Current Trends and Practices 2017

2 hour CEU Course for RCFE/ARF Administrators
Course Objectives

1. Discuss new laws that went into effect January 1, 2017 and will go into effect July 1, 2017
2. Discuss updates to Regulations and the Department of Social Services website
3. Discuss Labor changes, such as minimum wage increases
Note

Note: this course was written in November, 2016 and reflects current policies, laws and procedures.

However, during 2017, Assembly and Senate Bills, regulations and procedures may be enacted. Any new update during 2017 will be discussed in the live course.
Definitions

“DSS” = Department of Social Services
“CCLD” = Community Care Licensing Division
“RCFE” = Residential Care Facility for the Elderly
“ARF” = Adult Residential Facility
“LPA” = Licensing Program Analyst
“AB” = Assembly Bill
“SB” = Senate Bill
“CALA” = California Assisted Living Association
New Bills

Every year, there are new Senate and Assembly Bills that are introduced that affect the long-term care industry.

The following slides discuss these new Bills and the affect they will have on our facilities.
Bill Discussion

For each Bill, new or pending, the following will be discussed:

- Description of the Bill
- Current status of the Bill
- Impact on our facilities

Note: A Bill’s status may have changed (i.e., passed as law) since the time this Course was written; therefore, the Bill’s current status as of this conference presentation date will also be discussed.
Bill Information

The following website was used to get information on these new Bills:
www.leginfo.legislature.ca.gov

In addition, the California Assisted Living Association website was utilized.
New Bills and Laws - 2017

Assembly Bill 2231 – CCLD Civil Penalty System – affects both ARF’s and RCFE’s

This Bill goes into effect **July 1, 2017**, concluding a 3+ year process to get this Bill passed. It revises the civil penalty system, increasing civil penalties and imposing penalties for repeat violations. The Health & Safety Codes will be updated to reflect these changes.
New Bills and Laws - 2017

Assembly Bill 2231 – CCLD Civil Penalty System

Summary of new system:

- The notification of deficiency must factually describe the nature of the deficiency, stating where it occurred and how the Licensee was noncompliant with statute or regulations;
New Bills and Laws - 2017

Assembly Bill 2231 – CCLD Civil Penalty System

Summary of new system:

• Fines will be assessed for death, physical abuse or serious bodily injury and for serious violations (see upcoming slides for fines);
New Bills and Laws - 2017

Assembly Bill 2231 – CCLD Civil Penalty System

Summary of new system:

• Civil penalties will be due and payable when the appeals have been exhausted;
• The appeals process for civil penalties involving death, physical abuse or serious bodily injury is now simplified to 2 appellate levels (rather than 4);
New Bills and Laws - 2017

Assembly Bill 2231 – CCLD Civil Penalty System

Summary of new system:

• All other citations or civil penalty appeals will be reviewed by the Regional Manager and then by the Program Administrator, whose decision will be considered final.
New Bills and Laws - 2017

Assembly Bill 2231 – CCLD Civil Penalty System - Fines:

- For a violation that the Department determines resulted in the death of a resident, the civil penalty shall be fifteen thousand dollars ($15,000). (Example, you allow your resident with dementia to leave your facility unescorted when you know they are unsafe, they get hit by a car and are killed; you could be fined $15,000).
Assembly Bill 2231 – CCLD Civil Penalty System - Fines:

• For a violation that the Department determines constitutes physical abuse, or resulted in serous bodily injury to a resident, the civil penalty shall be ten thousand dollars ($10,000). (Example, you allow your resident with dementia to leave your facility unescorted when you know they are unsafe, they get hit by a car and breaks a leg and hip; you could be fined $10,000).
Assembly Bill 2231 – CCLD Civil Penalty System - Fines:

- $150 per day per violation for serious violations, such as:
  - Fire clearance violations, such as inoperable smoke alarms or systems, over-capacity or ambulatory status (example: you have a non-ambulatory resident residing in an ambulatory-only cleared room);
New Bills and Laws - 2017

Assembly Bill 2231 – CCLD Civil Penalty System - Fines:

- $150 per day per violation for serious violations, such as:
  - Absence of supervision (remember, Assembly Bill 2044 that became law on January 1, 2015, requires the presence of an administrator, a facility manager, or a designated substitute and sufficient staffing by direct care in the facility at all times);
New Bills and Laws - 2017

Assembly Bill 2231 – CCLD Civil Penalty System - Fines:

• $150 per day per violation for serious violations, such as:
  
  • Accessible bodies of water (review Title 22, Section 87307(e) Personal Accommodations and Services);
  
