



Rights in Adult Residential Facilities

December 2018, pub# 7138.01

This publication is intended to teach you about your rights while living in an Adult Residential Facility, which is regulated by California Community Care Licensing. According to California regulations, an Adult Residential Facility – commonly known as a Board-and-Care – is defined as any facility of any capacity that provides 24-hour-a-day nonmedical care and supervision to the following:

1. People between the ages of 18 to 59; and
2. People age 60 and older, who have comparable needs and require same level of care as other clients in the Board-and-Care, and are in accordance with section 85068.4. See 22 C.C.R. §§ 80001(a)(5); 85068.4(b).

Under California Law, Board-and-Cares are required to provide you specific services. They must also observe, enforce, and implement residents' rights.

DIGNITY AND RESPECT

You have the right to be treated with dignity and given humane care. See *generally* 22 C.C.R. § 80072(a)(1). You have the right to safe and comfortable accommodations and furnishings to meet your needs. 22 C.C.R. § 80072(a)(2). You have the right to be free from corporal or unusual punishment. No one has the right to abuse you – by using verbal assaults; speaking or yelling in rude, hostile, aggressive or provocative manner; making threats; intimidating you; harassing you; humiliating you; isolating you; instilling fear in you; inflicting pain on you; punishing you by withholding food, clothing or medication; or withholding emotional support from you. 22 C.C.R. § 80072(a)(3).

ACCESS TO ADVOCATES AND COMMUNITY ORGANIZATIONS

You have the right to contact California's Community Care Licensing and to be informed of the address and phone number to their complaint unit. 22 C.C.R. § 80072(a)(4).

You have a right to talk with and have the services of a Patients' Rights Advocate or Long Term Care Ombudsman and members of community groups who provide legal services free of charge. 22 C.C.R. § 85072(b)(4). These people can advise you of your rights, help you with claims for benefits, and help you file complaints about violations of your rights. You have the right to meet with them privately during reasonable hours without prior notice or permission. See W.I.C. § 5530. The Board-and-Care operator must post phone numbers of advocates so you can call them. 9 C.C.R. § 864(a)(2).

FREEDOM OF RELIGION

You have the right to practice the religion of your choice, and to attend religious services or activities. You have the right to have visits from the spiritual advisor of your choice. 22 C.C.R. § 80072(a)(5). You also have the right not to practice any religion. No one else has the right to impose religious practices or beliefs on you. 22 C.C.R. § 80072(a)(5)(A).

Freedom of religion includes your right to request a food plan that excludes or includes certain foods or food combinations according to your religious traditions. Please refer to the section on food service in this publication for more information.

FREEDOM OF SELF EXPRESSION AND ASSOCIATION

You have the right to wear your own clothes. 22 C.C.R. § 85072(b)(5).

You have the right to receive help in exercising your right to vote. 22 C.C.R. § 85072(b)(11).

MONEY AND PERSONAL PROPERTY

You have the right to control your own cash resources. 22 C.C.R. § 85072(b)(7).

You have the right to a secure, individual storage space for your private use. You have the right to possess and use your own personal items, including your own toiletries. 22 C.C.R. §§ 85072(b)(8); 85072(b)(6).

PRIVACY: MAIL AND PHONE CALLS

You have the right to privacy in many parts of your daily life, including:

1. The right to send and receive unopened mail 22 C.C.R. § 85072(b)(10).
2. To have access to telephones to make and receive confidential calls, if such calls do not infringe upon the rights of other clients and do not restrict availability of the telephone during emergencies. 22 C.C.R. § 85072(b)(9). The Board-and-Care can require that you pay for long distance calls and has the right to prohibit you from making further long distance calls with documentation that requested reimbursement for previous calls has not been received. 22 C.C.R. § 85072(b)(9)(A-B).
3. The right to visual privacy in tub, shower, and toilet areas. 22 C.C.R. § 85088(b)(4).

VISITORS

You have the right to have visitors visit you privately during waking hours, as long as the visitations do not infringe upon the rights of other clients in the Board-and-Care. 22 C.C.R. § 85072(b)(4). For example, if you share a room, and have not gotten your roommate's permission to meet with your visitor in the shared room, you might deny the other resident's right to privacy.

