

California Assisted Living Regulation Catches Up with Statute Regarding Evictions for Change of Use of Facility

On January 28, 2019, the California Department of Social Services issued a letter informing all licensed Residential Care Facilities for the Elderly that Title 22, Section 87224 of the California Code of Regulations has been revised. Section 87224 previously provided for a 30-day eviction notice to residents upon the change of use of a facility. This notice period was inconsistent with the applicable statute, Health and Safety Code Section 1569.682(a)(2). The regulation was revised for consistency with the statute and now accurately reflects that an eviction notice based on change of use of the facility must provide at least 60 days' notice.

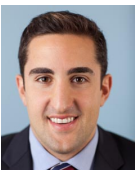
A 60-day notice for change of use of the facility must include:

1. The reason for the eviction, with specific facts to permit a determination of the date, place, witnesses, and circumstances concerning the reasons;
2. A copy of the resident's current service plan;
3. A relocation evaluation for the resident, including recommendations on the type of facility that would meet the resident's needs, and a list of appropriate facilities within a 60-mile radius;
4. A list of referral agencies;
5. The right of the resident or resident's legal representative to contact the department to investigate the reasons given for the eviction; and
6. The contact information, including address and telephone number, for the local long-term care ombudsman.

Health & Safety Code Section 1569.682 further regulates the transfer or eviction of residents upon change of use of the facility. With respect to the eviction notice, in situations where closure plans are required, the facility may not issue an eviction notice or require a resident to transfer until the Department of Social Services approves the facility's closure plan.

Failure to comply with the statutory requirements regarding the change of use of a residential care facility for the elderly could lead to civil fines and possibly civil liability to affected residents.

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