  • Accessible firearms, ammunitions or both (review Title 22, Section 87309(a)(3) Storage Space);
New Bills and Laws - 2017

Assembly Bill 2231 – CCLD Civil Penalty System - Fines:

- $150 per day per violation for serious violations, such as:
  - Refused entry to a facility or any part of a facility (note: if a resident has access to your garage, the LPA has the right to inspect the garage);
  - The presence of an excluded person on the premises (for example, an employee with a criminal conviction that does not have an exemption).
Assembly Bill 2231 – CCLD Civil Penalty System - Fines:

- Any facility that is assessed a civil penalty that repeats the same violation within 12 months of the violation will be assessed an immediate civil penalty of one thousand dollars ($1,000) and one hundred dollars ($100) for each day the violation continues until the deficiency is corrected.
New Bills and Laws - 2017

Assembly Bill 2231 – CCLD Civil Penalty System

For more information on the appeals process, see the Fall 2016 Quarterly Update found on the DSS website.
New Bills and Laws - 2017

Assembly Bill 2231 – CCLD Civil Penalty System

The current LIC 421 forms and Evaluator’s Manual will be updated to reflect these changes. Stay tuned.....
Senate Bill 1065 – Arbitration affects both ARF’s and RCFE’s

This Bill passed and goes into effect January 1, 2017. This would require the court of appeal to issue their decision no later than 100 days after the notice of appeal is filed.

Question: do you know what “arbitration” means? (the answer is on next slide…..)
Senate Bill 1065 – Arbitration

“Arbitration”, per the Merriam-Webster dictionary, is defined as:

*a process of settling an argument or disagreement in which the people or groups on both sides present their opinions and ideas to a third person or group.*

This third person is usually a retired judge or arbitration attorney.
New Bills and Laws - 2017

Senate Bill 1065 – Arbitration

Why would one want to go to arbitration?

This is the cheaper (less legal fees) and faster route toward dispute resolution.

Note: Arbitration clauses have to be written in a way that does not force the resident to give up all of their rights. Consult an attorney.
New Bills and Laws - 2017

Senate Bill 939 – CCRC Entrance Fees

This Bill went into effect January 1, 2017. The purpose of this Bill is to incentivize fast repayment of entrance fees for CCRC residents.

What is “CCRC”? This stands for continuing care retirement community.
Senate Bill 939 – CCRC Entrance Fees

One of the requirements of the Bill is that a CCRC is prohibited from charging a resident or his/her estate a monthly fee once the unit has been permanently vacated.

For more information, go to: https://legiscan.com/CA/text/SB939/2015
Bills and Laws - Failed

Senate Bill 938 – Dementia Conservators – Dead

This Bill would have required dementia resident conservators to get court approval to give the resident a psychotropic medication. For example, if the resident needed an anti-anxiety before getting a medical treatment, they would have had to petition the court for approval (see sample scenario on the next slide).
Bills and Laws - Failed

Senate Bill 938 – Dead

Sample scenario: Mildred, your resident with dementia, falls, breaks her collarbone and needs an MRI. Have you ever had an MRI? You have to lay still for 10-15 minutes in a claustrophobia-inducing tube with banging, loud noises. Do you think Mildred is going to sit still? So, if she needs a valium or IV sedation to get the MRI, the conservator would have had to go in front of a judge to get this approved and how long would THAT have taken???
Bills and Laws - Failed

Senate Bill 648 – Referral Agencies – Dead

This would have required RCFE referral agencies be licensed by DSS. It would have also required referral agencies disclose to their customers what they charge the facility (their clients) and also when the last time was they visited the facility.
Assembly Bill 2301 – Elder Abuse – Dead

This would have required DSS-licensed facilities to post yet another poster regarding elder abuse with local law enforcement’s phone number and address on it.

Reminder: do you have your DSS Complaint poster in a prominent location in your facility? Is it at least 20x26 inches, as required?
Bills and Laws - Failed

Senate Bill 878 – 21 Day Work Schedule – Dead

This would have required ALL restaurant and retail employers to provide employees a 21-day work schedule and penalties if the employer adjusted it. Why would have this affected us? They would have lumped us into the “restaurant” category because we serve food.
Every time a law is passed, a legislative review and interpretation of the new law will be created for the LPA’s. It is called “Chaptered Legislation”.