The Board-and-Care can develop a facility policy on visitation, such as visitation hours. Visitation hours should be designed to encourage

regular family involvement at the facility. You have the right to be informed of the facility's visitation policy, and it should be listed in your client information form or admission agreement. You should also be informed of the Board-and-Care's policy on communicating with other residents. If your Board-and-Care houses seven or more people, it should post notice of its visitation policy at a location that is accessible to you and your family. See 22 C.C.R. §§ 80072(a)(10); 80068(c)(8); H.S.C. § 1512.

Except in certain cases such as an emergency, staff must get your permission before entering your room during visiting times as well as other times. C.I.V. § 1954.

TO COME AND GO FROM THE FACILITY

Generally, you have the right to come and go from the Board-and-Care as you please. You cannot be denied access to your home as punishment, retaliation, or as a means of encouraging you to move out. This right protects you from being kept out of your home or not being allowed to leave. See 22 C.C.R. § 80072.

While the facility can set curfews or other house rules for the protection of clients, you have the right to leave the facility at any time. 22 C.C.R. §§ 80072(a)(7), 80072(a)(7)(A). This right can be limited in the case of minors or individuals for whom a guardian, conservator, or other legal authority has been appointed. 22 C.C.R. § 80072(a)(7)(B).

You also have the right not to be locked in any room, building, or in the facility premises during the day or night. 22 C.C.R. § 80072(a)(7). The Board-and-Care operator is allowed to lock exterior doors and windows and to establish house rules to protect clients, such as asking you to tell staff if you plan to stay out late or overnight, but only so as long as you are still able to exit the facility. 22 C.C.R. § 80072(a)(7)(A).

PHYSICAL SAFETY

You have the right to be free from harm. See 22 C.C.R. §§ 80072(a)(2-3). By law, any physical abuse you or others receive in a residential facility must be reported. W.I.C. § 15630. In addition, facility staff may be required to report other instances of abuse that they become aware of. W.I.C. § 15630(b)(1). Please refer to the Complaint Procedures section of this publication for information on how to report abuse. The name of the person reporting can remain confidential, if requested. W.I.C. § 15633.

Physical abuse includes but is not limited to: direct physical harm, unreasonable physical constraint, prolonged or continual deprivation of food and water, sexual assault, and use of a physical or chemical restraint or psychotropic medication for the purpose of punishment, for a period beyond what was ordered by a doctor, or for any purpose not authorized by a doctor. W.I.C. § 15610.63.

You have the right to remain free of any restraining device. 22 C.C.R. § 80072(a)(8). You may use postural supports or protective devices that restrict your mobility if you receive a written order from your doctor indicating your need for it, although Community Care Licensing may require additional documentation before they authorize it. 22 C.C.R. § 80072(a)(8)(B). Postural supports must not include tying or limiting the use of your hands or feet. 22 C.C.R. § 80072(a)(8)(E). Postural supports and protective devices should improve your mobility and independent functioning or protect you from self-injurious behavior. 22 C.C.R. § 80072(a)(8)(A). They should never serve as punishment.

MEDICAL CARE

You have the right to receive or reject medical care or health-related services. 22 C.C.R. § 80072(a)(9). You also have the right to necessary first aid and other medical and dental services, including transportation to the nearest available medical or dental service location. 22 C.C.R. § 80075(a). Additionally, you have the right to privacy during first-aid

treatment and medical examinations by a physician, if required. 22 C.C.R. § 80075(d). If you are conserved, your right to consent to medical treatment might be affected. Consult with your conservator.

You have the right to be assisted, as needed, with self-administration of your prescription and nonprescription medications. 22 C.C.R. § 80075(b). You have the right to information about your medication. You have the right to make choices about your own medication. 22 C.C.R. § 80075(b)(1)(B)(3). You should consult with your doctor before you change any medications you are taking. You should also consult a knowledgeable health care worker before using recreational substances, which can have adverse side effects when taken with some psychotropic medications.

ADVANCE DIRECTIVE

You have the right to have an Advance Health Care Directive in your file at your Board-and-Care. 22 C.C.R. § 85075.3(a).

