32. (a) Prior to admission to the licensing examination, the applicant shall read and sign an examination security agreement and comply with its terms.

(b) The program may deny, suspend, revoke, or otherwise restrict the license of an applicant or a licensee for any of the following acts:

(1) Having or attempting to have an impersonator take the examination on one's behalf.

(2) Impersonating or attempting to impersonate another to take the examination on that person's behalf.

(3) Communicating or attempting to communicate about the examination content with another examinee or with any person other than the examination staff. This includes divulging the content of specific written examination items to examination preparation providers.

(4) Copying questions or making notes of examination materials or revealing the content of the examination to others who are preparing to take the NHAP examination or who are preparing others to take such examination.

(5) Obstructing or attempting to obstruct the administration of the examination in any way.

(c) It is a misdemeanor for any person to engage in any conduct that subverts or attempts to subvert any licensing examination or the administration of an examination, including, but not limited to, the following conduct:

(1) Conduct that violates the security of the examination materials, removing from the examination room any examination materials without authorization, the unauthorized reproduction by any means of any portion of the actual licensing examination, aiding by any means the unauthorized reproduction of any portion of the actual licensing examination, paying or using professional or paid examination-takers for the purpose of reconstructing any portion of the licensing examination, obtaining examination questions or other examination material, except by specific authorization either before, during, or after an examination, using or purporting to use any examination questions or materials that were improperly removed or taken from any examination for the purpose of instructing or preparing any applicant for examination, or selling, distributing, buying, receiving, or having unauthorized possession of any portion of a future, current, or previously administered licensing examination.

(2) Communicating with any other candidate during the administration of a licensing examination, copying answers from another examinee or permitting one's answers to be copied by another examinee, having in one's possession during the administration of the licensing examination any books, equipment, notes, written or printed materials, or data of any kind, other than the examination materials distributed, or otherwise authorized to be in one's possession during the examination, or impersonating any examinee or having an impersonator take the licensing examination on one's behalf.

(d) Nothing in this section shall preclude prosecution under the authority provided for in any other provision of law.

(e) In addition to any other penalties, a person found guilty of violating this section, shall be liable for the actual damages sustained by the agency administering the examination not to exceed ten thousand dollars (\$10,000) and the costs of litigation.

(f) The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

(g) The remedy provided for by this section shall be in addition to, and not a limitation on, the authority provided for in any other provision of law.

1416.34. (a) (1) In order to have a passing score on either the national or state examination, an examinee shall earn a score of at least 75 percent.

(2) An applicant who fails to pass either the national or state examination shall retake the entire national or state examination.

(3) An applicant who fails to pass either the state or national examination after three attempts shall receive additional training as outlined by the program from a program-approved preceptor, prior to participating in another examination.

(b) The examination shall be administered and evaluated by either of the following:

(1) The department.

(2) A contractor or vendor pursuant to a written agreement with the program or department.

(c) The results of the examination shall be provided to each applicant in a timely manner, not to exceed 90 days from the date of the examination.

(d) The program shall issue a license to an applicant who successfully passes the required examination and has satisfied all other requirements for licensure.

(e) A license shall be effective for a period of two years from the date of issuance.

(f) The program shall issue a provisional license to candidates who meet the provisional licensure requirements established by this chapter.

(g) The program shall replace a lost, damaged, or destroyed license certificate upon receipt of a written request from a licensee and payment of the duplicate license fee. A licensee shall complete a request for a duplicate license on the required program form, and then submit it to the program.

(h) A licensee shall inform the program of the licensee's current home address, mailing address, and if employed by a nursing facility, the name and address of that employer. A licensee shall report a change in any of this information to the program within 30 calendar days. Failure of the licensee to provide timely notice to the program may result in a citation penalty. A licensee shall provide to the program an address to be included in the public files.

(i) A licensee shall display his or her license and show to anyone upon request in order to inform patients or the public as to the identity of the regulatory agency that they may contact if they have questions or complaints regarding the licensee.

1416.36. (a) The fees prescribed by this chapter are as follows:

(1) The application fee for reviewing an applicant's eligibility to take the examination shall be twenty-five dollars (\$25).

(2) The application fee for persons applying for reciprocity consideration licensure under Section 1416.40 shall be fifty dollars (\$50).