These can be found on the DSS website under the “Laws & Regulations” tab and then “Chaptered Legislation”.
Changes to DSS

Click on this link to view the latest DSS website:

www.cclld.ca.gov

Each new item, such as the Quarterly Updates, will be reviewed in class.
Changes to DSS

PINs (Provider Information Notices):

- These valuable notices from DSS are found on the front page of the DSS website (ccld.ca.gov).
- These notices contain information on medication, influenza and self-assessment guides (to be reviewed and discussed in class).
Changes to DSS

PINs (Provider Information Notices):

• **Medications Guide** – this should be reviewed by every Licensee and Administrator.
• Pages and sections that will be discussed in class include:
  • Page 17 (medications such as nitroglycerin)
  • Page 22 (injections and insulin Pens)
  • Page 26 (medical marijuana)
  • Page 35 (Care of persons with dementia and access to medications, alcohol, etc.)
Changes to DSS

PINs (Provider Information Notices):

- **RCFE Self-Assessment Guide** – Years ago, DSS used to have 11 available on their website but they were removed to be updated. They have recently updated one. This valuable tool was designed to help Licensees perform periodic self-assessments of their facility’s operation.
Changes to DSS

PINs (Provider Information Notices):

- **Influenza Guide** – This Guide outlines the Federal Centers for Disease Control and Prevention (CDC) and California Department of Public Health (CDPH) recommendations to help reduce the spread of influenza in the facilities.

  Question: can you force your staff to get a flu shot? Answer: no, and some counties are requiring unvaccinated staff to wear masks.
Changes to DSS

The RCFE Evaluator Manual was updated in September, 2016. Changes are minor to pages 32 and 33 regarding criminal convictions and licensees who have had revocations.

The last ARF Evaluator Manual update was in April of 2016 and addresses hospice.
Changes to DSS

DSS Quarterly Updates for Adult and Senior Care Licensees:

Most recent update, as of November, 2016, is the Fall 2016 update.

Updates can be found on the DSS homepage under Tools/Resources.
Changes to DSS

DSS Quarterly Updates:

Fall, 2016 highlights:

• Description of Assembly Bill that discusses deficiencies, civil penalties and appeals, including the new appeals timeline;
• Donating medications to SIRUM;
• Reminder to post the “Rights of Resident Councils” in a prominent location in the facility.
Changes to DSS

DSS Quarterly Updates:

Winter, 2016 and all future Update highlights:

(tbd)
Changes to DSS

New KIT’s!!!

What is a “KIT”? This stands for Key Indicator Tool. They were created many years ago to be used by LPA’s to streamline the inspection process. There are KITs for most types of DSS-licensed facilities.

These can be found on the DSS website.
Changes to DSS

KIT’s:

What is on a KIT? It is a compilation of the most common citable issues in facilities.

1 or more of the “ZT” (zero tolerance) items will result in a comprehensive inspection;
2 or more of the other items will result in a comprehensive inspection.
Changes to DSS

KIT’s:

Suggestion: Print out your facility-appropriate KIT and use it to conduct a compliance inspection in your facility.
Other 2017 Laws

Restroom signage:

Effective March 1, 2017, Assembly Bill 1732 requires all single-user (unisex) restrooms to be identified as all-gender restrooms. This does not require facilities to build or remove existing facilities, it only requires single-user bathrooms to be made available to any person and restroom signage must indicate this.
Other 2017 Laws

Labor Law:

Effective December 1, 2016, full-time salaried workers must be paid a minimum $913 per week or $47,476 annually. This minimum will be increased again in the year 2020.

Effective January 1, 2017, California minimum wage increased (see following slide).
Other 2017 Laws

Minimum Wage Increase:

Effective January 1, 2017, California minimum wage increased to:

- 26+ employees = $10.50
- 1-25 employees = $10.00

But.....many cities have HIGHER minimum wage standards so you must abide by the higher number.
Renewing your Administrator Certificate

1. Follow the directions on the LIC 9214 form for your type of facility.
2. Attach proof that you have completed the required hours (i.e., 8 hours dementia in RCFE’s)
3. Do not send the renewal paperwork to DSS prior more than 90 days before your certificate expires.
4. You are not allowed to take more than 10 hours of instruction per day.
5. Take your courses from a DSS-approved vendor and make sure the course you are taking is also DSS approved for your type of Certificate!
Sources

- California Department of Social Services
- US Department of Health and Human Services
- California Department of Fair Employment and Housing
- www.leginfo.legislature.ca.gov
- California Assisted Living Association (CALA)
- Merriam-Webster dictionary
Conclusion

Assisted Living Education thanks you for attending this class.

We look forward to seeing you again at another of our Courses!