

# Successful Admissions and Evictions

2 HOURS OF CEU'S FOR RCFE AND ARF ADMINISTRATORS

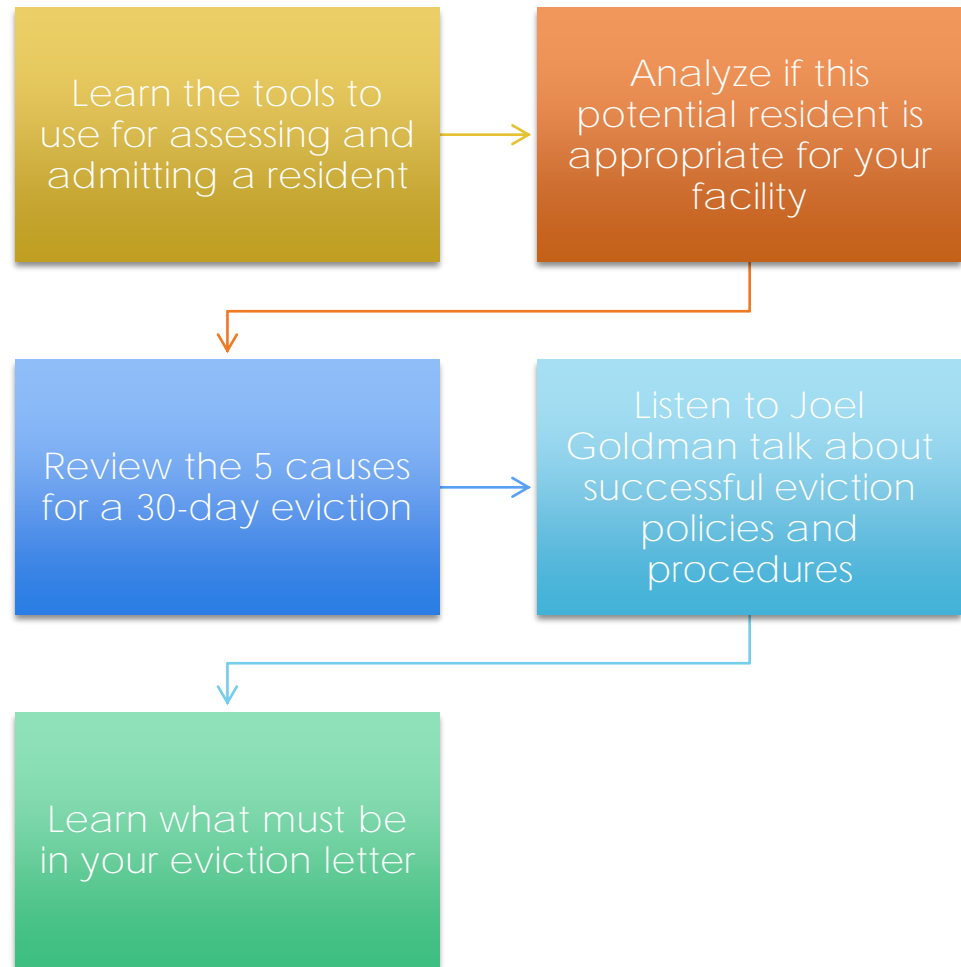
## Copyright and Disclaimer

- ▶ COPYRIGHT - This Course Material has been copyrighted © 2023 by Assisted Living Education. All rights reserved. No part of this course material/content may be reproduced or utilized in any form, by any means, electronic or mechanical, including photocopying, recording, emailing, or any information storage and retrieval system, without permission in writing from Assisted Living Education.
- ▶ DISCLAIMER - Assisted Living Education has attempted to offer useful information and assessment tools that have been accepted and used by professionals within this industry, including the California Department of Social Services. Nevertheless, changes in health/medical care and health care regulations may change the application of some techniques and perceptions in this course material. Assisted Living Education thereby disclaims any liability for loss, injury or damage incurred as a consequence, either directly or indirectly, from the use and application of any of the contents of this course material.

