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Title 22@ Social Security

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Division 6@ Licensing of Community Care Facilities

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Chapter 8@ Residential Care Facilities for the Elderly (RCFE)

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Article 13@ Enforcement

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Section 87764@ Suspension of New Admissions

87764 Suspension of New Admissions

(a)

The Department may order a suspension of new admissions for a facility, as specified in Health and Safety Code Section 1569.545, in either of the following circumstances: (1) When a facility is cited for a deficiency that presents a direct and immediate risk to the health, safety, or personal rights of a resident or residents of the facility and the licensee fails to correct the deficiency immediately. (2) When a facility has failed to pay a civil penalty (or penalties) assessed by the Department after the facility has exhausted the administrative review process specified in Health and Safety Code Section 1569.49.

(1)

When a facility is cited for a deficiency that presents a direct and immediate risk to the health, safety, or personal rights of a resident or residents of the facility and the licensee fails to correct the deficiency immediately.

(2)

When a facility has failed to pay a civil penalty (or penalties) assessed by the Department after the facility has exhausted the administrative review process specified in Health and Safety Code Section 1569.49.

(b)

The Department shall serve written notice to the licensee of the order of suspension of new admissions according to the following: (1) Personal delivery to

the licensee at the facility site. (2) If the licensee is not at the facility site, the notice shall be left with a person designated in the facility file to accept licensing reports. Under such circumstances, a copy of the notice shall also be mailed to the licensee. (3) If the licensee or designated person refuses to accept the notice, a notation of the refusal shall be written on the notice and the notice shall be left at the facility. Under such circumstances, a copy of the notice, which includes a notation of the refusal, shall also be mailed to the licensee.

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If the licensee is not at the facility site, the notice shall be left with a person designated in the facility file to accept licensing reports. Under such circumstances, a copy of the notice shall also be mailed to the licensee.

(3)

If the licensee or designated person refuses to accept the notice, a notation of the refusal shall be written on the notice and the notice shall be left at the facility. Under such circumstances, a copy of the notice, which includes a notation of the refusal, shall also be mailed to the licensee.

(c)

The notice of the order of suspension of new admissions shall include the following: (1) Citation of statutes and regulations alleged to be violated. (2) The date the order is effective. (3) Terms of the order, including plans of correction for any deficiency cited. (4) (A) In the case of a suspension pursuant to subsection (a)(1), a factual description of the nature of the deficiency fully stating the manner in which the deficiency presents a direct and immediate risk to the health, safety, or personal rights of a resident or residents of the facility. (B) In the case of a

suspension pursuant to subsection (a)(2), a factual description of the failure to pay the assessed fine and exhaustion of the administrative review process specified in Health and Safety Code Section 1569.49. (5) Signature of the Program Administrator. (6) Full text of the appeal process specified in Section 87765.

(1)

Citation of statutes and regulations alleged to be violated.

(2)

The date the order is effective.

(3)

Terms of the order, including plans of correction for any deficiency cited.

(4)

(A) In the case of a suspension pursuant to subsection (a)(1), a factual description of the nature of the deficiency fully stating the manner in which the deficiency presents a direct and immediate risk to the health, safety, or personal rights of a resident or residents of the facility. (B) In the case of a suspension pursuant to subsection (a)(2), a factual description of the failure to pay the assessed fine and exhaustion of the administrative review process specified in Health and Safety Code Section 1569.49.

(A)

In the case of a suspension pursuant to subsection (a)(1), a factual description of the nature of the deficiency fully stating the manner in which the deficiency presents a direct and immediate risk to the health, safety, or personal rights of a resident or residents of the facility.

(B)

In the case of a suspension pursuant to subsection (a)(2), a factual description of the failure to pay the assessed fine and exhaustion of the administrative review process specified in Health and Safety Code Section 1569.49.

(5)

Signature of the Program Administrator.

(6)

Full text of the appeal process specified in Section 87765.

(d)

Upon service of the notice as described in subsection (b), the licensed facility shall post a copy of the notice in a conspicuous location in the facility.

(e)

The order of the Department imposing the suspension of new admissions is effective immediately upon notice. The facility shall not admit new residents while the suspension is in effect. (1) For purposes of this section, any admission agreement signed prior to the effective date of the order of suspension of new admissions is not considered a new admission.

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For purposes of this section, any admission agreement signed prior to the effective date of the order of suspension of new admissions is not considered a new admission.

(f)

The suspension of new admissions for a facility shall remain in effect until the Department determines: (1) In the case of a suspension pursuant to subsection (a)(1), the facility has demonstrated to the Department the correction of all deficiencies identified in the notice. If the facility does not demonstrate to the Department the correction of all deficiencies identified in the notice, the Department shall conduct a follow-up visit to determine compliance within ten (10) business days following the latest date of correction specified in the notice. (2) In the case of a suspension pursuant to subsection (a)(2), the facility has paid the applicable civil penalty (or penalties) assessed by the Department. In the case

where formal payment arrangements have been made with the Department, the suspension may be lifted during the period of payment compliance but otherwise reinstated for failure to comply with payment arrangements.

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In the case of a suspension pursuant to subsection (a)(1), the facility has demonstrated to the Department the correction of all deficiencies identified in the notice. If the facility does not demonstrate to the Department the correction of all deficiencies identified in the notice, the Department shall conduct a follow-up visit to determine compliance within ten (10) business days following the latest date of correction specified in the notice.

(2)

In the case of a suspension pursuant to subsection (a)(2), the facility has paid the applicable civil penalty (or penalties) assessed by the Department. In the case where formal payment arrangements have been made with the Department, the suspension may be lifted during the period of payment compliance but otherwise reinstated for failure to comply with payment arrangements.

(g)

Once the Department has determined that the violation (or violations) has been corrected or fine (or fines) has been paid, as specified in subsection (f), the Department shall notify the licensee immediately, but no later than two (2) business days following the determination, of the order to remove the suspension of new admissions.

(h)

The Department may impose a Temporary Suspension Order, pursuant to Health and Safety Code Section 1569.50, if the licensee violates the order of suspension of new admissions by admitting any new resident while the order is in effect.