ExaminationRequirements–AddressChange

Fees

- (3) The application fee for persons applying for the AIT Program shall be one hundred dollars (\$100).
 - (4) The examination fees shall be:
 - (A) Two hundred seventy-five dollars (\$275) for an automated national examination.
 - (B) Two hundred ten dollars (\$210) for an automated state examination or one hundred forty dollars (\$140) for a written state examination.
 - (5) The fee for an initial license shall be one hundred ninety dollars (\$190).
 - (6) The renewal fee for an active or inactive license shall be one hundred ninety dollars (\$190).
 - (7) The delinquency fee shall be fifty dollars (\$50).
 - (8) The duplicate license fee shall be twenty-five dollars (\$25).
 - (9) The fee for a provisional license shall be two hundred fifty dollars (\$250).
 - (10) The fee for endorsement of credentials to the licensing authority of another state shall be twenty-five dollars (\$25).
 - (11) The preceptor certification fee shall be fifty dollars (\$50) for each three-year period.
 - (12) The biennial fee for approval of a continuing education provider shall be one hundred fifty dollars (\$150).
 - (13) The biennial fee for approval of a continuing education course shall be not more than fifteen dollars (\$15).
- (b) Commencing July 1, 2002, fees provided in this section shall be adjusted annually, as directed by the Legislature in the annual Budget Act. The proposed adjustment in the examination fees shall not exceed the increase in the California Consumer Price Index, except as provided in subdivision (d). The department shall provide an annual fiscal year program fee report to the Legislature each April 1, commencing on April 1, 2002.
- (c) The department shall, by July 30 of each year, publish a list of actual numerical fee charges as adjusted pursuant to this section. This adjustment of fees and the publication of the fee list shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.
- (d) If the revenue projected to be collected is less than the projected costs for the budget year, the department may propose that fees be adjusted by not more than twice the increase in the Consumer Price Index.

1416.38. (a) The Nursing Home Administrator's State License Examining Board Fund in the Professions and Vocations Fund in the State Treasury is hereby renamed the Nursing Home Administrator's State License Examining Fund and continued in existence in the State Treasury.

(b) Within 10 days after the beginning of every month, all fees collected by the program for the month preceding, under this chapter,

Funding

shall be paid into the Nursing Home Administrator's State License Examining Fund.

(c) The funding paid into the Nursing Home Administrator's State License Examining Fund shall be continuously appropriated to the program for expenditures in the manner prescribed by law to defray the expenses of the program and in carrying out and enforcing the provisions of this chapter.

1416.40. (a) For purposes of this chapter, "reciprocity applicant" means any applicant who holds a current license as a nursing home administrator in another state has been licensed and in good standing, has passed the national examination, and the applicant is otherwise qualified.

(b) An applicant who holds a current valid license as a nursing home administrator in another state may be issued a one-year provisional license as a reciprocity applicant pursuant to this section. The provisional license authorizes the holder to work in this state at a licensed nursing facility during the one-year licensure period.

(c) The applicant shall obtain an application form from the program, complete the form accurately, and, under penalty of perjury, certify the experience, education, and criminal record history information supplied in the application. The applicant shall submit the application to the program, along with any supporting documents to substantiate the application and the applicable provisional, examination, and licensure fees.

(d) The provisional license may be granted to a reciprocity applicant who complies with all of the following informational requirements:

(1) Provides a statement of health consistent with an ability to perform the duties of a nursing home administrator.

(2) Discloses the fact of and the circumstances surrounding any of the following:

(A) Conviction of any criminal law violation of any country, state, or municipality, except minor traffic violations. The applicant shall submit appropriate criminal record information for purposes of this subparagraph.

(B) Any discipline affecting nursing home administrator licensure in any state.

(C) Any pending investigations or disciplinary actions concerning, or surrender of, nursing home administrator licensure in any state. The applicant shall submit an endorsement certificate to verify state licensure and substantiate if he or she has no pending investigation, disciplinary action, or surrender under this subparagraph.

(3) Submits official transcripts as evidence of completed college or university courses and degrees.

(4) Provides satisfactory evidence of current or recent employment experience within the last five years as a licensed nursing home administrator.

(5) Submits proof that the applicant is at least 18 years of age.

Reciprocity–Provisional

(e) The reciprocity applicant who holds a provisional license as authorized by this section shall be required to pass the state examination. If the provisional licensee, fails to pass the state examination within the one-year provisional licensure period, the provisional license shall expire and no further reciprocity accommodations shall be allowed. The provisional license may not be renewed or extended. At the expiration of the provisional license the applicant may seek licensure in this state through standard procedures.

1416.42. (a) Except for provisional licenses issued pursuant to Section 1416.40, each license issued pursuant to this chapter shall expire 24 months from the date of issuance.