# Definitions

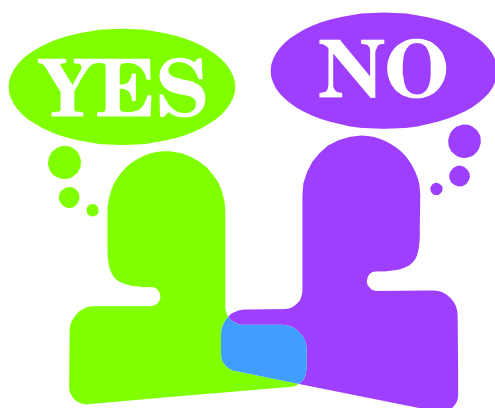
- “DSS” = Department of Social Services
- “CCLD” = Community Care Licensing Division
- “H&S” = Health and Safety Codes
- “RCFE” = Residential Care Facility for the Elderly
- “ARF” = Adult Residential Facility
- “LPA” = Licensing Program Analyst
- “AB” = Assembly Bill
- “SB” = Senate Bill

# Course Objectives



# Admissions





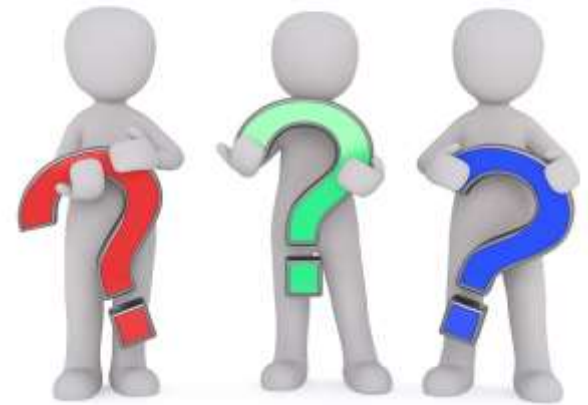
# Acceptance and Retention Limitations

Can I (and do I want to??)  
admit this resident?

# Admissions

It is vital that a proper assessment is done prior to a resident moving in, not only for *their* sake but *yours*, as well.

The resident could suffer from transfer trauma and you could be stuck with a resident that you are unable to take care of!



# Admissions

## Possible scenario:

Resident is not appropriate because of wandering issues = you must issue a 30-day eviction notice and you MUST provide the required care to the resident! What kind of care? Possibly one-on-one care. Who is going to pay for that? YOU are if you have not already specified that in your Admissions Agreement!



# Admission Tools

What types of tools will you use to make your determination?

Physician's report or SNF/hospital records

Physical, in-person interview with the resident

Preplacement Appraisal

Any input from previous facility, health care workers, etc.

# Assessing a Potential Resident

What should be part of an appraisal?

1. Will this resident fit in with your other residents?
2. Do they have any prohibited or restricted condition?
3. Do they have a modified diet or other need that I can meet?
4. Can they transfer from the bed to their wheelchair? Can they walk?
5. Do they have a history of wandering?

# Assessing a Potential Resident

If you are lucky enough to assess them at their house, check for:

- ✓ Smells
- ✓ Empty alcohol bottles
- ✓ Hoarding issues
- ✓ Medication bottles





## Relocations/ Evictions

## Relocations/Evictions

Evictions – RCFE - Section 87224

Relocations – RCFE - Section 87223

- ❁ 30-day notices vs. 3-day notices
- ❁ Reasons for evictions Section 87224(a)(1-5)
- ❁ Documentation and reports to DSS
- ❁ 5150's





# Relocations/Evictions

## Evictions – Section 87224

30-day notice for:

1. Nonpayment of the rate for basic services within 10 days of the due date;
2. Failure of the resident to comply with state or local law;
3. Failure to comply with your House Rules;
4. The resident is not appropriate for your facility; or
5. You change the use of your facility.



# Interview with Joel Goldman

The following video interview with Joel Goldman will focus on successful evictions. One of the interview questions includes:

1. What happens if the resident stops paying us, we go through the courts to get the unlawful detainer action and the judge denies it and says we must keep the resident?

# Relocations/Evictions

What is the difference between a **'relocation'** and an **'eviction'**?

"Health Condition Relocation Order" means written notice by DSS to a Licensee requiring the relocation of a resident from an RCFE because the resident has a health condition which cannot be cared for within the limits of the license, requires inpatient care in a health facility or has a prohibited health condition as specified in Section 87615, Prohibited Health Conditions.



