

State of California
Office of Administrative Law

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RECEIVED MAY 29 2015

In re:
Department of Public Health

Regulatory Action:

Title 22, California Code of Regulations

Adopt sections:

Amend sections: 72516, 73518

Repeal sections:

NOTICE OF APPROVAL OF CHANGES
WITHOUT REGULATORY EFFECT

California Code of Regulations, Title 1,
Section 100

OAL Matter Number: 2015-0422-05

OAL Matter Type: Nonsubstantive (N)

This change without regulatory effect deletes language from sections 72516(d) and 73518(d) of Title 22 of the California Code of Regulations which, along with the underlying statute, was found by the United States District Court to be unconstitutional in Valley View Health Care, Inc., et al. v. Ronald Chapman, M.D., et al. (E.D. Cal. 2014) 992 F.Supp.2d 1016.

OAL approves this change without regulatory effect as meeting the requirements of California Code of Regulations, Title 1, section 100.

Date: May 27, 2015



Dale P. Mentink
Senior Attorney

For: DEBRA M. CORNEZ
Director

Original: Dr. Ron Chapman, MD, MPH
Copy: Linda Cortez

NONSUBSTANTIVE

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2015-0422-05N	EMERGENCY NUMBER
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For use by Office of Administrative Law (OAL) only

2015 APR 22 AM 11:48
 OFFICE OF
 ADMINISTRATIVE LAW

ENDORSED - FILED

In the office of the Secretary of State
of the State of California

MAY 27 2015

2:04 PM

NOTICE	REGULATIONS
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AGENCY WITH RULEMAKING AUTHORITY
 CALIFORNIA DEPARTMENT OF PUBLIC HEALTH

AGENCY FILE NUMBER (if any)
 DPH-15-002

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	ACTION ON PROPOSED NOTICE	NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) STANDARD ADMISSION AGREEMENT	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)
TITLE(S) 22	ADOPT AMEND 72516 AND 73518 REPEAL

<input type="checkbox"/> Regular Rulemaking (Gov. Code § 11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§ 11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, § 11346.1(h))	<input checked="" type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§ 11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, § 11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, § 11346.1(b))	<input type="checkbox"/> Other (Specify) _____		

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, § 44 and Gov. Code § 11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, § 100)	<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code § 11343.4(a))	<input type="checkbox"/> Effective on filing with Secretary of State	<input checked="" type="checkbox"/> \$100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM § 6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal	
<input type="checkbox"/> Other (Specify) _____			

7. CONTACT PERSON LINDA M. CORTEZ	TELEPHONE NUMBER (916) 440-7807	FAX NUMBER (Optional) (916) 440-5747	E-MAIL ADDRESS (Optional) linda.cortez@cdph.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 4/13/15
TYPED NAME AND TITLE OF SIGNATORY DANIEL C. KIM, CHIEF DEPUTY DIRECTOR OF OPERATIONS	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

MAY 27 2015

Office of Administrative Law

Amend Section 72516 to read:

§72516. Standard Admission Agreement.

(a) *No change to text.*

(b) *No change to text.*

(c) *No change to text.*

(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, 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; *Valley View Health Care Inc., et al. v. Ronald Chapman, M.D., Director of the California Department of Public Health, et al.*, (E.D. Cal. 2014) 992 F.Supp.2d 1016.

Amend Section 73518 to read:

§73518. Standard Admission Agreement.

(a) *No change to text.*

(b) *No change to text.*

(c) *No change to text.*

(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.~~

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