(b) To renew an unexpired license the licensee shall, at least 30 days prior to the expiration of the license, submit an application for renewal on a form provided by the program, accompanied by the renewal fee. An applicant may request either an active license or an inactive license. If an applicant requests an active license, he or she shall submit proof of completion of the required hours of program-approved continuing education.

(c) A delinquency fee is payable for license renewals not received by the program one day after the license expires.

(d) A license which has expired may be reinstated within three years following the date of expiration. The licensee shall apply for reinstatement on a form provided by the program and submit the completed form together with the current fee for license renewal. If the licensee requests an active license, he or she shall furnish proof of completion of the required hours of continuing education. The reinstatement shall be effective on the date that the completed application, including required fees, is submitted and approved.

1416.44. (a) Notwithstanding any other provision of law, a licensee who permitted his or her license to expire while serving in any branch of the armed services of the United States during a period of war, as defined in subdivision (e), may, upon application, reinstate his or her license without examination or penalty if the following conditions are met:

(1) His or her license was valid at the time he or she entered the armed services.

(2) The application for reinstatement is made while serving in the armed services, not later than one year from the date of discharge from active service or return to inactive military status, or within three years following the license date of expiration whichever is the most recent time period.

(3) The application for reinstatement is accompanied by an affidavit showing the date of entrance into the service, whether still in the service or date of discharge, and the renewal fee for the current renewal period in which the application is filed is paid.

(4) The application for reinstatement indicates no criminal convictions while absent from the profession.

(b) If application for reinstatement is filed more than one year after discharge or return to inactive status, the applicant, in the discretion of the licensing program, may be required to pass an examination and pay additional fees.

(c) Unless otherwise specifically provided by law, any licensee who, either part time or full time, practices in this state the nursing home administrator profession shall be required to maintain his or her license in good standing even though he or she is in military service.

(d) For the purposes in this section, time spent by a licensee in receiving treatment or hospitalization in any veterans' facility during which he or she is prevented from practicing his or her profession or vocation shall be excluded in determining the periods specified in paragraph (2) of subdivision (a).

(e) As used in this section, "war" means any of the following circumstances:

(1) Whenever Congress has declared war and peace has not formally been restored.

(2) Whenever the United States is engaged in active military operations against any foreign power, whether or not war has been formally declared.

(3) Whenever the United States is assisting the United Nations, in actions involving the use of armed force, to restore international peace and security.

1416.45. A licensee may not engage in licensed activity while his or her license is suspended or revoked, or after it has expired.

1416.46. (a) A revoked license may not be renewed.

(b) A licensee whose license has been revoked may petition the program for reinstatement after a period of not less than one year has elapsed from the effective date of the decision or from the date of the denial of a similar petition. The petitioner shall be afforded an opportunity to present either oral or written argument before the program. The program shall decide the petition and the decision shall include the reasons therefor, and any terms and conditions that the program reasonably deems appropriate to impose as a condition of reinstatement.

Revocation

1416.48. A licensee who does not intend to engage in activity requiring nursing home administrator licensure may file a request to place his or her license in inactive status. An inactive license is subject to all requirements for renewal, including payment of fees, but completion of continuing education is not required to renew an inactive license. However, proof of completion of 40 continuing education credits during the last two years shall be submitted together with an application for reinstatement of an active license.

1416.50. (a) For purposes of this chapter, "continuing education" means any course of study offered by an educational institution, association, professional society, or organization for the purpose of providing continuing education for nursing home administrators.

(b) This section shall govern the continuing education requirements needed by a nursing home administrator to renew his or her nursing home administrator license.

(c) In order to renew a license, the applicant shall provide evidence satisfactory to the program that he or she has completed 40 hours of program-approved continuing education courses, of which at least 10 total hours shall be specifically in the area of aging or patient care.

(d) The continuing education courses to be approved for credit toward the continuing education requirements may include the following subject areas offered by accredited colleges, universities, community colleges, or a training entity approved by the department.

(1) Resident care.

(2) Personnel management.

(3) Financial management.

(4) Environmental management.

(5) Regulatory management.

(6) Organizational management.

(7) Patient care and aging.

(e) No continuing education credit shall be allowed for courses failed according to the institution's grading determination.

(f) If the program finds that programs of training and instruction conducted within the state are not sufficient in number or content to enable nursing home administrators to meet requirements established by law and this chapter, the program may approve courses conducted within and without this state as sufficient to meet educational requirements established by law and this chapter. For the purposes of this subdivision, the program shall have the authority to receive funds in a manner consistent with the requirements of the federal government.

