

State of California

HEALTH AND SAFETY CODE

Section 1267.13

1267.13. Pursuant to paragraph (3) of subdivision (a) and subdivision (b) of Section 1265.7, this section shall be effective until the adoption of permanent regulations. Notwithstanding, the state department has authority to make reasonable accommodation for exceptions to the standards in this section, providing the health, safety, and quality of patient care is not compromised. No exceptions shall be made for building standards. Prior written approval communicating the terms and conditions under which the exception is granted shall be required. Applicants shall request the exception in writing accompanied by detailed, supporting documentation.

Congregate living health facilities serving persons who are terminally ill, persons who are catastrophically and severely disabled, persons who are mentally alert but physically disabled, or any combination of these persons, shall conform to the following:

(a) Facilities shall obtain and maintain a valid fire clearance from the appropriate authority having jurisdiction over the facility, based on compliance with state regulations concerning fire and life safety, as adopted by the State Fire Marshal.

(b) The State Fire Marshal, with the advice of the State Board of Fire Services, shall adopt regulations on or before January 1, 1991, following a public hearing, establishing minimum requirements for the protection of life and property for congregate living health facilities serving terminally ill persons, catastrophically and severely disabled persons, persons who are mentally alert but physically disabled, or any combination of these persons. These minimum requirements shall recognize the residential and noninstitutional setting of congregate living health facilities serving terminally ill persons, catastrophically and severely disabled persons, persons who are mentally alert but physically disabled, or any combination of these persons.

(c) Facilities shall be in a homelike residential setting. Living accommodations and grounds shall be related to the facility's function and clientele. Facilities shall provide sufficient space for comfortable living accommodations and privacy for residents, staff, and others who may reside in the facility.

(d) Common rooms, including, but not limited to, living rooms, dining rooms, and dens or other recreation or activity rooms, shall be provided and shall have sufficient space, separation, or both to promote and facilitate the program of activities and to prevent these activities from interfering with other functions. Accommodations shall ensure adequate space for residents to have visitors and for privacy during visits, if desired.

(e) Resident bedrooms shall have adequate space to allow easy passage throughout; permit comfortable usage of furnishings; promote ease of nursing care; and

accommodate use of assistive devices, including, but not limited to, wheelchairs, walkers, and patient lifts, when needed.

(f) No room commonly used for other purposes, including, but not limited to, a hall, stairway, attic, garage, storage area, shed, or similar detached building, shall be used as a sleeping room for any resident.

(g) No resident bedroom shall be used as a passageway to another room, bath, or toilet.

(h) Not more than two residents shall share a bedroom.

(i) Equipment and supplies necessary for personal care and maintenance of adequate hygiene shall be readily available to all residents.

(j) Toilets and bathrooms shall be conveniently located. At least one toilet and washbasin shall be provided per six residents. At least one bathtub or shower shall be provided per 10 residents. Individual privacy shall be provided in all toilet, bath and shower areas. Separate toilet, washbasin, and bathtub or shower accommodations shall be provided for staff.

(k) Sufficient room shall be available throughout the facility to accommodate and serve all persons in comfort and safety. The premises shall be maintained in good repair and shall provide a safe, clean, and healthful environment.

(l) Facilities shall have equipment and supplies appropriate to meet the routine and specialized needs of all residents.

(m) All persons shall be protected from hazards throughout the premises:

(1) Stairways, inclines, ramps, open porches, and other areas of potential hazard to residents with poor balance or eyesight shall be made inaccessible unless well lighted and equipped with sturdy hand railings.

(2) Night lights shall be maintained in hallways and passages to nonprivate bathrooms.

(3) All indoor and outdoor passageways and stairways shall be kept free of obstructions.

(4) Fireplaces, woodstoves, and open-faced heaters shall be adequately screened.

(5) Facilities shall assure the inaccessibility of fishponds, wading pools, hot tubs, swimming pools, or similar bodies of water or other areas of potential hazard when not in active use.

