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**HEALTH AND SAFETY CODE - HSC**

**DIVISION 2. LICENSING PROVISIONS [1200 - 1796.70]** ( *Division 2 enacted by Stats. 1939, Ch. 60.* )

**CHAPTER 2. Health Facilities [1250 - 1339.59]** ( *Chapter 2 repealed and added by Stats. 1973, Ch. 1202.* )

**ARTICLE 8.5. Long-Term Care Facility Advance Notification Requirements [1336 - 1336.4]** ( *Article 8.5 added by Stats. 1983, Ch. 799, Sec. 1.* )

**1336.** (a) Notwithstanding any other law, a long-term health care facility shall give written notice to the affected residents or to the guardians of the affected residents at least 60 days prior to any change in the status of the license or in the operation of the facility resulting in the inability of the facility to care for its residents.

(b) If residents' placement problems are encountered that cannot be satisfactorily resolved within this 60-day period, the State Department of Public Health and the health facility shall agree on an extension which shall not exceed an additional 60 days.

(c) The facility shall provide an appropriate team of professional staff to assist residents and families in obtaining alternative placement. The facility shall hold a community meeting for residents and their families no later than 30 days after providing the written notice pursuant to subdivision (a). The facility shall provide notice of the meeting to residents and their families and to local health authorities. The facility shall also provide notice of the community meeting to the State Department of Public Health as part of the proposed relocation plan submitted to the department pursuant to paragraph (1) of subdivision (g) of Section 1336.2.

(d) This section shall not apply to actions initiated by the State Department of Public Health to suspend or revoke the license.

(Amended by Stats. 2017, Ch. 185, Sec. 1. (AB 275) Effective January 1, 2018.)

**1336.1.** (a) After notifying its affected residents, the facility shall, in response to inquiries made by prospective residents or their representatives, include notification of the change in the status of the license or the operation of the facility.

(b) The facility shall give written notification to the office of the State Long-Term Care Ombudsman of the change in the status of the license or the operation of the facility, including a voluntary closure and the planned date of closure, at least 60 days prior to any change in the status of the license or the operation of the facility.

(c) The facility shall give written notification to the State Department of Health Care Services and any health plan of an affected resident of the change in the status of the license or the operation of the facility, including a voluntary closure and the planned date of closure, at least 60 days prior to any change in the status of the license or the operation of the facility. This notification shall also include the names of residents that are covered by Medi-Cal or by the specific health plan.

(Amended by Stats. 2017, Ch. 185, Sec. 2. (AB 275) Effective January 1, 2018.)

**1336.2.** (a) Before residents are transferred due to any change in the status of the license or operation of a facility, including a facility closure or voluntary or involuntary termination of a facility's Medi-Cal or Medicare certification, the facility shall take reasonable steps to transfer affected residents safely and minimize possible transfer trauma by, at a minimum, doing all of the following:

(1) Be responsible for ensuring that the resident's attending physician or the facility medical director, if the resident does not have an attending physician, completes the medical assessment of the resident's condition and susceptibility to adverse health consequences, including psychosocial effects, prior to written notice of transfer being given to the resident. The assessment shall not be considered complete unless it provides, in accordance with these assessments, recommendations for counseling, followup visits, and other recommended services, by designated health professionals, and for preventing or ameliorating potential adverse health consequences in the event of transfer.

(2) Be responsible for ensuring that a licensed marriage and family therapist, a licensed clinical social worker, a licensed psychologist, a licensed psychiatrist, or a licensed professional clinical counselor and the facility nursing staff complete an assessment of the social and physical functioning of the resident based on the relevant portions of the minimum data set, as

described in Section 14110.15 of the Welfare and Institutions Code, before written notice of transfer is given to the resident. The assessment shall not be considered complete unless it provides recommendations for preventing or ameliorating potential adverse health consequences in the event of transfer. The assessment may be amended because of a change in the resident's health care needs. The assessment shall also include a recommendation for the type of facility that would best meet the resident's needs.

(3) (A) Be responsible for evaluating the relocation needs of the resident including proximity to the resident's representative and determine the most appropriate and available type of future care and services for the resident before written notice of transfer is given to the resident or the resident's representative. The health facility shall discuss the evaluation and medical assessment with the resident or the resident's representative and make the evaluation and assessment part of the medical records for transfer.

(B) If the resident or resident's representative chooses to make a transfer prior to completion of assessments, the facility shall inform the resident or the resident's representative, in writing, of the importance of obtaining the assessments and followup consultation.

(4) At least 60 days in advance of the transfer, inform the resident or the resident's representative of alternative facilities that are available and adequate to meet resident and family needs.

(5) Arrange for appropriate future medical care and services, unless the resident or resident's representative has otherwise made these arrangements. This requirement does not obligate a facility to pay for future care and services.

(b) The facility shall provide an appropriate team of professional staff to perform the services required in subdivision (a).

(c) The facility shall also give written notice to affected residents or their representatives, advising them of the requirements in subdivision (a) at least 60 days in advance of transfer. If a facility is required to give written notice pursuant to Section 1336, then the notice shall advise the affected resident or resident's representative of the requirements in subdivision (a). If the transfer is made pursuant to subdivision (g), the notice shall include notification to the resident or resident's representative that the transfer plan is available to the resident or resident's representative free of charge upon request.

(d) In the event of a temporary suspension of a facility's license pursuant to Section 1296, the 60-day notice requirement in subdivision (c) shall not apply, but the facility shall provide the relocation services required in subdivision (a) unless the State Department of Public Health provides the services pursuant to subdivision (f).

