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## RCFEs: Refunds

Consumers and their families are often confused and frustrated in obtaining refunds from Residential Care/Assisted Living facilities. Refunds are governed primarily by the admission agreement so carefully check the conditions for refunds. Law and regulations take precedent over a signed agreement. (See CANHR's [Fact Sheet on Admission Agreements](#).)

An admission agreement must not include any provision that the provider knows, or should know, is deceptive or unlawful. (California Health & Safety Code § 1569.883(b).)

### What Are the Basic Pre-Admission Fee Refund Requirements?

According to a law that CANHR sponsored (Health & Safety Code § 1569.651), pre-admission fees must be refunded in full (100%) if the resident does not enter the facility, and the facility did not perform an appraisal (assessment) or failed to provide a written disclosure of the pre-admission fee charges and refund conditions. Proportional refunds of pre-admission fees in excess of \$500 are required during the first three months:

- 80% if the person does not enter the facility but a pre-admission appraisal was done
- 80% if a resident leaves the facility during the first month for any reason
- 60% if a resident leaves the facility during the second month for any reason
- 40% if a resident leaves the facility during the third month for any reason

**Consumer Tip:** Argue that upfront fees, regardless what the facility calls them, be considered pre-admission fees subject to refund. Appraisals are the responsibility of the facility (California Code of Regulations Title 22 § 87457), so do not pay an independent social worker or nurse under contract with the facility for the assessment. Pay the facility directly to maintain the right to a refund. Pre-admission fees are not a requirement, so find facilities that do not charge them. And always negotiate the amount of the pre-admission fee. Make the market place work for you as a consumer.

### Are There Refund Requirements When the Facility Discharges a Resident or the Resident Decides to Leave?

Generally, a facility is required to give a 30-day written notice to evict, and is permitted to evict a resident for only specific reasons. (See [CANHR's Fact Sheet on RCFEs: Evictions Protections](#).) If a resident moves out prior to the 30 days, make a written request for a proportional refund.

*See [CANHR's Fact Sheet on RCFE Closures](#) for information on special refund requirements that apply when a resident is being evicted due to a facility closure.*

It is standard practice to require that a resident give a 30-day written notice before leaving the facility. Avoid signing agreements with a 60-day notice of termination requirement.

**Consumer Tip:** Remove all the resident's personal items so that the room is ready for another resident.

If applicable, argue that a medical emergency made giving proper notice impossible. Check to see if the room has been rented out, and if so, request a proportional refund.

In some situations, there has been a documented history of poor or inadequate care that has caused hospitalization, a move to another residential/assisted living facility, or to a higher level of care. Always argue for a full refund as the facility has not provided the care that the resident had a right to expect but did not receive.

## **If the Licensing Agency Requires the Resident to Relocate, How Does It Affect the Refund Policy of the Provider?**

In instances when the licensing agency orders a resident to move to a higher level of care, a refund is required. (Health & Safety Code § 1569.54 and Title 22 § 87507(c)(5).)

**Consumer Tip:** Appeal the relocation order by requesting a review by an interdisciplinary team. (See CANHR's [Fact Sheet on RCFEs: Eviction Protections](#).)

## **What about a Refund after the Death of a Resident?**

On January 1, 2014, a law (AB 261) took effect that prohibits a RCFE from imposing charges after the death of a resident once all personal property belonging to the deceased resident has been removed from the facility. Health & Safety Code §1569.652.

If the admission agreement allows charges after death while the resident's belongings remain in the living unit, the facility must give the resident's responsible person written notice of the facility's policies regarding contract termination upon death and refunds. The purpose of this notice – which the facility must give within three days of becoming aware of the resident's death – is to ensure that the resident's representative is informed that the facility's fees will continue until the resident's possessions are removed.

It is against the law for a facility to impede the removal of a deceased resident's personal property during reasonable hours.

The facility is required to refund fees paid in advance covering the time after the resident's personal property has been removed from the facility. The refund should be sent to the person or entity responsible for the fees or, if the deceased resident paid the fees, to the resident's estate, within 15 days after the personal property is removed.

The law applies to all admission agreements executed prior to, on, or after January 1, 2014. RCFE residents who were admitted prior to January 1, 2014 are equally protected under the law.

**Consumer Tip:** Check the admission agreement to see whether you or your loved ones will be charged fees after the resident's death, and the amount of those fees. If the admission agreement provides for the payment of fees after a resident's death, remove the resident's personal property as soon as possible to maximize the amount of the refund.

## **What Are Other Effective Advocacy Approaches to Obtain Refunds?**

Besides the tips indicated above, cite the law, regulations and facts when writing a letter requesting a refund. State clearly in the letter the reasons for the refund, the amount requested and the outside date for receiving the refund, usually 10 working days.

If the facility fails to respond, file a complaint with the licensing agency and consider a small claims court action (Refer to CANHR's [Fact Sheet on RCFEs: Filing Complaints](#).) Contact your elected state officials in the California Assembly and Senate about unfair practices. Check your phone book or go to the California Legislature's web site (<http://leginfo.legislature.ca.gov>) to find out who represents your district and how to contact them.

The most pertinent laws and regulations are found in California Health and Safety Code Sections 1569.54, 1569.651, 1569.652 and 1569.883, and California Code of Regulations, Title 22, Sections 87457 and 87507.