



## RCFEs: Admissions Agreements

Buyer Beware! An Admission Agreement is a legal contract. As a legal document, it states the responsibilities of both the facility and the resident. Admission agreements vary widely from facility to facility. Before signing the agreement, read and study it carefully. The facility must make blank copies available to the public, but can charge for copying or mailing. (HSC 1569.881; CCR 87507)

- Ask to take a copy home to study.
- Make sure that you read all documents that are referred to in the Agreement such as house rules and visiting policies.
- Develop a list of all your questions about what is contained in the agreement.
- Make sure that all your questions are answered to your satisfaction before signing.
- Use the agreement as an opportunity to clarify expectations and to negotiate care needs and costs.
- Consider having the document reviewed by an attorney or consumer advocate.

### What Needs to Be in an Admission Agreement?

The law requires that admission agreements describe the types of services that the facility will offer and their costs. It must specify billing and payment procedures, state how, when and to whom the rates will be charged, how changes in the rates will be determined, and any conditions for refunds. Other items that must be covered in the admission agreement are:

- Description of residents' rights
- Right of residents to execute advance directives (e.g., Power of Attorney for Health Care)
- Eviction conditions and notification procedures
- Visiting policies
- Theft and loss policies
- Procedure for making complaints or grievances
- House rules or policies that may be contained in a resident handbook
- Availability of special telecommunication devices for residents who are deaf, hard of hearing, or who have other disabling conditions
- Description of how residents' service needs are evaluated
- Fee schedule for items and services provided to residents
- Other services not provided directly by the facility but offered at the facility through another provider, (e.g., hair grooming)
- Authority of the licensing agency to inspect the facility and to review records
- Provisions for modifying the agreement
- Provisions for terminating the agreement

- Explanation of facility's responsibilities and residents' rights when a facility closes and residents are evicted: Relocation evaluation for each resident, approved closure plan when 7 or more residents are relocated, and 60-day written notice requirements

(HSC 1569.884-1569.886, 1569.269; CCR 87507, 87468.2)

### **What Can the Facility Charge for Services?**

The facility can charge whatever the market will bear! However, any fee charged, whether prior to or after admission, must be clearly stated in the Admission Agreement. (HSC 1569.884; CCR 87507)

Some facilities charge a flat or fixed rate for all services. However, most facilities combine a fixed rate with extra charges for more care or services and/or for changes in care levels.

- Increased charges are often triggered by an assessment of the resident's needs conducted by the facility—a level of care point system. Check carefully the type and frequency of services offered for the fixed rate and how the point system works. For instance, many residents are surprised when they receive charges for more than one shower a week or for having food trays brought to the room when they are sick.
- It is common for facilities to charge higher rates for specialized dementia care or for hospice care. Again these charges must be clearly stated in the Admission Agreement.
- If the resident is on Supplemental Security Income (SSI), the SSI rate covers the full charges for all basic services. Extra charges for a resident on SSI can only be made for special food services or a private room. (CCR 87464(e))

### **Can the Facility Require Families of Residents on SSI to Pay More?**

No. Families cannot be required to supplement the SSI rate as a condition for placing or keeping a person at the facility.

- Families or other parties can make voluntary contributions to the facility on behalf of the resident. These voluntary contributions are not part of the formal admission agreement, and if not paid, cannot be grounds to evict a resident.
- In order to protect the resident's SSI and Medi-Cal eligibility, voluntary contributions must be made directly to the facility, rather than to the resident, and must be used only for care and supervision services, not for shelter or food.

(See CCR 87464(e))

### **Can the Facility Charge Upfront Fees?**

Maybe. But all upfront fees must be stated clearly in the Admission Agreement.

- Residents on SSI cannot be charged pre-admission fees.
- If the facility charges a pre-admission fee, the resident or the resident's representative must be provided with a written statement describing the costs associated with the fee.
- Refunds of all or a portion of a preadmission fee are required if the person does not enter the facility. A portion of the preadmission fee must also be refunded if the individual leaves during the first three months of residency.
- It is becoming common practice for facilities to charge first and last month's rent. The last month's rent must be safeguarded and separately accounted for by the facility. Note: The facility cannot charge a security or damage deposit or a cleaning fee.

