

**Methodology to Indicate Changes to  
DPH-05-022 Standard Admission Agreement  
Second 15-Day Public Availability**

Changes to the amendments to the California Code of Regulations, Title 22, as originally presented in the 45-day Public Notice are now being made available in a second 15-day review and comment period. Rulemaking documents made available prior to this second Availability of Post Hearing Changes are available on the Department's website at:

<http://www.cdph.ca.gov/services/DPOPP/regs/Pages/DPH-05-022,StandardAdmissionAgreement.aspx>

The proposed changes that are the subject of this notice are indicated as follows:

- Deletions from the proposed text presented during the second 15-day public comment period are indicated by a shaded double strike-through (~~strike-through~~).
- Additions to the proposed text presented during the second 15-day public comment period are indicated by a shaded double underline (underline).
- A deletion of some text that was added as first 15-day proposed changes is indicated by shading and both double underline and double strike-through (~~strike through~~).

(1) Amend Section 72516 to read:

72516. Standard Admission Agreement

(a) The licensee shall use the California Standard Admission Agreement for Skilled Nursing and Intermediate Care Facilities, form number HS 327 ~~(02/05)~~ CDPH 327 (05/10) (04/11) (05/11), which is incorporated by reference herein, as the sole contract of admission between residents and the licensee.

(b) Except to enter information specific to the facility or the resident in blank spaces provided in the Standard Admission Agreement form or its attachments, the licensee shall not alter the Standard Admission Agreement ~~without the prior written authorization of the Department. unless directed to do so by the Department. The licensee shall request such authorization using the program flexibility procedures specified in section 72213, and the Department shall process it as required by section 1276 of the Health and Safety Code.~~ A licensee wishing to receive direction from the Department that would enable the licensee to alter the Standard Admission Agreement shall submit a request to the Department. The request shall:

(1) Include the identity of the facility;

(2) Identify the specific language in the Standard Admission Agreement that the facility is unable to employ; and/or,

(3) Identify the specific location and language that is to be deleted, amended or appended to the form; and.

(4) Contain substantiating evidence identifying the reason that the use of the Standard Admission Agreement without the requested modification would not be possible because of some unique aspect of the facility's operation or would make it highly likely that the use of the language will create a new cause of action against the facility related to its compliance with existing statutory or regulatory requirements governing the care provided to nursing facility residents. The Department shall respond within 60 days of the receipt of the request.

(c) No resident or his or her legal representative shall be required to sign any other document at the time of, or as a condition of, admission to the licensee's facility, or as a condition of continued stay in the facility.

(d) The licensee shall not present any arbitration agreement to a prospective resident as a part of the Standard Admission Agreement. Any arbitration agreement shall be separate from the Standard Admission Agreement and shall contain the following advisory in a prominent place at the top of the proposed arbitration agreement, in bold-face font of not less than 12 point type: **"Residents shall not be required to sign this arbitration agreement as a condition of admission to this facility, and cannot waive the ability to sue for violation of the Resident Bill of Rights."**

This section shall become operative six months after the date it is filed with the Secretary of State.

**DPH-05-022**

**05-12-11**

**2nd 15-Day Comment Period**

NOTE: Authority cited: Sections 1275 and 131200, Health and Safety Code.  
Reference: Sections 1276, 1430, 1599.60, 1599.61, 1599.64, 1599.81, and  
123222.1, 131050, 131051 and 131052, Health and Safety Code- , and *Parkside  
Special Care Center, Inc., et al. v. Sandra Shewry, Director of the Department of  
Health Services, et al.*, Superior Court of the State of California, County of San  
Diego, case number GIC: 860574.

(2) Amend Section 73518 to read:

73518. Standard Admission Agreement.

(a) The licensee shall use the California Standard Admission Agreement for Skilled Nursing and Intermediate Care Facilities, form number HS 327 (02/05) CDPH 327 (05/10) (04/11) (05/11), which is incorporated by reference herein, as the sole contract of admission between residents and the licensee.

(b) Except to enter information specific to the facility or the resident in blank spaces provided in the Standard Admission Agreement form or its attachments, the licensee shall not alter the Standard Admission Agreement ~~without the prior written authorization of the Department, unless directed to do so by the Department. The licensee shall request such authorization using the program flexibility procedures specified in section 72213, and the Department shall process it as required by section 1276 of the Health and Safety Code.~~ A licensee wishing to receive direction from the Department that would enable the licensee to alter the Standard Admission Agreement shall submit a request to the Department. The request shall:

(1) Include the identity of the facility;

(2) Identify the specific language in the Standard Admission Agreement that the facility is unable to employ; and/or,

(3) Identify the specific location and language that is to be deleted, amended or appended to the form; and,

(4) Contain substantiating evidence identifying the reason that the use of the Standard Admission Agreement without the requested modification would not be possible because of some unique aspect of the facility's operation or would make it highly likely that the use of the language will create a new cause of action against the facility related to its compliance with existing statutory or regulatory requirements governing the care provided to nursing facility residents. The Department shall respond within 60 days of the receipt of the request.

(c) No resident or his or her legal representative shall be required to sign any other document at the time of, or as a condition of, admission to the licensee's facility, or as a condition of continued stay in the facility.

(d) The licensee shall not present any arbitration agreement to a prospective resident as a part of the Standard Admission Agreement. Any arbitration agreement shall be separate from the Standard Admission Agreement and shall contain the following advisory in a prominent place at the top of the proposed arbitration agreement, in bold-face font of not less than 12 point type:

**“Residents shall not be required to sign this arbitration agreement as a condition of admission to this facility, and cannot waive the ability to sue for violation of the Resident Bill of Rights.”**

This section shall become operative six months after the date it is filed with the Secretary of State.

NOTE: Authority cited: Sections 1275 and 131200, Health and Safety Code. Reference: Sections 1276, 1430, 1599.60, 1599.61, 1599.64, 1599.81, and 123222.1, 131050, 131051 and 131052, Health and Safety Code, and *Parkside Special Care Center, Inc., et al. v. Sandra Shewry, Director of the Department of Health Services, et al.*, Superior Court of the State of California, County of San Diego, case number GIC: 860574.