(n) Facilities serving persons who are terminally ill, catastrophically and severely disabled, mentally alert but physically disabled, or any combination of these persons, shall, in addition to the requirements of this chapter and until specific regulations governing their operation are filed, conform to regulations contained in Chapter 3 of Division 5 of Title 22 of the California Code of Regulations of April 1, 1988, with the exception of the following sections or portions of sections: 72007, 72053, 72073, subdivision (a) of Section 72077, 72097, 72099, 72103, 72203, subdivision (a) of Section 72205, 72301, 72305, subdivision (a) of Section 72325, 72327, 72329, 72331, 72337, subdivisions (b), (g), and (h) of Section 72351, 72353, subdivision (a) of Section 72367, 72373, subdivision (b) of Section 72375, 72401, 72403, 72405, 72407, 72409, 72411, 72413, 72415, 72417, 72419, 72421, 72423, 72425, 72427, 72429, 72431, 72433, 72435, 72437, 72439, 72441, 72443, 72445, 72447, 72449, 72451,

72453, 72455, 72457, 72459, 72461, 72463, 72465, 72467, 72469, 72471, 72473, 72475, 72503, paragraph (2) of subdivision (a) of Section 72513, 72520, 72535, 72555, 72557, subdivisions (a) and (b) of Section 72601, subdivision (d) of Section 72607, subdivisions (a) and (d) of Section 72609, 72611, 72615, 72617, 72629, 72631, 72633, 72635, subdivisions (b), (c), and (d) of Section 72639, 72641, and 72665.

(o) (1) Facilities serving persons who are terminally ill, catastrophically and severely disabled, mentally alert but physically disabled, or any combination of these persons, shall have an administrator who is responsible for the day-to-day operation of the facility. The administrator may be either a licensed registered nurse, a nursing home administrator, or the licensee. The administrator shall be present at the facility a sufficient number of hours to ensure the smooth operation of the facility. If the administrator is also the registered nurse fulfilling the duties specified in paragraph (2), the administrator shall not be responsible for more than one facility. In all other circumstances, the administrator shall not be responsible for more than three facilities with an aggregate total of 75 beds and these facilities shall be within one hour's surface travel time of each other.

(2) (A) For each congregate living health facility of more than six beds serving persons who are terminally ill, catastrophically and severely disabled, mentally alert but physically disabled, or any combination of these persons, there shall be, at a minimum, a registered nurse or licensed vocational nurse awake and on duty at all times. A registered nurse shall be awake and on duty eight hours a day, five days a week.

(B) For each congregate living health facility of six or fewer beds serving persons who are terminally ill, catastrophically and severely disabled, mentally alert but physically disabled, or any combination of these persons, a registered nurse shall visit each patient at least twice a week for approximately two hours, or more as patient care requires.

(C) For all congregate living health facilities serving persons who are terminally ill, catastrophically and severely disabled, mentally alert but physically disabled, or any combination of these persons, a registered nurse shall be available for consultation and able to come into the facility within 30 minutes, if necessary, when no registered nurse is on duty. In addition, certified nurse assistants, or persons with similar training and experience as determined by the department, shall be awake and on duty in the facility in at least the following ratios: facilities with six beds or less, one per shift; facilities with 7 to 12 beds, two per shift; facilities with 13 to 25 beds, three per day and evening shifts and two per nocturnal shift. No nursing services personnel shall be assigned housekeeping or dietary duties.

(3) Notwithstanding the provisions of this subdivision, the facility shall provide appropriately qualified staff in sufficient numbers to meet patient care needs.

(4) Nursing service personnel shall be employed and on duty in at least the number and with the qualifications determined by the department to provide the necessary nursing services for patients admitted for care. The department may require a facility to provide additional professional, administrative, or supportive personnel whenever

the state department determines through a written evaluation, that additional personnel are needed to provide for the health and safety of patients.

(5) All staff members shall receive orientation regarding care appropriate for the patients' diagnoses and individual resident needs. Orientation shall include a minimum of 16 hours during the first 40 hours of employment.

(6) Nothing in this chapter shall prevent the use of volunteers; however, volunteers shall not be used as substitutes for the personnel required in the above sections. Volunteers providing patient care services shall:

- (A) Be provided clearly defined roles and written job descriptions.
- (B) Receive orientation and training equivalent to that provided paid staff.
- (C) Possess education and experience equal to that required of paid staff performing similar functions.
- (D) Conform to the facility's policies and procedures.
- (E) Receive periodic performance evaluations.
- (p) The interim standards prescribed by this section shall become inoperative upon the filing of the regulations with the Secretary of State.

(Amended by Stats. 1993, Ch. 1020, Sec. 1. Effective January 1, 1994.)