RESIDENTIAL CARE

FACT SHEET

RCFEs: Theft & Loss

Residents have a right to a safe environment. A safe environment is a place where one's personal belongings such as clothes, jewelry, cosmetics, eyeglasses, hearing aids and dentures are not lost or stolen.

Theft & Loss Policy & Program

- Every Residential Care Facility for the Elderly must have a written policy and program on theft and loss.

    ○ The Theft and Loss Policy must be referred to in the Admission Agreement and be posted in the facility.

    ○ A copy of the policy along with the corresponding California Law must be given to each resident or her/his family member, agent or legal representative at the time of admission. A copy must also be provided to prospective residents upon request.

Inventory of Personal Belongings

- It is the facility's responsibility to maintain a current record of the personal property of each resident.

    ○ The facility must make a comprehensive inventory and carefully mark all personal items. This is particularly important for clothes, watches, dentures, eyeglasses and hearing aids.

    ○ Family members should bring to the attention of the facility any items that they are adding to or removing from the inventory in order to keep the inventory current.

    ○ All items in the inventory must be entered in ink, signed by the resident or family member, agent/legal representative and a representative from the facility.

    ○ Residents and family members should keep an updated copy of the inventory.

Protection of Personal Belongings & Money

- The facility is required to provide a secured storage area for residents and, upon the resident's request and expense, to install locks on cabinets or dresser drawers.

    ○ Expensive items or personal belongings of sentimental value should be kept with the family or agent/legal representative. If this is not possible, items should be kept by the facility or locked in a cabinet or drawer in the resident's room.

○ In some situations, the facility might agree to handle the finances of a resident as a representative payee, e.g. for Social Security and/or SSI benefits. In order to provide this type of service, the facility must follow strict accounting procedures, (e.g., no co-mingling of funds), and be bonded.

Facility Duty to Report & Investigate

• The facility must report to the resident and her/his family or agent/legal representative any lost or stolen items with a current market value of $25 or more.

   ○ The facility also has to document the lost or stolen item(s): giving a description, estimating a value, and indicating the date and time that the item(s) were taken, discovered or reported missing.

   ○ If the lost or stolen item is valued at $100 or more, then the facility must also make a report to local law enforcement.

Actions to Hold a Facility Accountable

• The law states clearly that if a facility fails to make reasonable efforts to safeguard the resident's property, the facility must reimburse a resident for or replace the lost or stolen items. It is up to the facility to show that they have taken reasonable efforts.

In order to protect your belongings, residents and/or family members should:

   ○ Maintain a comprehensive and current inventory. The law states that the facility is only liable for items identified on the inventory.

   ○ Write a demand letter requesting replacement or reimbursement including, whenever possible, receipts showing the value of lost or stolen items.

   ○ Sue in Small Claims Court for replacement value of article - up to $10,000. Order CANHR'S **Small Claims Guide for RCFE Residents.**

   ○ Seek help from the Ombudsman Program or from Senior Legal Services.

   ○ Make a complaint to the licensing agency (See CANHR's **Fact Sheet RCFEs: How to File a Complaint)**.

The most pertinent laws are found in California Laws: Health & Safety Code, Sections 1569.152-1569.154,1569.60, 1569.601; Welfare & Institutions Code, Section 11006.9; Civil Code, Section 1668; and the most relevant regulations in the California Code of Regulations, Title 22, Division 6, Sections 87216, 87217, 87218, 87507(g), 87468 (a)(2), 87468 (a)(13).