

# New California Laws Affecting Assisted Living and/or Adult Residential Facilities

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**APPROVED BY GOVERNOR  
IN SEPT. 2008**

## Three New Laws

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- Three new laws in signed into law in Sept. 2008
  - Emergency (Disaster) Planning – AB 749 (Wolk)
  - Rate History Disclosure – AB 2370 (Bass)
  - Licensing and Enforcement Changes – AB 978 (Benoit)

# AB 749 Emergency (Disaster) Planning

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**RCFE ONLY**

## AB 749: Highlights & Dates

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- Introduced by Assembly Member Wolk
- Adds Section 1569.695 to the Health and Safety Code
- Requires RCFEs to have an emergency plan completed by March 1, 2009

## AB 749: Highlights, cont.

- Plan must be:
  - Available upon request to residents onsite
  - Available to local emergency responders
- CCLD will:
  - Confirm that the plan is on file at the facility during comprehensive licensing visits
  - NOT be required to evaluate the plan

## AB 749: Emergency Plan Shall Include:

- Evacuation procedures
- Plans to be self-reliant for up to 72 hours, including long-term power failure
- Transportation needs and evacuation procedures to ensure that RCFE can:
  - Communicate with emergency response personnel, or
  - Access information to check emergency routes to be used during evacuation and relocation during a disaster

## AB 749: Procedures Shall Address:

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- Provision for emergency power
  - generators not required
  - can identify suppliers of backup generators
- Response to individual resident's needs if call buttons inoperable
- Process for communicating with residents, families, hospice providers, and others
- Assistance with and administration of medications
- Storage and preservation of medications

## AB 749: Procedures Shall Address, cont.:

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- Operation of assistive medical devices that need electric power for operation
  - i.e., oxygen equipment, wheelchairs, etc.
- Process for identifying residents with special needs and a plan to meet the needs
  - i.e., hospice

## AB 749

- AB 749 does not apply to RCFEs that have obtained a certificate of authority to offer continuing care contracts.

## AB 2370 Rate Increase Disclosure

**RCFE ONLY**

## AB 2370 (Bass) Rate Increase Disclosure

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- Must disclose on or before Jan. 31 of each year
- Must disclose average monthly rate increases (\$ and %)
  - Inclusive of rates for living units and service fees
  - For each of the previous 3 years
- Provide to every resident or representative upon signing the admission agreement
- Signed confirmation of receipt of the disclosure in resident's file
- Provide a copy to any prospective resident or representative

## AB 2370 (Bass) Rate Increase Disclosure

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- Do not need to give to in-house residents; just new
- Newly licensed facilities without 3 years of history disclose for the years during which it served residents.
- If recently purchased a facility that served residents, still need to provide past 3 years of history.
- This law does not apply to newly licensed facilities with no current residents.

## Rate Disclosure Example

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### Example

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- We are going to use a scenario of just one year's data to give you a model to calculate your rate increases.
  - Reminder: You need to disclose rate increases for the past three years.

## Example

- The following example takes you through three steps:
  - Calculate the average base rate increase.
  - Calculate the average increase in levels of care.
  - Calculate the overall average percentage of rate increase per resident per year.

## ABC Assisted Living: Base Rate

- Calculate the average base rate increase.
  - Example of Base Rate Data: Let's assume you have 100 residents and you increased the base rate 5% in 2007.

<b>Number of Residents</b>	<b>2006 Base Rate</b>	<b>Base Rate Increase for 2007</b>	<b>2007 Base Rate</b>	<b>Rate Increase</b>
100	\$2000	5%	\$2100	\$100

### The Math

$\$2000 \times .05 = \$100$  rate increase

$\$2000 + \$100 = \$2100$  rate in 2007

**\$100 average increase per resident**

## ABC Assisted Living: Levels of Care

- Calculate the average increase in levels of care.
  - Example: In addition to the base rate, ABC has 4 levels of care with different rates for each level. Each level of care was raised \$100 in 2007, which resulted in an average increase of \$80.