ContinuingEducation(CE)

HEALTH AND SAFETY CODE SECTION 1416.55-1416.57

1416.55. (a) An Administrator-in-Training Program (AIT Program) shall be developed by the NHAP, in consultation with representatives from the long-term care industry and advocacy groups. The AIT Program shall include, but not be limited to, all of the following areas of instruction:

- (1) Orientation.
- (2) Administration and business office.
- (3) State and federal regulations governing long-term care facilities.
- (4) Residents' rights and abuse prevention.
- (5) Staffing requirements and workforce retention.
- (6) Nursing services.
- (7) Resident activities.
- (8) Resident care.
- (9) Social services.
- (10) Dietary management.
- (11) Environmental care, including housekeeping, laundry, and maintenance.
- (12) Financial management.
- (13) General management.
- (14) Government regulations.
- (15) Legal management.
- (16) Personnel management and training.
- (17) Consultants and contracts.
- (18) Medical records.
- (19) Public relations and marketing.

(b) A person who seeks to satisfy requirements for admission to licensure examinations through participation in an AIT Program shall first receive approval to begin the AIT Program. An applicant shall successfully complete the AIT Program in a program-approved facility under the coordination, supervision, and teaching of a preceptor who has obtained certification from the program and continues to meet the qualifications set forth in the rules and regulations of the program.

(c) In order to be eligible for the AIT Program, an applicant shall submit an application package on forms provided by the NHAP, and pay the applicable fees established by this chapter. The applicant shall be at least 18 years of age.

Article 4 – Training – Administrator-In-Training (AIT)

(d) In addition to the requirements in subdivision (c), the applicant shall meet one or a combination of the following requirements to be eligible for the AIT Program:

(1) A doctorate degree in medicine and a current valid license as a physician and surgeon with at least 10 years of recent work experience.

(2) A baccalaureate degree.

(3) Ten years of full-time work experience and a current valid license as a registered nurse. At least the most recent five years of the 10 years of work experience shall be in a supervisory or director of nursing position.

(4) Ten years of full-time work experience in any department of a skilled nursing facility, an intermediate care facility, or an intermediate care facility/developmentally disabled with at least 60 semester units (or 90 quarter units) of college or university courses. At least the most recent five years of the 10 years of work experience shall be in a position as a department manager.

(5) Ten years of full-time hospital administration experience in an acute care hospital with at least 60 semester units (or 90 quarter units) of college or university courses. At least the most recent five years of the 10 years of work experience shall be in a supervisory position.

(e) The applicant shall submit an official transcript that evidences the completion of required college or university courses, degrees, or both. An applicant who qualifies for the AIT Program on the basis of work experience shall submit a declaration signed under penalty of perjury verifying his or her work experience. This declaration shall be signed by a licensed nursing home administrator, physician and surgeon, chief of staff, director of nurses, or registered nurse who can attest to the applicant's work experience.

1416.57. (a) An individual may, upon compliance with the requirements of this section, be approved by the program to be a preceptor who is authorized to provide a training program in which the preceptor coordinates, supervises, and teaches persons seeking to meet specified requirements to qualify for the licensing examination under this chapter. The approval obtained under this section shall be effective for a period of two years, after which the preceptor is required to renew his or her preceptor status and attend a preceptor training course provided by the program.

(b) In order to qualify to be a preceptor, a person shall meet all of the following conditions:

(1) Be a current active California licensed nursing home administrator.

(2) Have no pending disciplinary actions.

(3) Have served for at least two years as the designated administrator of a California licensed nursing home or for at least four years as the designated assistant administrator of a California licensed nursing home.

(4) Have gained experience in all administrative functions of a nursing home.

Preceptor

(c) The applicant seeking approval to be a preceptor shall submit an application form provided by the program that requires the applicant's name, address, birth date, the states and dates of issuance of all professional licenses, including those as a nursing home administrator, and any other information required by the program.

(d) At the time of application, for purposes of substantiating that the conditions specified in subdivision (b) have been met, the applicant shall provide satisfactory evidence of his or her education, experience, and knowledge that qualifies him or her to supervise the training of an AIT Program participant and verification that the facilities at which the applicant has had direct management control as an administrator had a continuous operating history, free from major deficiencies, during the period of the applicant's administration.

(e) An applicant shall not be approved as a preceptor until the applicant attends a preceptor's training seminar provided or approved by the program.

(f) (1) For purposes of this section, "AIT" means Administrator-in-Training.

