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State of California—Health and Human
Services Agency
**California Department of
Public Health**



EDMUND G. BROWN JR.
Governor

November 19, 2007

AFL 07-35

TO: Skilled Nursing Facilities

SUBJECT: Licensing and Certification Program's Procedures for Auditing Skilled Nursing Facilities Compliance with the 3.2 Nursing Hours Per Patient Day Requirement

In compliance with Welfare and Institutions Code Section 14126.033 (Assembly Bill 1629, Frommer, Chapter 875, Statutes of 2004), the California Department of Public Health (CDPH) Licensing and Certification Program (L&C) will continue the staffing data collection effort begun in June of 2006. Staffing data is being collected to assess the extent to which freestanding skilled nursing facilities (SNFs) comply with the 3.2 nursing hours per patient day staffing ratio mandated by Section 1276.5 of the California Health and Safety Code. To collect the necessary data, CDPH L&C sends staff into SNFs to audit payroll records on-site. The upcoming audit visits will cover the 12-month period from November 1, 2006 to October 31, 2007. Visits will be unannounced. CDPH L&C will, however, notify providers of the two to three week window during which they can expect a visit. This prior notification is provided so that facilities will have sufficient time to prepare for their audits. Facilities are to retrieve all necessary records from storage and have them ready for review upon the auditor's arrival. Audits generally take between one and three days, depending upon facility size.

AB 1629 specifically exempts the following nursing facility types from these visits:

- Those that are part of a continuing care retirement community;
- Distinct parts (D/P SNFs) of a licensed general acute care hospital; and
- State of California or other public entity-owned SNFs.

Facilities whose patient population is comprised entirely of residents receiving Special Treatment Program services will not be audited because the staffing requirements for these programs differ. However, skilled nursing facilities in which only some residents receive Special Treatment Program services will be audited. Multi-Level Retirement Communities and SNFs that take private-pay-only (non-Medi-Cal and non-Medicare) patients are **not** exempt and **are** subject to audit.

During the audits, facilities will be required to make available staff payroll records documenting nurse staffing hours, as well as patient census records, for the period of November 1, 2006 to October 31, 2007.

Audits will be conducted on-site, in the audited facilities, unless L&C makes alternative arrangements in order to facilitate the audit process. L&C can no longer grant requests from facilities to conduct audits in corporate offices or other off-site locations. As such, payroll data covering the specified audit period must be available for review at your facility when the auditor arrives. Section 72533 of Title 22 of the California Code of Regulations provides that the Department can require personnel records to be made available at a specific location and time upon the Department's request.

If the L&C auditor finds that a facility is not in compliance with the 3.2 nursing hours per patient-day requirement on one or more days, the auditor will issue the facility a deficiency at the end of the visit and the facility will be responsible for submitting a plan of correction to the appropriate L&C District Office. If the audit reveals no non-compliant days, a no-deficiency 2567 form will be issued to the facility.

For other inquiries regarding the audit process, please contact:

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We appreciate your cooperation with this process.

Sincerely,

Original Signed by Kathleen Billingsley, R.N.

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