ADMISSION AGREEMENT

Your admission agreement includes a statement of the facility's basic and optional services, the rates, frequency and due date of payment, who will pay, and the conditions under which you can get a refund. It should explain how and when modifications to the agreement could occur. It must also state that at least a 30-day written notice will be given to you or your authorized representative if any basic rates should change. 22 C.C.R. § 80068(c)(1-5).

Your admission agreement should also list the conditions under which your agreement can be ended, which will include your refusal to cooperate with your Health Condition Care Plan or Needs and Services Plan. 22 C.C.R. § 80068(c)(7).

You or your authorized representative (if any), and the Board-and-Care representative should sign and date the admission agreement no later

than seven days after your admission. 22 C.C.R. § 80068(e). You have a right to a copy of this agreement. 22 C.C.R. § 80068(g)(1).

In addition, the Board-and-Care's general facility policies, such as a visitation policy, house rules, or food services must be included in your admission agreement. This is to ensure that you do not infringe upon the rights of others. 22 C.C.R. §§ 80068(c)(8), 85068(b)(2-3).

Your admission agreement can also include your funding source, if you choose to disclose this information. 22 C.C.R. § 85068(b)(1)(A). It should contain your current arrangement with the Board-and-Care regarding the provision of food service. 22 C.C.R. § 85068(b)(3).

NEEDS AND SERVICES PLAN

You have the right to a written Needs and Services Plan that identifies the specific needs of you as an individual. 22 C.C.R. § 85068.2(b)(1-2). Before you can be accepted at a Board-and-Care, the operator must determine whether the facility's program can meet your needs. 22 C.C.R. § 85068.2(a). If you are admitted as a resident to the Board-and-Care, then prior to admission, the operator shall complete your Needs and Services Plan. 22 C.C.R. § 85068.2(b).

You or your authorized representative, together with a Board-and-Care admission person, a person from a referral agency or hospital caseworker, and any relative(s) who participate in your placement must agree to develop this plan. 22 C.C.R. § 85068.2(d)(1-4).

The plan will include: your date of admission to the Board-and-Care, your specific service needs, your mental and physical health history and current assessments, any functional limitations you have, and the Board-and-Care's plan to provide for those needs. 22 C.C.R. §§ 85068.2(b)(1)(A-F), 85068.2(b)(2).

The Needs and Services Plan should be maintained in your file. 22 C.C.R. § 80068.2(a). It should be updated as frequently as necessary, including when you have any physical, mental, or social changes. 22

C.C.R. § 85068.3(a). It must be updated at least annually. 22 C.C.R. § 80068.3(b)(1). If modifications need to be made, the Board-and-Care operator must reevaluate if they can meet your new needs. If necessary, the operator will consult with a dietitian, physician, social worker, or psychologist to assist in determining if your needs can still be met by your current facility. 22 C.C.R. § 85068.3(b)(1). If they can be met, the operator and consultant will update your plan with objectives, a time frame, a plan to meet the objectives, and a way to evaluate your progress. 22 C.C.R. § 85068.3(b)(2)(A-D). If your needs cannot be met, the operator will inform you or your authorized representative that you will need to relocate. 22 C.C.R. § 85068.3(b)(3).

You have the right to be notified of any modifications to your Needs and Services Plan. 22 C.C.R. § 85072(b)(2).

SERVICES

You have the right to care and supervision 24 hours a day. You have the right to receive assistance in daily living as indicated in your Needs and Services Plan, including dressing, eating, and bathing. 22 C.C.R. § 85077(a).

Your Board-and-Care should also provide you with basic laundry services such as washing and drying your personal clothing. 22 C.C.R. § 85077(b). If you desire to wash your own clothes, you should be allowed to use at least one washing machine and iron, as long as the equipment can be safely used. 22 C.C.R. § 85088(d)(1).

You have the right to plan and to participate in activities at your Board-and-Care. The Board-and-Care operator should plan activities that include group interaction and physical activity. 22 C.C.R. § 85079(a)(1-2). You should have the opportunity to participate in the planning, preparation, and clean-up of the activity. 22 C.C.R. § 85079(b). You have the right to be given opportunities to attend and participate in community activities as well. This includes worship services, community services, and events such as concerts or tours, self-help organizations,

senior citizen groups, sports leagues and service clubs. 22 C.C.R. § 85079(c)(1-5). In facilities with seven or more people, notices of planned activities should be placed in common areas accessible to residents. 22 C.C.R. § 85079(d).