(2) The following requirements shall apply to a preceptor approved pursuant to this section:

(A) The preceptor shall provide a directly supervised training program that will include a minimum of 20 hours per week and a maximum of 60 hours per week and be available at least by telephone at all other times. There shall be regular personal contact between the preceptor and the AIT during the training program. For purposes of this subparagraph, "a directly supervised training program" means supervision by a preceptor of an AIT during the performance of duties authorized by this section. The preceptor shall be available during the AIT's performance of those duties.

(B) The preceptor shall be the designated administrator of the facility where the training is conducted.

(C) The preceptor may not supervise more than two AIT trainees during the same time period.

(D) The preceptor shall inform the NHAP of any significant training program changes dealing with his or her specific AIT.

(E) The preceptor shall rate the AIT's training performance and complete an AIT evaluation report at the end of the AIT's training.

(F) The preceptor shall be evaluated by the program based on the examination success and failure history of his or her AIT trainees and the program may revoke or suspend preceptor certificates as appropriate.

HEALTH AND SAFETY CODE SECTION 1416.60-1416.86

1416.60. Each licensee shall, within 30 days, after each appointment as the designated administrator of a nursing home and after any termination of that appointment, notify the program. Each notification shall include the name of the administrator, the nursing home administrator number assigned, the name and address of the facility or facilities involved, and the date of the appointment or termination. All information provided pursuant to this section shall be public information.

1416.62. The program shall maintain a current list of nursing home administrators who have been placed on probation or had their licenses suspended or revoked within the last three years. The program shall provide the current list of these administrators to licensed nursing homes and the department district offices every six months. The current list shall also be available to the general public upon request.

1416.64. (a) The program shall maintain a record of enforcement actions reported to the program, pursuant to Section 1416.12. The program shall routinely review the citation logs and files of nursing home administrators whose facilities have received citations from the department to determine if remedial or disciplinary action against the administrator is warranted based on the administrator's involvement or culpability in the citations. Regardless of the facility's performance record, the program may initiate disciplinary action against an administrator who violates any statute or regulation governing licensed nursing home administrators.

(b) Following receipt of reports on temporary suspension orders, service of an accusation for facility license revocations, or final decertification of a facility from participation in the Medi-Cal or Medicare programs, due to failure to meet certification standards, the program shall make a determination as to whether the evidence available warrants remedial or disciplinary action against the administrator or constitutes grounds for denial, suspension, or revocation pursuant to Section 1416.76.

(c) If the program determines that action against the administrator is not warranted, the program shall document in the file the reasons and specific circumstances for not taking remedial or disciplinary action against the administrator's license.

Article5–Enforcement–ProgramNotification

Program Requirements

Enforcement – Disciplinary Consideration

(d) The program shall consider all of the following prior to making a determination to initiate disciplinary action:

(1) Any information provided to the program by the administrator pursuant to this section.

(2) Whether the administrator was in fact the designated administrator of the facility when the violation occurred, or the designated administrator of the facility during the period of time the citation covered.

(3) Whether the administrator should have or could have prevented the violation or violations that occurred.

(e) Prior to making a final determination to initiate action against an administrator, the program shall notify the administrator that the program is considering action and provide the administrator with an opportunity to show just cause why remedial or disciplinary action should not be initiated.

(f) If the program determines that grounds for remedial or disciplinary action exist, the program may initiate either or both of the following actions, as warranted:

(1) Remedial action, including, but not limited to, a conference with the administrator, a letter of warning, or both.

(2) Disciplinary action, including, but not limited to, citations, fines, formal letters of reprimand, probation, denial, suspension, revocation of the administrator's license, or any combination of these actions.

1416.66. (a) The program shall develop and make available a form that may be utilized at the nursing home administrator's option to provide the program with relevant information, documentation, and background on any actions reported to the program pursuant Section 1416.12.

(b) Any reports received pursuant to Section 1416.12 shall remain in the administrator's file for five years, unless the program is notified that the action has been modified or overturned. Any modification of an action shall be noted and documented in the administrator's file.

1416.68. (a) It is the responsibility of the nursing home administrator as the managing officer of the facility to plan, organize, direct, and control the day-to-day functions of a facility and to maintain the facility's compliance with applicable laws, rules, and regulations.

(b) The administrator shall be vested with adequate authority to comply with the laws, rules, and regulations relating to the management of the facility.

Administrator Responsibilities

(c) No licensee shall be cited for any violation caused by any person licensed pursuant to the Medical Practice Act (Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code) if the person is independent of, and not connected with, the facility and the licensee shows that he or she has exercised reasonable care and diligence in notifying these persons of their duties to the patients in the nursing facility.

