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Services Agency  
**California Department of  
Public Health**



EDMUND G. BROWN JR.  
Governor

June 29, 2018

AFL 18-26

**TO:** Skilled Nursing Facilities

**SUBJECT:** Announcement of New Skilled Nursing Facility Direct Care Hours Regulations

**AUTHORITY:** Health and Safety Code section 1276.65 and Title 22 California Code of Regulations (CCR) section 72329.2

**All Facilities Letter (AFL) Summary**

- This AFL informs skilled nursing facilities (SNFs) that the Office of Administrative Law (OAL) has approved emergency regulations for OAL Matter Number 2018-0619-02E Skilled Nursing Facilities 3.5 Direct Care Hours.
- The regulations are available at the OAL website.
- The California Department of Public Health (CDPH) will host two stakeholder meetings in July 2018 to discuss the development of final regulations.

CDPH adopted the regulations implementing new minimum staffing requirements for SNFs, as required by Senate Bill (SB) 97 (Chapter 52, Statutes of 2017). Pursuant to this legislation, the new minimum staffing requirements become effective July 1, 2018. Emergency regulations were necessary to comply with language in the legislation directing CDPH to adopt emergency regulations to implement the amendments made by SB 97. The regulations reiterate the minimum 3.5 direct care hours requirement with 2.4 hours provided by CNAs and explain the process for applying for a patient needs waiver. A patient needs waiver will allow a facility to waive the 2.4 CNA requirement as long as the SNF continues to meet the overall 3.5 direct hours requirement as required by the legislation. In addition, the regulations instruct facilities that they must post notice of a pending or approved waiver request in the facility and must notify potential residents of the facility that they either have an approved or pending waiver application.

**Upcoming Stakeholder Meetings**

CDPH is hosting two stakeholder meetings in July to discuss the criteria for the patient needs waiver. The first meeting is on July 10, 2018 at 2:00 p.m., and the second meeting is on July 24, 2018 at 2:30 p.m., at 1500 Capitol Ave. BLDG 172 Sacramento, CA 95899. Please visit the CDPH 3.5 Stakeholder Webpage for updates and meeting details.

**Workforce Shortage Waiver**

Facilities unable to meet the 3.5 direct care hours, with 2.4 hours performed by CNAs requirement by July 1, 2018, due to a shortage of available and appropriate health care professional and direct caregivers may apply for a workforce shortage waiver. Facilities seeking a workforce shortage waiver should refer to AFL 18-16 for information about the waiver criteria and application process.

Sincerely,

**Original signed by Scott Vivona**

Scott Vivona

Assistant Deputy Director

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