

**POLICY****Hospice Care Waivers and Total Care Exception Requests**

Health and Safety Code Section 1569.73 requires facilities to obtain a Hospice Care Waiver from the California Department of Social Services if they wish to retain clients receiving hospice care services. Residents receiving hospice care services may eventually require “total care,” which is a prohibited health condition as outlined in California Code of Regulation (CCR), Title 22, Section 87615(a)(5). Total care is defined as a condition where residents depend on others to perform all of their activities of daily living, see (CCR) Title 22, Section 87459 Functional Capabilities.

A licensee must request a total care exception to allow a resident to be retained in the Residential Care Facility for the Elderly (RCFE) if the resident’s condition requires total care. The requirements for requesting this total care exception are found in California Code of Regulation (CCR), Title 22, Section 87616.

**PROCEDURE**

Currently, a licensee who accepts/retains a resident who is receiving hospice care services has to have been granted a hospice care waiver. Then, if a total care need arises for the resident receiving hospice services, the licensee has to apply for an exception for the total care prohibited health condition, which includes the conditions outlined in Section 87616. To streamline and expedite the total care exception process in these cases, the licensee has the option to submit, along with a written request to the Department for a hospice care waiver, a description that outlines most of the licensee’s plan to ensure the provision of total care for residents receiving hospice care services who may later require total care.

The optional total care plan component of the hospice care waiver request must include the licensee’s plan for ensuring that current total care residents’ health related needs can be met, or provisions made for them to be met by the licensee [required by 87616(b)(2)]. The plan must also address how it will minimize this impact on the other residents [required by 87616(b)(3)].

If the Department then grants approval of the hospice care waiver, it will already have on file two of the provisions [required by 87616(b)(2) and (3)] for total care required for any future exception requests submitted by the licensee.

The total care exception requirements of Section 87616 would be met for a current resident if a granted hospice care waiver included a reference to the hospice care waiver, which provided the information required by 87616(b)(2) and (3) and the information in #4. below. For residents whose need for total care occurs after the hospice care waiver is accepted, if the waiver covers the provisions of 87616(b)(2) and (3), only the information in #4. below would be required for that resident’s total care exception.

**PROCEDURE (continued)**

This process is as follows:

1. In accordance with Code of Regulation (CCR), Title 22, Section 87632(d)(2), the licensee is required to submit to the Department written notification that hospice care services have been initiated for a terminally ill resident. The notice shall include the resident's name and date of admission to the RCFE and the name and address of the hospice agency and it shall be submitted to the Department within five working days of the initiation of hospice services for that resident.
2. If the licensee believes the resident receiving hospice services needs or will likely need total care, the licensee can state in the notice in "1" above that he or she is also requesting an exception request for total care for this particular resident in accordance with Code of Regulation (CCR), Title 22, Section 87616.
3. Two of the requirements for a Section 87616 total care exception request are: 87616(b)(2), the licensee's plan for ensuring the residents' health related needs can be met by the facility and 87616(b)(3) the plan for minimizing the impact on other residents. These two requirements will have already been addressed with the licensee's submission of the hospice care waiver request and the optional provision of the total care plan along with it. Therefore, these components would not need to be submitted as part of the exception request, as long as the licensee's hospice waiver request has already fully addressed the unique needs of the specific resident in question.
4. The third requirement [at 87616(b)(1)] for a Section 87616 total care exception request is for the licensee to submit to the Department the resident's current health condition, including updated medical reports, and other documentation of the current health, prognosis, and expected duration of the condition. In cases where the requirements of 87616(b)(2) and (3) total care services component have already been approved as part of the Hospice Waiver, rather than submitting the information required by 87616(b)(1), (2) and (3), the licensee may propose in the exception request that:
  - A. The individual resident's hospice care plan [Section 87633(b)], which is maintained at the facility, is a reasonable variance of Section 87616(b)(1), and;
  - B. The granted Hospice Care Waiver is a reasonable variance of the requirements of Section 87616(b)(2) and (3).

If the exception is granted, the individual hospice care plan would not need to be submitted to the Department, but would instead be retained in the resident's file at the facility and is available for review by Department personnel when needed.

**PROCEDURE (continued)**

Note: If the licensee chooses not to utilize this optional simplified method by incorporating the provisions of the total care plan as part of the their hospice care waiver request, then the licensee will be required to submit a complete total care exception request in compliance with the requirements of Code of Regulation (CCR), Title 22, Section 87616 each time a resident who requires hospice care services develops a need for total care.

In caring for a hospice resident who also requires total care, facility staff, other than appropriately skilled medical professionals, must not perform any procedure that under law may only be performed by an appropriately skilled or licensed medical professional.

A hospice care waiver does not preclude the Department from requiring the relocation of a resident whose needs for personal care and supervision or health care are not being met in the facility. This waiver is subject to ongoing review by the Department and may be rescinded at any time. A copy of the hospice care waiver must be available for review at the facility.

In RCFEs which already have an approved Hospice Waiver (situations where the resident's need for total care occurs after the Hospice Waiver has been granted), the licensee may submit an addendum to the existing hospice care waiver plan that includes the total care component. If the Department approves this addendum, the licensee may then use the option of requesting the total care exception under the simplified methods noted above.