(d) The delegation of any authority by a licensee shall not diminish the responsibilities of that licensee.

1416.69. (a) Within 24 hours after the nursing home administrator acquires actual knowledge or credible information that any of the events specified in subdivision (b) has occurred, the nursing home administrator shall notify the department's district office for licensing and certification of that knowledge or information. This notification may be in written form if it is provided by telephone facsimile or overnight mail, or by telephone with a written confirmation within five calendar days. The information provided pursuant to this subdivision may not be released to the public by the department unless its release is needed to justify an action taken by the department or it otherwise becomes a matter of public record. A violation of this section may result in a citation.

(b) All of the following occurrences shall require notification pursuant to this section as long as the administrator has actual knowledge of the occurrence:

(1) The licensee of a facility receives notice that a judgment lien has been levied against the facility or any of the assets of the facility or the licensee.

(2) A financial institution refuses to honor a check or other instrument issued by the licensee to its employees for a regular payroll.

(3) The supplies, including food items and other perishables, on hand in the facility fall below the minimum specified by any applicable statute or regulation.

(4) The financial resources of the licensee fall below the amount needed to operate the facility for a period of at least 45 days based on the current occupancy of the facility.

(5) The licensee fails to make timely payment of any premiums required to maintain required insurance policies or bonds in effect, or any tax lien levied by any government agency.

1416.70. (a) The program shall establish a system for the issuance of citations to licensees, examinees, or participants of any program activity offered or approved by the program. The citations may contain an order of abatement, an order to pay an administrative fine assessed by the program chief, or both, where the licensee, examinee, or participant is in violation of any state or federal statute or regulation governing licensed nursing home administrators.

Program Requirements

(b) The system shall contain all of the following provisions:

(1) Citations shall be in writing and shall describe with particularity the nature of the violation, including specific reference to the provision of law determined to have been violated.

(2) Where appropriate, the citation shall contain an order of abatement fixing reasonable time for abatement of the violation.

(3) (A) Administrative fines assessed by the program shall be separate from and shall not preclude the levying of any other fines or any civil or criminal penalty.

(B) In no event shall the administrative fine assessed by the program be less than fifty dollars (\$50) or exceed two thousand five hundred dollars (\$2,500) for each violation. The total assessment shall not exceed ten thousand dollars (\$10,000) for each investigation or for counts involving fraudulent billings submitted to insurance companies, Medi-Cal, or Medicare programs.

(4) In assessing a fine, the program shall give due consideration to the appropriateness of the amount of the fine with respect to factors such as the gravity of the violation, the good faith effort of the licensee, examinee, or participant, the unprofessional conduct, including, but not limited to, incompetence and negligence in the performance of the duties and responsibilities of an administrator, the extent to which the cited person has mitigated or attempted to mitigate any damage or injury caused by his or her violation, whether the violation was related to patient care, the history of any previous violations, and other matters as may be appropriate.

(5) A citation or fine assessment issued pursuant to a citation shall inform the licensee, examinee, or participant, that if he or she desires a hearing to contest the finding of a violation, the hearing shall be requested by written notice to the program within 30 days after the date of issuance of the citation or assessment. A licensee may, in lieu of contesting a citation pursuant to this section, transmit to the state department 75 percent of the amount specified in the citation for each violation within 15 business days after the issuance of the citation.

(6) Failure of a licensee, examinee, or participant to pay a fine within 30 days of the date of the assessment, unless the citation is being appealed, may result in further disciplinary action being taken by the program. Where a citation is not contested and a fine is not paid, the full amount of the assessed fine, along with any accrued penalty interest, shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee, fine, and accrued interest penalty. A citation may be issued without the assessment of an administrative fine.

(c) Assessment of administrative fines may be limited to only particular violations of the applicable licensing act. Notwithstanding any other provisions of law, where a fine is paid to satisfy an assessment based on the finding of a violation, payment of the fine shall be represented as satisfactory resolution of the matter for purposes of public disclosures. Administrative fines collected pursuant to this section shall be deposited in the Nursing Home Administrator's State License Examining Fund.

1416.72. (a) The program may issue a citation to any person who holds a license from the program and who violates any statute or regulation governing licensed nursing home administrators.

(b) Any licensee served with a citation may contest the citation by appeal to the program within 30 days of service of the citation. Appeals shall be conducted pursuant to Section 100171.