Level of Care	Percentage of Residents at Each Level	2006 Cost	2007 Cost Increased \$100
No additional care	20%	\$0	\$0
Level 1	20%	\$500	\$600
Level 2	20%	\$700	\$800
Level 3	20%	\$900	\$1000
Level 4	20%	\$1100	\$1200

- The next slide shows you the math

## ABC Assisted Living: Levels of Care, cont.

Level of Care	Percentage of Residents at Each Level	2006 Cost	2007 Cost Increased \$100
No additional care	20%	\$0	\$0
Level 1	20%	\$500	\$600
Level 2	20%	\$700	\$800
Level 3	20%	\$900	\$1000
Level 4	20%	\$1100	\$1200

### The Math

**2006** year:  $\$0 + \$500 + \$700 + \$900 + \$1100 = \$3200 \div 5 \text{ levels} = \mathbf{\$640 \text{ average}}$  per resident

**2007** year:  $\$0 + \$600 + \$800 + \$1000 + \$1200 = \$3600 \div 5 \text{ levels} = \mathbf{\$720 \text{ average}}$  per resident

2006 – 2007 average increase =  $\$720 - \$640 = \mathbf{\$80 \text{ average increase per resident}}$

## ABC Assisted Living: 2006 – 2007 Rate Increase Summary

- Calculate the overall average percentage of rate increase per resident per year.
  - Average base monthly fee increase per resident = \$100
  - Average increase in levels of care per resident = \$80
  - \$100 + \$80 = \$180 average increase per resident
  - Thus, 2006 average rate = \$2640  
2007 average rate = \$2820
- 2006 – 2007 average rate increase was 6.8%

## ABC Assisted Living: 2006 – 2007 Rate Increase Summary

- How to calculate the overall average percentage of rate increase shown in the last slide:
  - 2006 average rate = \$2640
  - 2007 average rate = \$2820

### The Math

**$((\text{value at time 2} \div \text{value at time 1}) - 1) \times 100 = \text{percent increase}$**

$$(2820 \div 2640) = 1.068 - 1 = .068 \times 100 = 6.8\%$$

## One More Consideration . . .

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- Your method to determine increases may be more complicated than this example.
- Your best advice is to do your best estimate and explain what you did.
- For example, you may wish to qualify such as: "Data above assumes that the number of residents on each level of care for each of the three years is the same as the current level."

## Consider a Disclaimer

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- It may be a good idea to include some disclaimers in your rate increase document so that residents are not misled.
  - For example:
    - ✦ You may want to include a statement that past rate increases are not necessarily an indication of future increases.
    - ✦ Rate increases reflect changes in the same level of care; they do not reflect changes in rate if a person requires a different level of care.

# AB 978 Community Care Safety

## LICENSING AND ENFORCEMENT CHANGES RCFE AND ARF

### AB 978 (Benoit) Enforcement: Highlights

- Amends the Health and Safety Code
- Defines serious violations warranting civil penalties of up to \$150 per day to include:
  - Lack of fire clearance, except when:
    - ✦ The clearance has been requested and is pending
    - ✦ Eviction notices have been issued or
    - ✦ A denial is under appeal (with up to 60 days to appeal a denial)
  - Absence of supervision, as required by regs.
  - Accessible bodies of water
  - Accessible firearms or ammunition

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## AB 978 (Benoit) Enforcement : Highlights

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- Defines serious violations, cont. :
  - Refusing CCLD entry to a facility and
  - Presence of an excluded person
- Money used to support health and safety and the licensing program
- Plans of correction must be verifiable and measureable

## Access to Legislation

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- If you wish to read the legislation, go to:
  - <http://www.leginfo.ca.gov/>
    - ✦ Bill information
    - ✦ Session 2007 – 2008
    - ✦ Enter in Bill Number