(HSC 1569.651)

## **Can the Facility Raise Rates?**

Yes. The Admission Agreement must state how rates may be changed. Rate increases generally require a 60-day written notice. However, if written into the agreement, rate increases for level of care changes can take place in a matter of days. The facility must provide written notice of the level of care rate increase within two business days after initially providing services at the new care level. The notice must include a detailed explanation of additional services and itemization of charges. The resident and/or the resident's family member or responsible person should ask to review the process, criteria and assessment results used in determining the change in care levels. For residents on SSI, the SSI annual cost of living increase can also become effective immediately once the facility is notified of the increase by the government. (See HSC 1569.655, 1569.657)

## **Are There Other Things That You Need to Know About Admission Agreements?**

- Read carefully the house rules or policies. Do they seem reasonable to you? Pay special attention to policies that might impact your lifestyle choices, (e.g., restrictions on leaving the facility) or your quality of life, (e.g., quiet hours or times to go to bed, set or flexible meal times, etc.).
- Review the facility's policies regarding visitors. Visiting policies should be designed to encourage the involvement of family and friends. Again, will the stated policies meet your needs? If not, is there flexibility in how policies are interpreted and implemented?
- The facility cannot require a resident to use a particular pharmacy or medical supply provider. (HSC 1569.269(a)(20))
- More and more facilities are including in their Admission Agreements legal language to protect the facility's liability such as a requirement to arbitrate all disputes. This can eliminate the resident's right to take appropriate legal action such as filing a lawsuit. The law already allows someone to seek arbitration when advised by counsel that it is the most prudent strategy.

## **When Does the Admission Agreement Take Effect?**

In order for the document to be legally binding, it must be entered into voluntarily, signed and dated by both the facility and the resident (or the resident's agent or legal representative). This also applies to any attachments to the admission agreement, such as a copy of the house rules. Any future changes in the agreement must also be in writing, signed by both parties and dated.

- The original of the admission agreement must go into the resident's file at the facility and a copy must be provided to the resident (or his/her agent or legal representative).
- Keep a copy of the Admission Agreement and refer to it to answer questions and resolve concerns.
- If someone other than the resident signs the agreement, make sure that this person does not become a "legally responsible party" - one held personally responsible for paying the facility's fees.

(See HSC 1569.887; CCR 87507)

## **How Do You End the Agreement?**

The resident or resident's agent or legal representative gives a written 30-day notice to end the agreement and to leave the facility, unless the agreement specifies a different time period. The agreement will automatically be terminated upon the death of the resident. A facility may not require advance notice for terminating an admission agreement upon a resident's death. (See HSC 1569.652; CCR 87507)

## **Can a Facility Charge Fees After a Resident's Death?**

The resident's relatives are not liable for any payment beyond that due at the date of death unless agreed to in writing or ordered by the court. A facility may only assess fees during the time period a deceased resident's property remains in the unit. 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.

A facility may not charge any fees once all personal property of the deceased resident is removed from the room or apartment. If a facility assesses fees during the time period a deceased resident's property remains in the unit, it must give written notice of its policies regarding contract termination upon death and refunds to the resident's responsible person within three days of becoming aware of the resident's death.

If fees were paid in advance covering the time a period after a deceased resident's personal property has been removed from the facility, the facility must issue a refund within 15 days after the property is removed.

(HSC 1569.652)

## **What About Refunds if the Resident Moves Out?**

Most facilities will not issue a refund if the resident decides to move out or has to move out because of illness unless the resident gives a 30-day written notice (some admission agreements state a 60-day written notice is needed). Consumers should always make an argument for a refund.

- Review carefully the conditions stated for receiving a refund in the admission agreement. The law requires a refund in only two situations: upon the death of the resident, and when the state licensing office requires the resident to relocate due to a health or safety risk.
- Request a refund for all the days that the resident has paid for but not used the room or apartment.
- Remove all personal items from the room as soon as possible so that the room is available for occupancy by a new resident. Check to see if another resident has occupied the room.
- Support the argument for a refund by citing circumstances like a stroke that make giving proper notice impossible.
- And, in all cases, demand a refund where the facility might be responsible for the resident having to leave the facility prematurely, (e.g., a fall requiring surgery and rehabilitation).
- Request refund of proportional month's rent and proportional refund of any pre-admission fee of over \$500 paid in the past two years when a facility closes and residents are evicted and relocated. (See CCR 87507)

*HSC refers to California Health and Safety Code; and CCR refers to the California Code of Regulations, Title 22, Division 6, Chapter 8: Residential Care Facilities for the Elderly.*