(c) In addition to requesting a hearing before an administrative law judge, the licensee may, within 10 days after service of the citation, notify the department in writing of his or her request for an informal conference with the department regarding the violations cited in the citation. At the time of requesting an informal conference, the licensee shall inform the department whether he or she shall be represented at the informal conference by legal counsel. Failure to notify the department of legal representation shall not result in forfeiture of the right to have legal counsel present. Unless the request for an informal hearing is made within the 10-day period, the licensee's right to an informal hearing is deemed waived.

(d) The department shall hold an informal conference with the licensee and, if applicable, his or her legal counsel or authorized representatives. At the conclusion of the informal conference the department may affirm, modify, or dismiss the citation, including any administrative fine levied, or order of abatement issued.

(e) The licensee does not waive his or her request for a hearing to contest a citation by requesting an informal conference. If the citation is dismissed after the informal conference, the request for a hearing on the matter of the citation shall be deemed to be withdrawn. If the citation, including any administrative fine levied or order of abatement, is modified or affirmed, the citation shall be upheld and the licensee shall, within 15 working days from the date the citation review conference decision was rendered, notify the director or the director's designee that he or she wishes to appeal the decision through the procedures set forth in Section 100171.

1416.74. (a) The time allowed for abatement of violation shall begin the first day after the order of abatement has been served or received. If a licensee who has been issued an order of abatement is unable to complete the correction within the time set forth in the citation because of conditions beyond his or her control after the exercise of reasonable diligence, the licensee may request from the program an extension of time in which to complete the correction. The request shall be in writing and made within the time set for abatement.

Failure to Pay A Fine – Informal Conference

Abatement

(b) An order of abatement shall either be personally served upon the licensee or mailed by certified mail, return receipt requested.

(c) When an order of abatement is not contested, or if the order is appealed and the licensee does not prevail, failure to abate the violation cited within the time specified in the citation shall constitute a violation and failure to comply with the order of abatement. Where a licensee has failed to correct a violation within the time specified in the citation the department shall assess the licensee a civil penalty in the amount of fifty dollars (\$50) for each day that the violation continues beyond the date specified in the citation. If the licensee disputes a determination by the department regarding alleged failure to correct a violation or regarding the reasonableness of the proposed deadline for correction, the licensee may request an informal conference to contest the determination.

(d) Any unpaid administrative fine shall begin accruing a 7-percent interest penalty on the unpaid balance due. This interest shall continue to accrue until the administrative fine and interest are paid in full.

1416.75. The program may deny, or may suspend or revoke, a license upon any of the following grounds:

(a) Gross negligence.

(b) Incompetence.

(c) The conviction of any crime involving dishonesty or which is substantially related to the qualifications, functions, or duties of a nursing home administrator. A conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section.

(d) Using fraud or deception in applying for a license or in taking the examination provided for in this chapter.

(e) Treating or attempting to treat any physical or mental condition without being currently licensed to do so.

(f) Violating Section 650 of the Business and Professions Code, any provision of this chapter, or any rule or regulation of the program adopted pursuant to this chapter.

(g) Lack of any qualification requirement for the license.

(h) Failure to report under Section 1416.60 to the program, without just cause.

1416.76. (a) The program may deny a nursing home administrator applicant or licensee, a license, based on one of the following grounds:

(1) Conviction of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction

Denial Suspension Revocation

Conviction - Rehabilitation

following a plea of nolo contendere. The program may take action following the establishment of a conviction after the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code.

(2) Commits any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

(3) Commits any act which, if done by a licensee, would be grounds for suspension or revocation of license. The program may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of a nursing home administrator.

(b) Notwithstanding any other provision of this chapter, no person shall be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under Section 4852.01 of the Penal Code, or that he or she has been convicted of a misdemeanor and has met all applicable requirements of the criteria of rehabilitation developed by the program pursuant to subdivision (f).

(c) The program may deny a nursing home administrator license on the ground that the applicant knowingly made a false statement of fact required to be revealed in the application for the license.

(d) The program may suspend or revoke a license on the ground that the applicant or licensee has been convicted of a crime, as defined in paragraph (1) of subdivision (a), if the crime is substantially related to the qualifications, functions, or duties of a nursing home administrator.

(e) The program shall develop criteria to use to determine whether a crime or act is substantially related to the qualifications, functions, or duties of a nursing home administrator, and shall use the criteria when considering the denial, suspension, or revocation of a license.

(f) The program shall develop criteria to be used by the program to evaluate the rehabilitation of a person when considering the denial, suspension, or revocation of a license under this section.

(g) The program shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee pursuant to the evaluation process set forth in subdivision (f).

