

87632 HOSPICE CARE WAIVER**87632**

- (a) In order to retain terminally ill residents and permit them to receive care from a hospice agency, the licensee shall have obtained a facility hospice care waiver from the Department. To obtain this waiver the licensee shall submit a written request for a waiver to the Department on behalf of any future residents who may request retention and hospice services in the facility. The request shall include, but not be limited to the following:
- (1) Specification of the maximum number of terminally ill residents which the facility wants to have at any one time.
 - (2) A statement by the licensee that they have read, Section 87633, Hospice Care for Terminally Ill Residents, this section, and all other requirements within Chapter 8 of Title 22 of the California Code of Regulations governing Residential Care Facilities for the Elderly and that they will comply with these requirements.
 - (3) A statement by the licensee that the terms and conditions of all hospice care plans which are designated as the responsibility of the licensee, or under the control of the licensee, shall be adhered to by the licensee.
 - (4) A written statement from the licensee that hospice services will only be provided to individuals who are residents of the facility, prior to the initiation of hospice services.
- (b) The Department shall deny a waiver request if the licensee is not in substantial compliance with the provisions of the Residential Care Facilities for the Elderly Act (Health and Safety Code Section 1569 et seq.) and the requirements of Chapter 8 of Title 22 of the California Code of Regulations governing Residential Care Facilities for the Elderly.
- (c) No waiver request will be approved unless the facility demonstrates the ability to meet the care and supervision needs of terminally ill residents, and states a willingness to provide additional care staff if required by the hospice care plan.
- (d) If the Department grants a hospice care waiver it shall stipulate terms and conditions of the waiver as necessary to ensure the well-being of terminally ill residents and of all other facility residents, which shall include, but not be limited to, the following requirements:
- (1) A written request shall be signed by each terminally ill resident or the resident's health care surrogate decision maker to allow his or her retention in the facility while receiving hospice services.
 - (A) The request shall be maintained in the resident's record at the facility, as specified in Section 87633(h)(1).

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- (2) The licensee shall notify the Department in writing within five working days of the initiation of hospice care services in the facility for any terminally ill resident. The notice shall include the resident's name and date of admission to the facility and the name and address of the hospice.
- (e) Within 30 days of receipt of an acceptable request for a hospice care waiver, the department shall notify the applicant or licensee, in writing of one of the following:
 - (1) The request with substantiating evidence has been received and accepted for consideration.
 - (2) The request is deficient, describing additional information required for the request to be acceptable and a time frame for submitting this information.
 - (A) Failure of the applicant or licensee to comply within the time specified in (2) above shall result in denial of the request.
 - (3) Within 30 days of receipt of an acceptable request for a waiver, the licensing agency shall notify the applicant or licensee, in writing, whether the request has been approved or denied.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.2, 1569.10, 1569.11, 1569.15, 1569.31, 1569.312, 1569.54 and 1569.73, Health and Safety Code.

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- (a) The licensee shall be permitted to retain terminally ill residents who receive hospice services from a hospice agency in the facility if all of the following conditions are met:
 - (1) The licensee has received a hospice care waiver from the department.
 - (2) The licensee remains in substantial compliance with the requirements of this section, with the provisions of the Residential Care Facilities for the Elderly Act (Health and Safety Code Section 1569 et seq.), all other requirements of Chapter 8 of Title 22 of the California Code of Regulations governing Residential Care Facilities for the Elderly, and with all terms and conditions of the waiver.
 - (3) Hospice agency services are contracted for by each terminally ill resident individually, or the resident's Health Care Surrogate Decision Maker if the resident is incapacitated, not by the licensee on behalf of a resident. These hospice agency services must be provided by a hospice agency both licensed by the state and certified by the federal Medicare program.

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- (4) A written hospice care plan is developed for each terminally ill resident by that resident's hospice agency, and agreed to by the licensee and the resident, or the resident's Health Care Surrogate Decision Maker, if any, prior to the initiation of hospice services in the facility for that resident, and all hospice care plans are fully implemented by the licensee and by the hospice(s).
 - (5) The retention of any terminally ill resident in the facility does not represent a threat to the health and safety of any facility resident, or result in a violation of the personal rights of any facility resident.
 - (6) The hospice agency and the resident agree to provide the licensee with all information necessary to allow the licensee to comply with all regulations and to assure that the resident's needs are met.
- (b) A current and complete hospice care plan shall be maintained in the facility for each hospice resident and include the following:
- (1) The name, office address, business telephone number, and 24-hour emergency telephone number of the hospice agency and the resident's physician.
 - (2) A description of the services to be provided in the facility by the hospice agency including but not limited to the type and frequency of services to be provided.
 - (3) Designation of the resident's primary contact person at the hospice agency, and resident's primary and alternate care giver at the facility.
 - (4) A description of the area of licensee's responsibility for implementing the plan including, but not limited to, facility staff duties; record keeping; and communication with the hospice agency, resident's physician, and the resident's responsible person(s), if any. This description shall include the type and frequency of the tasks to be performed by the facility.
 - (A) The plan shall specify all procedures to be implemented by the licensee regarding the storage and handling of medications or other substances, and the maintenance and use of medical supplies, equipment, or appliances.
 - (B) The plan shall specify, by name or job function, the licensed health care professional on the hospice agency staff who will control and supervise the storage and administration of all controlled drugs (Schedule II - V) for the hospice client. Facility staff can assist hospice residents with self-medications without hospice personnel being present.
 - (C) The plan shall neither require nor recommend that the licensee or any facility personnel other than a physician or appropriately skilled professional implement any health care procedure which may legally be provided only by a physician or appropriately skilled professional.

