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**California Department of
Public Health**



GAVIN NEWSOM
Governor

February 28, 2024

AFL 24-08

TO: Skilled Nursing Facilities (SNFs)
Intermediate Care Facilities (ICFs)

SUBJECT: Updated Information on Family Council Requirements to Include AB 979 – Long-Term Care Family Councils
(This AFL supersedes AFL 23-16)

AUTHORITY: Health and Safety Code (HSC) section 1418.4

All Facilities Letter (AFL) Summary

- This AFL notifies SNFs, ICFs of the passage of Assembly Bill (AB) 979 (Chapter 821, Statutes of 2023), effective January 1, 2024, that revises and expands previous guidance issued on California state requirements for family council.
- The bill further expands facility obligations that relate to family council meetings, the provision of family council information and adds prohibited types of facility interference with family council operations.

Background

Pursuant to State Operations Manual (SOM) Appendix PP (PDF) (4.4 MB), Title 42 Code of Federal Regulations section 483.10(f)(5)-(7) does not require SNF or ICF residents to organize a family council; however, if residents or their families wish to organize, they must be able to do so without interference. Additionally, they must be provided space, privacy for meetings, and staff support.

CMS does not require residents to organize family councils, while California state law requires SNFs and ICFs to not prohibit residents from organizing a family council. This AFL clarifies the state requirements for family councils in SNFs and ICFs.

State Requirements

Pursuant to HSC section 1418.4, SNFs and ICFs may not prohibit residents from organizing a family council when requested by a member of the resident's family or the resident's representative. A family council is defined as a meeting of family members, friends, or representatives of two or more residents to confer in private without facility staff. The family council must be allowed to meet in a common meeting room of the facility at least once per month during mutually agreed upon hours. A person other than a family member, friend, or resident representative, including facility staff, may attend a family council meeting, but only at the invitation of the family council.

Facility policies on family councils must not limit the right of residents, family members, and family council members to meet independently with outside persons, including members of nonprofit or government organizations or with facility personnel during nonworking hours. SNFs and ICFs must not willfully interfere with the

formation, maintenance, or promotion of a family council. For purposes of section 1418.4, willful interference includes, but is not limited to, discrimination or retaliation in any way against an individual as a result of their participation in a family council, or the willful scheduling of facility events in conflict with a previously scheduled family council meeting.

Additionally, SNFs and ICFs must do the following:

- Provide adequate space on a prominent bulletin board or other posting area for the display of meeting notices, minutes, newsletters, or other information pertaining to the operation or interest of the family council.
- Provide a designated staff person, approved by the family council, who must be responsible for providing assistance and responding to written requests that result from family council meetings.
- Consider the views and act upon the grievances and recommendations of a family council concerning proposed policy and operational decisions affecting resident care and life in the facility.
- Respond in writing to written requests, concerns, or recommendations of the family council, within 14 calendar days.
- When family council meeting information is provided by the family council, the facility must include notice of the family council meetings in quarterly mailings to the family members, friends, and resident representatives of new residents who are identified on the contract of admission, during the admissions process, or in the resident's records, of the existence of the family council. The notice must include the time, place, and date of meetings, and contact information for the family council representative, as designated by the family council.

Effective January 1, 2024, AB 979 revises and expands the following new requirements:

- A facility with a family council must provide its family council information to the resident and any other individual designated by the resident and/or identified on the contract of admission, during the admission process, or in the resident's records.
- The facility must provide family council information to each required individual prior to, or within 5 business days after, the resident's admission and must include, in writing, the name and contact information of the family council's designated representative.
- The facility also must inform the new resident's family members, representatives, or other designated individuals of their right to have their contact information shared with the family council.
- The facility must provide the family council with the name, email address, and other contact information of anyone giving written consent to the sharing of their contact information with the family council. These provisions are to be implemented only to the extent not in conflict with state and federal law.
- A family council must be allowed to meet virtually or at an offsite location at its discretion.
- The designated staff person provided by the facility must be approved by the family council and the family council may request an alternate staff person to provide assistance and respond to written requests, as needed.
- The facility's written responses to the family council's written requests, concerns, or recommendations must include whether the facility has taken any action or inaction and the facility's rationale for that response.
- Prohibited facility actions include willful interference with a family council's participation in governmental surveys or inspection activities performed by any applicable departments or other governmental entities, refusal to comply with the requirements that it publicize family council meetings or to provide appropriate space for meetings and postings, and failure to respond to the family council's written requests, concerns, or recommendations.

If a SNF or ICF does not have a family council, the facility must provide written information regarding the right to form a family council to each new resident's family members, friends, or resident representatives.

If you have any questions about this AFL, please contact your local district office.

Sincerely,

Original signed by Cassie Dunham

Cassie Dunham

Deputy Director

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