1416.77. The program may deny, or may suspend or revoke, a nursing home administrator license or participation in specific training program areas under this chapter upon any of the following grounds:

(a) Misappropriation of funds or property of the facility, the patients, or of others.

(b) Using fraud, deception, or misrepresentation in applying for the AIT Program, the examination for licensure, or any other program functions provided for in this chapter.

(c) Procuring a nursing home license by fraud, deception, or misrepresentation.

- (d) Impersonating any applicant or acting as a proxy for an applicant in an examination.
- (e) Impersonating any licensed nursing home administrator.
- (f) Treating or attempting to treat any physical or mental condition without having a valid license to do so.
- (g) Violating Section 650 of the Business and Professions Code, any provisions of this chapter, or any rule or regulation of the program adopted pursuant to this chapter.
- (h) Lack of any qualification requirement for a license, participation in the AIT Program or preceptor program.
- (i) A pattern of failure to report changes under Section 1416.60 to the program without just cause.
- (j) Failure to comply with this chapter or the laws, rules, and regulations relating to health facilities.
- (k) The commission of any dishonest, corrupt, or fraudulent act or any act of physical or mental, including sexual, abuse of any person in connection with the administration of, or any patient in, a nursing home.
- (l) Violation by the licensee of any of the provisions of this chapter or of the rules and regulations promulgated under this chapter.
- (m) Aiding, abetting, or conspiring with another person to violate provisions of this chapter or of the rules and regulations promulgated under this chapter.
- (n) Violation of the examination security agreement.

1416.78. (a) The program may place a nursing home administrator license on probation in lieu of formal action to suspend or revoke the license if the department determines that probation is the appropriate action. Upon successful completion of the probation period, the license shall be restored to regular status.

(b) The probationary license shall be based upon an agreement entered into between the licensee and the program that specifies terms and conditions of licensure during the probationary period. The terms and conditions shall be related to matters, including, but not limited to, work performance, rehabilitation, training, counseling, progress reports, and treatment programs.

(c) The term of the probationary license shall not exceed two years. If the licensee successfully completes the term of probation, as determined by the department, no further action shall be taken upon the allegations that were the basis for the probationary license. If the licensee fails to comply with the terms and conditions of the probationary license agreement, the department may proceed with a formal action to suspend or revoke the license.

Probation

1416.80. Upon the determination to deny application for licensure for grounds specified in Section 1416.77, the program shall immediately notify the applicant in writing by certified mail. A petition for an administrative hearing must be received by the program within 20 business days of receipt of notification. Upon receipt, the department shall set the matter for administrative hearing, pursuant to procedures specified in Section 100171.

1416.82. (a) Proceedings to suspend or revoke licensure for grounds specified in Section 1416.77 shall be conducted in accordance with Section 100171. In the event of conflict between this chapter and Section 100171, Section 100171 shall prevail.

(b) (1) The program may temporarily suspend any license prior to any hearing if the action is necessary to protect the public welfare. The program shall notify the licensee of the temporary suspension and the effective date. Upon receipt of a notice of defense by the licensee, the department shall set the matter within 15 days. The administrative hearing conducted in accordance with Section 100171 shall be held as soon as possible but not later than 30 days after receipt of the notice. The temporary suspension shall remain in effect until the hearing is completed and the department has made a final determination on the merits. However, the temporary suspension shall be deemed vacated if the department fails to make a final determination on the merits of the action within 60 days after the original hearing has been completed. If the provisions of this chapter or the rules or regulations promulgated by the director are violated by a licensee, the director may suspend the license for the violation.

(2) If the program determines that the temporary suspension shall become an actual suspension, the department shall specify the period of the suspension, not to exceed two years. The program may determine that the suspension shall be stayed, and place the licensee on probation for a period that shall not exceed two years.

(c) The program may suspend or revoke a license prior to any hearing when immediate action is necessary in the judgment of the director to protect the public welfare. Proceedings for immediate revocation shall be conducted in accordance with Section 100171. The department shall set the matter for hearing within 15 days and hold the administrative hearing as soon as possible but not later than 30 calendar days from receipt of the request for a hearing. A written hearing decision upholding or setting aside the action shall be sent by certified mail to the licenseholder within 30 calendar days of the hearing.

Suspension – Hearings – Superior Court

1416.84. Whenever any person has engaged, or is about to engage, in any acts or practices that constitute, or will constitute, a violation of this chapter, the superior court in and for the county in which those acts or practices take place, or are about to take place, may issue an injunction or other appropriate order, restraining the conduct, on application of the program, to the Attorney General, or the district attorney.

1416.86. If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, that invalidity shall not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.