

## UPDATED INFORMATIVE DIGEST

Section 1599.61 of the Health and Safety Code requires the California Department of Public Health (Department), formerly the Department of Health Services<sup>1</sup>, to develop, and skilled nursing and intermediate care facilities to use, a standard admission agreement which complies with all applicable state and federal laws.

The Department promulgated regulations, Sections 72516 and 73518 of the California Code of Regulations (CCR), with a Standard Admission Agreement (SAA) incorporated by reference, effective August 5, 2005. Thereafter, a suit was filed by several long-term health care facilities and The California Association of Health Facilities in which the petitioners asked the court to issue a writ requiring the Department to implement regulations and the corresponding SAA to conform with existing law; the petitioners did not believe that the regulations and agreement the Department had promulgated were consistent with existing statutes and regulations. *Parkside Special Care Center, Inc., et al., v. Sandra Shewry, Director of the California Department of Health Services, et al.*, San Diego Superior Court number GIC 860574.

On August 10, 2006, the Court issued an Order in which it upheld certain provisions of the Department's regulations and SAA, and found several other provisions contrary to law. On March 21, 2007, the court issued a Writ of Mandate in which it ordered the Department to vacate and set aside several provisions of the SAA and implementing regulations and to revise and re-promulgate those provisions of the SAA and implementing regulations in a manner consistent with the Writ and the Order of August 10, 2006.

The proposed amendments to the regulations, the SAA, and Attachments E and F, make the changes to the following components to comply with the court order: (1) Authorization for Disclosure of Medical Information, (2) Notice of Room Change, (3) Resident's Right to Voluntarily Leave a Facility, (4) Liability of Third Parties, (5) Posting Requirements, (6) Refunds, and (7) Program Flexibility.

The proposed amendments to Sections 72516 and 73518, Title 22, CCR, eliminate the use of the program flexibility provisions to allow facilities to request modification of the SAA, and substitute a new procedure more closely aligned to the statutory mandate. Program flexibility provisions pursuant to Health and Safety Code Section 1276 are retained for facilities wishing to seek an alternate method of complying with the regulations. The California Department of Public Health Form Number CDPH 327 (05/11) is the revised SAA as amended in this proposal, and is incorporated by reference into the regulations.

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<sup>1</sup> Effective July 1, 2007, the California Department of Health Services was split into two separate agencies, the Department of Health Care Services, and the Department of Public Health. This split was effected by the passage of S.B. 162, Chapter 241, Statutes of 2006. The subject of this proposed regulatory package was assigned in that legislation to the Department of Public Health.

The proposed amendments to the SAA require “reasonable notice” to the resident rather than “30 days” for a change to the resident’s room; notice to a resident’s personal representative that signing in a representative capacity does not, in and of itself, result in personal liability of the representative for debts of the resident; posting of the report of the most recent state licensing visit; elimination of the statement concerning the resident’s right to voluntarily leave a facility. and refunds of security deposits to be made within 14 days of closure of the resident’s private account or receipt of Medi-Cal payment, whichever is later.

The proposed amendments to the Authorization for Disclosure of Medical Information (Attachment E) conform the Authorization to the mandatory requirements of the federal Health Insurance Portability and Accountability Act (HIPAA).

Chapter 532, Statutes 2009 requires that all contracts of admission for a skilled nursing facility have an attachment that is placed before any other attachment that discloses the name of the owner and licensee and the name and contact information of a single entity that is responsible for all aspects of patient care and operation at the facility.

A new Attachment A is added to the SAA to comply with the requirements of Chapter 532, Statutes 2009, and former Attachment A is designated Attachment F.

**AUTHORITY:** Sections 1275 and 131200, Health and Safety Code.

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