

§ 85068.4 Acceptance and Retention Limitations

(a) The licensee shall not accept or retain the following:

(1) Persons with prohibited health conditions specified in Section 80091.

(2) Persons who require inpatient care in a health facility.

(3) Persons who have needs that are in conflict with the needs of other clients or the program of services offered.

(4) Persons who require more care and supervision than is provided by the facility.

(5) Any person whose primary need is acute psychiatric care due to a mental disorder.

(b) The licensee may admit or retain persons who are 60 years of age or older whose needs are compatible with those of other clients if they require the same level of care and supervision as the other clients in the facility and the licensee is able to meet their needs.

(c) When a licensee admits or retains any person 60 years of age or older, the licensee shall ensure that all of the following information is contained in the person's file:

(1) Completed Functional Capabilities Assessment, required by Section 80069.2.

(2) Completed Needs and Services Plan, required by Section 85068.2. If one or more age-related care needs are identified by the provider or the referring source, the licensee shall ensure that the Needs and Services Plan specified how such need(s) will be addressed.

(3) Documentation of a medical assessment, signed by a physician, made within the last year.

(4) A letter of support from the person's conservator with placement authority, if applicable.

(5) Letters of support, if any, from the person's placement officer, social worker, and/or mental health professional, if applicable, documenting that the Adult Residential Facility is the most appropriate setting for the person.

(d) The licensee shall ensure that the Needs and Services Plan for each client 60 years of age or older is updated at least annually and in accordance with Section 85068.3.

(e) The licensee shall ensure that the medical assessment for each client 60 years of age or older is updated at least annually and in accordance with the regulations addressing medical assessments in Residential Care Facilities for the Elderly (RCFE) [California Code of Regulations, Title 22, Sections 87458(b) and (c)].

(f) The Department may require the licensee to comply with various regulations applicable to RCFEs if the Department determines that compliance with any such specific regulations is necessary to protect the health and safety of clients 60 years of age or older. Such regulations may include, but not be limited to, those pertaining to the training of staff members who assist clients with personal activities of daily living; the regular observation of clients for changes in physical, mental, emotional, and social functioning; and the notification of the client's physician and responsible person and/or authorized representative, if any, of documented changes.

(g) If acceptance or retention of an individual 60 years of age or older would result in the

number of persons 60 years of age or older exceeding 50 percent of the census in facilities with a capacity of six or fewer clients, or 25 percent of the census in facilities with a capacity over six, the licensee must request an exception in order to accept or retain the individual. The exception request must be made in accordance with Section 80024. The documentation specified in Section 85068.4(c) must be submitted with the exception request.

(h) Retention of all clients shall be in accordance with each client's Needs and Services Plan, required by Section 85068.2, and the criteria specified in Section 80092, Restricted Health Conditions.

Notes

Cal. Code Regs. Tit. 22, § 85068.4

Note: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1507 and 1531, Health and Safety Code; and Joint Stipulation and Order for Settlement in the matter of California Association of Mental Health Patients' Rights Advocates v. Cliff Allenby, et al., Santa Clara County Superior Court, No. 106-CV061397, issued November 14, 2008.

1. Repealer and new subsection (a)(1) filed 1-31-97 as an emergency; operative 2-1-97 (Register 97, No. 5). A Certificate of Compliance must be transmitted to OAL by 6-2-97 or emergency language will be repealed by operation of law on the following day.
2. Repealer and new subsection (a)(1) refiled 5-21-97 as an emergency; operative 6-1-97 (Register 97, No. 21). A Certificate of Compliance must be transmitted to OAL by 9-29-97 or emergency language will be repealed by operation of law on the following day.
3. Repealer and new subsection (a)(1) refiled 9-29-97 as an emergency; operative 9-29-97 (Register 97, No. 40). A Certificate of Compliance must be transmitted to OAL by 1-27-98 or emergency language will be repealed by operation of law on the following day.
4. Repealer and new subsection (a)(1) refiled 1-26-98 as an emergency; operative 1-27-98 (Register 98, No. 5). A Certificate of Compliance must be transmitted to OAL by 5-27-98 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 1-26-98 order transmitted to OAL 2-6-98; disapproved 3-23-98 (Register 98, No. 13).
6. Repealer and new subsection (a)(1) refiled 3-23-98 as an emergency; operative 3-23-98 (Register 98, No. 13). A Certificate of Compliance must be transmitted to OAL by 7-21-98 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 3-23-98 order transmitted to OAL 7-21-98 and filed 9-1-98 (Register 98, No. 36).
8. New subsections (b)-(c) filed 10-4-2005; operative 11-3-2005 (Register 2005, No. 40).
9. Amendment of section and Note filed 7-31-2009; operative 8-30-2009 (Register 2009, No. 31).