# Relocations

## Scenario per the Evaluator's Manual:

If a change in condition occurs *after* a resident has been admitted to an RCFE, and the Licensee determines based on a **reappraisal** that the resident's needs cannot be met by the facility, relocation to a higher level of care may be appropriate. At this time, the Licensee may issue a thirty (30) day eviction notice. **But.....**



# Relocations

**But**.....If within the thirty (30) day eviction period the resident recovers from the presenting change in condition and *no longer needs* the higher level of care, the Licensee must rescind the eviction notice and allow the resident to return to the facility. If the thirty (30) day eviction period ends and a resident is then evicted because of a prohibited health condition, the Licensee could later decide to take the resident back if Licensing grants an exception.

# Relocations/Evictions

## Evictions – Section 87224

### 3-day notice:

1. MUST have LPA's written approval.
2. Good cause = resident is engaging in behavior which is a threat to the mental and/or physical health or safety of himself or another resident. It could also be appropriate for residents involved in criminal behavior that threatens the health and safety of residents or facility staff but is not associated with a mental disorder.

What about a 5150?

Per the Evaluator's Manual, Page 56, if that resident is placed on an involuntary psychiatric hold (Welfare and Institutions Code section 5150), this alone is not sufficient evidence for a three (3) day eviction notice.

# Relocations/Evictions

Per the Evaluator's Manual, Page 57, the following questions will be evaluated by the LPA to determine whether or not to give approval for a 3-day notice:

1. Is there an immediate threat to resident/residents/staff?
2. What was the event – date/time/witnesses?
3. Were there any precipitating factors/triggers/events observed or known?



# Relocations/Evictions

Per the Evaluator's Manual (cont'd):

4. What did staff do to intervene?
5. Was the resident willing and able to be redirected?
6. Did any resident(s) sustain an injury, and if so, what medical intervention was needed?
7. What is the primary and secondary diagnosis of the resident?
8. Is there any history of the behavior that is currently being exhibited (this includes information on the pre-appraisal, subsequent appraisals, etc.)?

# Relocations/Evictions

Per the **Evaluator's Manual (cont'd)**:

9. When was the last time this resident was seen by a physician?
10. What medications is the resident currently taking and has there been any recent change in medications? (new medications should be evaluated by a physician prior to the person receiving an eviction notice)
11. What was the care plan for this resident prior to the incident?
12. How did the incident deviate from the care plan?

# Relocations/Evictions

## Per the Evaluator's Manual (cont'd):

13. Has the resident's physician been contacted about the incident and the change of resident's behavior, and will the physician be evaluating the resident?
14. Has the resident's family (responsible person or conservator) been contacted about the incident and the change of resident's behavior, and is a meeting planned?
15. What can the facility do to meet the immediate needs of this resident?



# Before the Eviction

## Title 22 regulations state that:

Prior to a Licensee issuing an eviction notice, the Licensee must comply with the following sections pertaining to reappraisals:

1. California Code of Regulations, Title 22, Section 87463(b), requires that the Licensee bring any significant changes in the **resident's** physical, medical, mental and social condition to the attention of the **resident's** physician and his/her family or responsible person.

# Before the Eviction

2. California Code of Regulations, Title 22, Section 87463(c), requires the Licensee to arrange a meeting with the resident, the resident's representative, if any, appropriate facility staff, and a representative of the resident's home health agency, if any, when there is a significant change in the resident's condition.



# NOT Grounds for Eviction

The RCFE **Evaluator's** Manual states a great example of an incident that would NOT be grounds for a 3-day eviction:

A Licensee admitted a resident with a diagnosis of dementia; it is not uncommon for an individual to exhibit dramatic changes in behavior. The resident could begin to wander, and the resident may be in a small facility with no memory unit or egress devices. In signing the admission agreement, the Licensee is agreeing to care for the condition, which includes behaviors associated with the condition.

# NOT Grounds for Eviction

It is the Licensee's responsibility to understand the possible behaviors that are associated with any given diagnosis prior to accepting a resident.

The example about dementia above would **not** be considered a reason for a three (3) day eviction.