(e) The State Department of Public Health may make available assistance for the placement of hard-to-place residents based on its determination of the benefit and necessity of that assistance. A hard-to-place resident is a resident whose level of care, physical malady, or behavioral management needs are substantially beyond the norm.

(f) The State Department of Public Health may provide, or arrange for the provision of, necessary relocation services at a facility, including medical assessments, counseling, and placement of residents, if it determines that these services are needed promptly to prevent adverse health consequences to residents, and the facility refuses, or does not have adequate staffing, to provide the services. In these cases, the facility or the licensee shall reimburse the State Department of Public Health for the cost of providing the relocation services. The State Department of Public Health's participation shall not relieve the facility of any responsibility under this section. If the State Department of Public Health does not provide or arrange for the provision of the necessary relocation services, and the facility refuses to provide the relocation services required in subdivision (a), then the State Department of Public Health shall request that the Attorney General's office or the local district attorney's office seek injunctive relief and damages in the same manner as provided for in Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code.

(g) (1) If 10 or more residents are likely to be transferred due to any voluntary or involuntary change in the status of the license or operation of a facility, including a facility closure or voluntary or involuntary termination of a facility's Medi-Cal or Medicare certification, the facility shall submit a proposed relocation plan for the affected residents to the State Department of Public Health for approval at least 30 days prior to the written transfer notification given to any resident or resident's representative. The proposed relocation plan shall provide for implementation of the relocation services in subdivision (a) and shall describe the availability of beds in the area for residents to be transferred, the proposed discharge process, and the staffing available to assist in the transfers. The proposed relocation plan shall also include, but not be limited to, all of the following information:

(A) The number of residents affected by the proposed closure.

(B) The number of residents who do not have a legal representative and do not have the capacity to make decisions for themselves as described in Section 1418.8.

(C) Attestation that each resident will undergo a medical assessment pursuant to paragraph (1) of subdivision (a) before being relocated.

(D) The availability of alternative skilled nursing facility beds or other available long-term care beds within the community.

(E) The reason for the proposed closure.

(F) The actions the facility is taking to transfer affected residents safely and minimize possible transfer trauma.

(2) The proposed relocation plan shall become effective upon the date the State Department of Public Health grants its approval. The State Department of Public Health shall base its approval of a proposed relocation plan on the standards specified in this section, including, but not limited to, its determination that the plan provides adequate protections to minimize transfer trauma for residents. The State Department of Public Health shall promptly either approve or reject the proposed relocation plan within 14 working days of receipt from the facility. If the State Department of Public Health rejects the proposed relocation plan, the facility may resubmit amended proposed relocation plans, each of which the State Department of Public Health shall promptly either approve or reject within 14 working days of receipt from the facility. Until one proposed relocation plan has been approved by the State Department of Public Health, and until the facility complies with the requirements in subdivision (a), the facility may not issue a notice of transfer. The facility shall submit the proposed relocation plan to the local long-term care ombudsperson at the same time the plan is submitted to the State Department of Public Health.

(h) The resident shall have the right to remain in the facility for up to 60 days after the approved written notice of the facility's intent to transfer the resident if an appropriate placement based on the relocation assessment and relocation recommendations has not been made. The facility shall be required to maintain an appropriate level of staffing in order to ensure the well-being of all the residents as they continue to reside in the facility. The State Department of Public Health shall monitor the facility's staging of transfers, and, if it determines that the facility's staging of placements is causing a detrimental impact on those residents being transferred, then the State Department of Public Health shall limit the number of residents being transferred per day until it determines when it is safe to increase the numbers.

(i) Nothing in this section shall be construed to prohibit a facility from withdrawing a closure date or resident notification prior to any resident being relocated.

*(Amended by Stats. 2017, Ch. 185, Sec. 3. (AB 275) Effective January 1, 2018.)*

**1336.3.** (a) In the event of an emergency, such as earthquake, fire, or flood that threatens the safety or welfare of the residents in a facility, the facility shall do all of the following:

(1) Notify, as soon as possible, family members, guardians of residents, the State Department of Public Health, and the ombudsperson for that facility of the emergency and the steps that the facility plans to take for the welfare of the residents.

(2) Provide the services set forth in subdivision (a) of Section 1336.2 if further relocation of a resident is necessary.

(3) Undertake prompt medical assessment of, and provide counseling as needed to, residents whose further relocation is not necessary but who have suffered or may suffer adverse health consequences due to the emergency or sudden transfer.

(b) (1) Each facility shall adopt a written emergency preparedness plan and shall make that plan available to the State Department of Public Health upon request. The plan shall comply with the requirements in this section and the State Department of Public Health's Contingency Plan for Licensed Facilities. The facility, as part of its emergency preparedness planning, shall seek to enter into reciprocal or other agreements with nearby facilities and hospitals to provide temporary care for residents in the event of an emergency. The facility shall report to the State Department of Public Health the name of any facility or hospital that fails or refuses to enter into such agreements and the stated reason for that failure or refusal.

(2) Section 1336.2 does not apply in the event of transfers made pursuant to an emergency preparedness plan. In any event, however, the facility shall provide the notice and services described in subdivisions (a) to (c), inclusive, of Section 1336.2.

*(Amended by Stats. 2018, Ch. 92, Sec. 130. (SB 1289) Effective January 1, 2019.)*

**1336.4.** Failure to comply with the requirements in Sections 1336 to 1336.3, inclusive, shall be subject to issuance of citations and imposition of civil penalties pursuant to Chapter 2.4 (commencing with Section 1417), and Sections 72701 and following of the California Administrative Code.

*(Added by Stats. 1987, Ch. 1251, Sec. 3.)*