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- (5) A description of all hospice services to be provided or arranged in the facility by persons other than the licensee, facility personnel, or the hospice agency including, but not limited to, clergy and the resident's family members and friends.
 - (6) Identification of the training needed, which staff members need this training, and who will provide the training relating to the licensee's responsibilities for implementation of the hospice care plan.
 - (A) The training shall include but not be limited to typical needs of hospice patients, such as turning and incontinence care to prevent skin breakdown, hydration, and infection control.
 - (B) The hospice agency will provide training specific to the current and ongoing needs of the individual resident receiving hospice care and that training must be completed before hospice care to the resident begins.
 - (7) Any other information deemed necessary by the Department to ensure that the terminally ill resident's needs for health care, personal care, and supervision are met.
- (c) The licensee shall ensure that the hospice care plan complies with the requirements of this section, with the provisions of the Residential Care Facilities for the Elderly Act (Health and Safety Code Section 1569 et seq.), and all other requirements of Chapter 8 of Title 22 of the California Code of Regulations governing Residential Care Facilities for the Elderly.
 - (d) The licensee shall ensure that the hospice care plan is current, accurately matches the services actually being provided, and that the client's care needs are being met at all times.
 - (e) The Department may require that the licensee obtain a revision of the hospice care plan if the plan is not fully implemented, or if the Department has determined that revision of the plan is necessary to protect the health and safety of any facility resident.
 - (f) The licensee shall maintain a record of all hospice-related training provided to the licensee or facility personnel for a period of three years. This record shall be available for review by the Department.
 - (1) The record of each training session shall specify the names and credentials of the trainer, the persons in attendance, the subject matter covered, and the date and duration of the training session.
 - (g) In addition to the reporting requirements specified in Section 87211, Reporting Requirements, the licensee shall submit a report to the Department when a terminally ill resident's hospice services are interrupted or discontinued for any reason other than the death of the resident, including refusal of hospice care or discharge from hospice. The licensee shall also report any deviation from the resident's hospice care plan, or other incident, which threatens the health and safety of any resident.

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- (1) Such reports shall be made by telephone within one working day, and in writing within five working days, and shall specify all of the following:
 - (A) The name, age, sex of each affected resident.
 - (B) The date and nature of the event and explanatory background information leading up to the event.
 - (C) The name and business telephone number of the hospice agency.
 - (D) Actions taken by the licensee and any other parties to resolve the reportable event and to prevent similar occurrences in the future.
- (h) For each terminally ill resident receiving hospice services in the facility, the licensee shall maintain the following in the resident's record:
 - (1) The resident's or the resident's Health Care Surrogate Decision Maker's written request for retention and hospice services in the facility, along with any Advance Health Care Directive, Request to Forego Resuscitative Measures, and/or Do-Not-Resuscitate Form executed by the resident or (in certain instances) the resident's Health Care Surrogate Decision Maker.
 - (2) The name, address, telephone number, and 24-hour emergency telephone number of the hospice agency and the resident's Health Care Surrogate Decision Maker, if any, in a manner that is readily available to the resident, the licensee, and facility staff.
 - (3) A copy of the written certification statement of the resident's terminal illness from the medical director of the hospice or the physician member of the hospice interdisciplinary group and the individual's attending physician, if the individual has an attending physician.
 - (4) A copy of the resident's current hospice care plan approved by the licensee, the hospice agency, and the resident, or the resident's Health Care Surrogate Decision Maker if the resident is incapacitated.
 - (5) A statement signed by the resident's roommate, if any, indicating his or her acknowledgment that the resident intends to receive hospice care in the facility for the remainder of the resident's life, and the roommate's voluntary agreement to grant access to the shared living space to hospice caregivers, and the resident's support network of family members, friends, clergy, and others.
 - (A) If the roommate withdraws the agreement verbally or in writing, the licensee shall make alternative arrangements which fully meet the needs of the hospice resident.