You also have the right to be a member of a resident council. If there is no existing resident council and a majority of the facility's residents request that one be created, the Board-and-Care must help establish it. 22 C.C.R. § 85080(a). For example, they must provide space and post notices of upcoming meetings. 22 C.C.R. § 85080(a)(1). At least part of each meeting should be conducted without any Board-and-Care staff. 22 C.C.R. § 85080(a)(3). No one can force you to attend council meetings. 22 C.C.R. § 85080(a)(4).

HOUSEHOLD TASKS

You have the right to refuse to perform household duties or services at the Board-and-Care, except those you voluntarily contract for as part of your Needs and Services Plan. *See generally* 22 CCR § 85077. You cannot be used as substitutes for required staff. 22 C.C.R. §§ 80065(j), 80065(j)(1).

FOOD SERVICE

If food is provided by the Board-and-Care, arrangements should be made to ensure you receive at least 3 meals a day. 22 C.C.R. § 80076(a)(2). No more than 15 hours should pass between the third meal of one day and first meal of the following day. 22 C.C.R. § 80076(a)(2)(A).

Each meal should meet at least 1/3 of the servings recommended in the USDA Basic Food Group Plan - Daily Food Guide. 22 C.C.R. § 80076(a)(1). Modified diets should be provided to you by your Board-and-Care if prescribed by your physician. 22 C.C.R. § 80076(a)(6). Between meal snacks should also be available unless you have dietary restrictions that are prescribed by your physician. 22 C.C.R. §

80076(a)(4). The Board-and-Care is allowed to charge you for special food services or products only when you agree to the services and to the extra charge in your admission agreement. 22 C.C.R. § 85060(a)(3). All food should be of appropriate quality and quantity necessary to meet your needs. 22 C.C.R. § 80076(a)(1).

Your Board-and-Care should have a menu written at least one week in advance, which can be made available for review by you (or your authorized representative) if you request them. 22 C.C.R. § 80076(a)(5).

Meals served at the Board-and-Care will be served in a dining room or similar area with appropriate furniture needed for meal services. This room should be close to the kitchen to ensure quick and easy meals. 22 C.C.R. §§ 85076(c)(1), 85076(c)(1)(A). You should be encouraged by your Board-and-Care to have meals with other residents. 22 C.C.R. § 85076(e).

HABITABLE LIVING CONDITIONS

A Board-and-Care has specific living condition requirements to ensure your safety and well-being. The Board-and-Care should be kept clean, safe, sanitized, and in good repair at all times. 22 C.C.R. § 80087(a). The facility should take precautions to ensure that you are protected against hazards, such as keeping ramps, stairs, hallways, porches, etc. free of obstruction. 22 C.C.R. § 80087(b-c).

The Board-and-Care should keep the temperature in the house from 68 to 85 degrees Fahrenheit (F). 22 C.C.R. § 80088(a)(1). In areas of extreme heat, the facility must keep the temperature 30 degrees less than the outside temperature. 22 C.C.R. § 80088(a)(1)(A). For example, if it were 101 degrees F outside, the facility would need to be at 71 degrees F inside. Hot water should also be accessible to residents, and all bathrooms should be clean and safe for residents to use. 22 C.C.R. § 80088(e)(1-3).

Bedrooms may not have more than 2 residents per room. 22 C.C.R. § 85087(a)(1). If a double room is made available, but you prefer a private room, then the Board-and-Care can charge you a fee for the private room. This will be documented in your admission agreement. 22 C.C.R. § 85060(a)(2). Your bedroom should be furnished with an individual bed, as well as a chair, nightstand, and lamp. If you share a room, one nightstand might be used for the both of you. You should have both closet space and drawer space to accommodate your clothing and personal belongings. You should also be provided with clean linens, as well as towels, washcloths, toilet paper, toothpaste, toothbrush, combs, and feminine hygiene products. 22 C.C.R. § 85088(c)(1-5). The bedroom must be large enough to fit client-assistive devices such as wheelchairs. 22 C.C.R. § 85087(a)(2). A room that is commonly used for other purposes (for example, the living room) will not be used as a bedroom. Halls, stairways, attics, basements, and garages will not be used as bedrooms. 22 C.C.R. § 85087(a)(2-3).