# Eviction Notices

# Relocations/Evictions

What you need before you type up the letter:

1. GOOD cause (as defined in the previous slides)
2. Documentation
  1. House Rules Acknowledgement
  2. Admissions Agreement copy
  3. Incident Reports, if applicable



# Relocations/Evictions



## Evictions:

- You must mail a copy to the resident and/or responsible party.
- You must mail a copy to your LPA within 5 days of serving the resident.
- Comply with Senate Bill 781 regarding notification.

What goes into the eviction letter??



# Eviction Notification Regulations

## Summary:

- On January 1, 2010, the components of Senate Bill 781 was added to Section 1569.683 of the Health & Safety Codes.
- This law requires RCFE's to include specific information in the eviction notice.

*Helpful hint: use an attorney who specializes in assisted living law to write this eviction notification. They are very difficult to get right and if you do not write it correctly, you must re-do it and you lose that additional time and money.....*



# Eviction Notification Regulations

## The eviction notice must include:

1. The reasons relied upon for the eviction, with specific facts to permit determination of the date, place, witnesses, and circumstances concerning those reasons. *[Why?]*
2. The effective date of the eviction (the expiration of either the 30-day or 3-day notice).

*Recommendation: document the date the notice is served and the end of the notice period.*

# Eviction Notification Regulations

The eviction notice must include (cont'd):

3. Information about resources available to assist the resident in identifying alternative housing and care options, including public and private referral services and case management organizations.

*Ideas: your competitors, referral agencies like A Place for Mom, the Ombudsman, Senior Care Solutions (a So. Cal. Senior Case Management Co.), etc.*

# Eviction Notification Regulations

The eviction notice must include (cont'd):

4. Information about the resident's right to file a complaint with DSS regarding the eviction, with the name, address and telephone of the nearest office of DSS\* and the State Ombudsman\*.

*\*Note: although it is not mentioned in the Codes, you should add their email addresses, as well.*

# Eviction Notification Regulations

The eviction notice must include (cont'd):

5. The following exact statement as specified in Health and Safety Code Section 1569.683(a)(4): "In order to evict a resident who remains in the facility after the effective date of the eviction, the residential care facility for the elderly must file an unlawful detainer action in superior court and receive a written judgment signed by a judge. If the facility pursues the unlawful detainer action, you must be served with a summons and complaint. You have the right to contest the eviction in writing and through a hearing."

# Eviction Notification Regulations

The eviction notice must include (cont'd):

6. A statement that the resident has the right to contest the eviction in writing and through a hearing.
  - *This is only applicable to regular evictions as specified in Title 22, Section 87224, not:*
    - health condition relocations;
    - transfers of residents upon forfeiture of license; or
    - change of use in the facility.

# Evictions

38

Note: Licensees must reference these in their Admissions Agreement:

1. Conditions under which the agreement may be terminated and list the justifications for eviction permissible under state law or regulation, exactly as they are worded in the applicable law or regulation (i.e., failure to pay rent after 10<sup>th</sup> day).



# Evictions

39

Note: Licensees must reference these in their Admissions Agreement (cont'd):

2. Health and Safety Code section 1569.886(c) specifies that the admission agreement shall include an explanation of the resident's right to notice prior to an eviction and the process by which the resident may appeal the decision (including the unlawful detainer action process) and a description of the relocation assistance offered by the facility.

# Evictions

40

Note: Licensees must reference these in their Admissions Agreement (cont'd):

3. In addition, the Admission Agreement shall state the responsibilities of the Licensee and the rights of the resident when a Licensee serves an eviction notice to the resident, to meet the requirements in Health and Safety Code section 1569.683.

# During the Eviction Process

The Licensee must continue to provide care and supervision to, and meet the needs of, a resident for as long as that resident resides in the facility.

You cannot withhold care or retaliate against this resident!



# Example Eviction Scenario

Mildred has recently moved into your facility. Although her Physician Report does not state any cognitive issues, she is definitely exhibiting dementia behaviors, such as wandering and sundowning.

You tell the family that because you are a small facility, and you do not have staff that is awake at night, you will have to hire someone to watch her at the rate of \$75 an hour. The family does not like this and refuses to pay. They give you a 30-day notice and again, refuse to pay for the extra service. Now what?

# Conclusion

Assisted Living Education thanks you for attending this Course.

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