If your facility operates its own laundry in a safe location, there must be space available for you to wash, iron, or mend your personal clothing. 22 C.C.R. § 85087(c)(1). All soiled linen and clothing shall be kept away from clean linen and clothing. 22 C.C.R. § 85087(c)(2).

One toilet and washbasin should be available per six residents. One shower or bath should be available per ten residents. The bathrooms should be located near the resident bedrooms. 22 C.C.R. § 85088(b)(1-4).

There must be both indoor and outdoor space available for you to engage in activities. There must be common areas indoors such as a living room, den, or activity room, which provide necessary space for activities. At least one room indoors shall be available for you to relax and visit with friends or relatives. 22 C.C.R. §§ 85087.2(a), 85087(a)(1). Any outdoor activity areas shall be shaded and comfortable for you to use. 22 C.C.R. § 85087.3(a-b).

MOVE OUT

You have the right to move out of the Board-and-Care, as long as it is in accordance with the terms in your admission agreement. 22 C.C.R. § 85072(b)(12). For example, your admission agreement might require you present your desire to move out in writing 30 days before you plan to leave. But this will depend on your Board-and-Care.

EVICITION

You cannot be evicted from a facility without documented evidence. Whether you receive a 60-day, 30-day, or 3-day notice, it must be in writing. 22 C.C.R. § 80068.5(a-b). The facility must, on the same day you receive the notice, overnight mail or fax a copy of the notice to your authorized representative, if any. 22 C.C.R. § 80068.5(d). Community Care Licensing will conduct an investigation on the reasons behind your eviction if you or your authorized representative request it. 22 C.C.R. § 80068.5(f).

I. 30-DAY OR 60-DAY EVICTION NOTICE

A 30-day written notice is permitted if you lived at the Board-and-Care for less than a year. If you have lived at the Board-and-Care for more than a year, even if on a month-to-month lease, the notice period is 60 days. Both a 30-day eviction notice and a 60-day eviction notice must be in writing. 22 C.C.R. § 80068.5(a). The notice must include the reason(s) for eviction, as well as the circumstances, dates, places and witnesses to the events leading to the eviction notice. 22 C.C.R. § 80068.5(c). The facility must also submit a copy of the 30-day written notice to Community Care Licensing within five days of you receiving the notice. 22 C.C.R. § 80068.5(e). The reasons a facility can serve a 30-day or 60-day notice include:

1. Failure to pay rent within 10 days of the due date. 22 C.C.R. § 80068.5(a)(1).

2. Failure to comply with the law after receiving written notification of a violation. 22 C.C.R. § 80068.5(a)(2). Examples of violations include: alcohol or drug abuse, sexual harassment or abusive behavior, verbal or physical violence, threatening violence to oneself or others, using or taking other people's possessions without permission, and destruction of personal property.
3. Failure to follow the policies you agreed to when you moved into the facility. 22 C.C.R. § 80068.5(a)(3).
4. Changes in your Needs and Services Plan. If changes in your plan make it impossible for the facility to meet your needs (and you agree with these changes), the facility must give you a chance to find another home. 22 C.C.R. § 80068.5(a)(4).
5. Failure to comply with your Restricted Health Condition Care Plan, if any. 22 C.C.R. § 80068.5(a)(5).
6. Change or revocation of the facility's license. If the facility closes or changes the people it serves (for example, from adults to elderly), then the facility can serve you with a 30-day eviction notice. 22 C.C.R. § 80068.5(a)(6).

II. 3-DAY EVICTION NOTICE

Only with good cause and with advance approval of Community Care Licensing can the facility evict you on three days' notice. 22 C.C.R. § 80068.5(b). The facility must provide this notice to you in writing, and it must include the reason(s) for eviction, and the circumstances, dates, places and witnesses to the events leading to the eviction notice. 22 C.C.R. § 80068.5(c). Good cause exists if a behavior threatens your own mental and/or physical health and safety, or the mental and/or physical health and safety of others in the facility. 22 C.C.R. § 80068.5(b)(1).

III. LANDLORD/TENANT LAW APPLIES

Basic principles of landlord/tenant law apply to Community Care Licensing facilities in California. State laws governing rental property apply to "all persons who hire dwelling units located within this state including tenants, lessees, boarders, lodgers, and others, however

denominated." C.I.V § 1940(a). Therefore, the only way your facility can lawfully evict you is through an unlawful detainer action. The landlord cannot use self-help remedies, such as locking you out or removing your possessions. C.I.V. § 789.3

IV. IF YOU FEEL YOUR BOARD-AND-CARE HAS WRONGLY SERVED YOU WITH AN EVICTION NOTICE

You have the right to defend your eviction in court if you think there was something procedurally wrong with your eviction, there was no “good cause” for your eviction, or your eviction was in retaliation for something you did. *See generally* C.C.P. § 1170. No one can remove you from the facility, or change the locks or remove your personal possessions, while you complete these legal proceedings. C.I.V. § 789.3. If you lose this hearing, then the court can legally order you out of the facility. C.C.P. § 1174.

For more information on protecting yourself against unlawful evictions, see Disability Rights California’s fact sheet [Your Rights! Protecting Yourself Against Unsafe Living Conditions and Evictions](#) (Publication #5501.01).

COMPLAINT PROCEDURES

I. COMMUNITY CARE LICENSING

You can call or email Community Care Licensing directly if you feel your rights at a Board-and-Care have been violated. You must give the name of the Board-and-Care, the address and the zip code. You should give as complete a description as possible of what rights were violated, when, how, by whom and if anyone else witnessed the violation(s). Community Care Licensing must make an on-site inspection within 10 days after receiving the complaint. You can reach the California Community Care Licensing Complaint Hotline by calling 1-844-LET-US-NO (1-844-538-8766) or by emailing letusno@dss.ca.gov.

II. LOCAL OMBUDSMAN & PATIENTS' RIGHTS ADVOCATE

You can also call your local Patients' Rights Advocate or your Long Term Care Ombudsman if you need to file a rights violation complaint.

You can find a list of Local Ombudsman Programs by county at the [California Department of Aging website](#). You can also call the Long-Term Care Ombudsman CRISISline at 1-800-231-4024, which is available 24 hours a day, 7 days a week to receive complaints from residents in long-term care facilities.

Disability Rights California has created a [Patients' Rights Advocate Directory](#), which you can access online. You can also find contact information for your local PRA by contacting your county's Department of Mental Health.

III. ADULT PROTECTIVE SERVICES

Each county in California has an Adult Protective Services agency, which investigates reports of abuse of elders (65+) and dependent adults (people with disabilities between the ages of 18-64) who live in private homes, apartments, hotels, or hospitals. You can find the contact information to your local [Adult Protective Services agency](#) on the Department of Social Services website.

IV. HOUSING DISCRIMINATION

You have the right to be free from discrimination by staff or others. No one may consider race, color, religion, national origin, sex, sexual preference, disability or age as factors preventing you from receiving placement or services, or exercising your rights G.O.V. § 12955. If you think you have been a victim of housing discrimination, you can:

1. Work with the landlord, seller, or realtor
2. File a complaint with the California Department of Fair Employment and Housing (DFEH)

3. File a complaint with the U.S. Department of Housing and Urban Development (HUD)
4. File a lawsuit

For more information on challenging housing discrimination, see Disability Rights California's fact sheet [Fact Sheet: Disability-Based Housing Discrimination](#) (Publication #F108.01).

[We want to hear from you! Please complete the following survey about our publications and let us know how we are doing!](#)
<https://docs.google.com/forms/d/1d6ezTI2M5UMAWU66exLbc1SQ9wDPzvtuS3AGR4-cgWE/viewform?c=0&w=1>

For legal assistance call 800-776-5746 or complete a [request for assistance form](#). For all other purposes call 916-504-5800 (Northern CA); 213-213-8000 (Southern CA).

Disability Rights California is funded by a variety of sources, for a complete list of funders, go to <http://www.disabilityrightsca.org/Documents/ListofGrantsAndContracts.html>