LEGAL DIVISION
Department of Social Services
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Attorneys for Complainant

BEFORE THE
DEPARTMENT OF SOCIAL SERVICES
STATE OF CALIFORNIA

IN THE MATTER OF: VARENNA LLC, OAKMONT SENIOR LIVING LLC, and OAKMONT MANAGEMENT GROUP LLC, dba Villa Capri Residential Care Facility for the Elderly ("**Villa Capri**") 1397 Fountaingrove Parkway Santa Rosa, CA 95403 VARENNA LLC, OAKMONT SENIOR LIVING LLC, and OAKMONT MANAGEMENT GROUP LLC, dba Varenna at Fountaingrove Residential Care Facility for the Elderly ("**Varenna**") 1401 Fountaingrove Parkway Santa Rosa, CA 95403 DEBORAH SMITH Administrator, Villa Capri NATHAN CONDIE Administrator, Varenna Respondents.	CDSS NO. 7218241101-F OAH No. 2018091018 STIPULATION AND WAIVER; AND ORDER

Respondents Varenna LLC, Oakmont Senior Living LLC, and Oakmont Management Group LLC (collectively "Respondent Oakmont"), Respondent Deborah Smith ("Respondent Smith"), and Respondent Nathan Condie ("Respondent Condie"), having obtained the counsel of **JOEL S. GOLDMAN** and **SCOTT J. KIEPEN**, have been fully advised of the allegations in the Accusation in this matter (a copy of which is attached hereto as **Exhibit 1** and incorporated herein by reference), and hereby enter into the following Stipulation and Waiver; and Order with the Complainant as a means of achieving a full and final resolution of the Accusation filed in this matter, in lieu of an evidentiary hearing and decision.

Respondents and Complainant hereby stipulate and agree as follows:

1. FINDINGS: Respondents admit, for the purposes of this action, the following, relating to incidents that took place on October 8-9, 2017 as a result of the Tubbs Fire:

A. Staff departed Villa Capri[1] without all residents being evacuated.

B. Staff at Varenna[2] did not notify all residents of an emergency evacuation and did not evacuate all residents prior to departing from Varenna.

C. As a result of all staff leaving Villa Capri and Varenna, facility residents were left unattended and no staff remained at either facility to provide direction or care and supervision to these residents; or to assume oversight of the facilities.

D. Staff were precluded from returning to the facilities by local authorities after shuttling residents to evacuation sites.

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[1] 1397 Fountaingrove Parkway, Santa Rosa ("Villa Capri").

[2] 1401 Fountaingrove Parkway, Santa Rosa ("Varenna").

E. Remaining residents were dependent on family members and emergency responders for evacuation after staff left Villa Capri and Varenna.

F. There was a large bus at Varenna that could have been used to evacuate residents.

G. Training provided by Respondents to staff did not fully prepare some staff to deal with the Tubbs Fire crisis.

H. Emergency personnel were not able to initially assist during the evacuations.

All admissions herein, be they general or specific, express or implied, do not constitute admissions for any other purpose or proceeding to which the Department of Social Services is not a party, including third party civil, criminal, or administrative proceedings.

2. LICENSE REVOCATION: The revocation of Respondent Oakmont's licenses to operate residential care facilities for the elderly ("RCFEs") located at 1397 Fountaingrove Parkway, Santa Rosa ("Villa Capri") and 1401 Fountaingrove Parkway, Santa Rosa ("Varenna") shall be affirmed upon the Department's adoption of this Stipulation as its Order. However, the revocation of Respondents' RCFE licenses to operate Villa Capri and Varenna shall be STAYED for a period of two (2) years. Respondents shall be allowed to petition the Department for early termination of the probationary period after one (1) year.

3. PROBATIONARY LICENSES: During the probationary period described in paragraph 2, above, Respondent Oakmont shall comply with the following terms and conditions:

A. Respondents shall operate Villa Capri in strict compliance with the regulations and statutes governing the operation of residential care facilities for the elderly. Respondents shall operate Varenna in strict compliance with the regulations and statutes governing the operation of residential care facilities for

the elderly and continuing care retirement communities. All requirements set forth in Health and Safety Code section 1569.695, as amended by Assembly Bill 3098, Chapter 348 of the Statutes of 2018, imposing new requirements relating to emergency and disaster response plans, a copy of which is attached as Attachment 2 and incorporated by reference, shall be complied with. All further references to Section 1569.695 refer to the version of that Health and Safety Code section that was amended by Chapter 348 of the Statutes of 2018.

B. Within sixty (60) days of the effective date of the Order adopting this Stipulation and Waiver, Respondents shall submit to the Department updated emergency disaster plans for Villa Capri and Varenna. The plans shall be site-specific and shall be updated annually and reviewed and approved by Respondents. Respondents shall develop a protocol to encourage review of the plans by local emergency authorities consistent with subdivision (j) of Section 1569.695. In addition to complying with the requirements set forth in Health and Safety Code Section 1569.695, the plans shall include the following:

(1) A system for maintenance of readily-accessible current information about the status of all residents for evacuation purposes, including current information about which residents are non-ambulatory, bedridden, and/or unable to leave the facility without assistance, and a protocol regarding the assistance residents would need in the event of an emergency evacuation, with consideration given to additional assistance that would be required based on a resident's location on a non-ground-level floor. The information shall also be current regarding whether a resident uses hearing aids, glasses, or requires another assistive device, such as oxygen or a wheelchair. This information shall be maintained offsite and accessible remotely by management, as well as at the facility in a hard copy format. For purposes of this paragraph, information shall be considered current if it

reflects the most recent information available to the facility pursuant to Title 22 of the California Code of regulations, sections 87463 and 87467.

(2) A mechanism to reasonably ensure the accessibility of all information required to be readily available to facility staff in case of an emergency, as set forth in Health and Safety Code section 1569.695(e), via remote means and offsite.

(3) A method whereby the facility's administrator and designated substitutes receive real-time emergency notifications from public safety agencies so that such information can be disseminated to on-duty staff.

(4) Procedures for periodically confirming the location and status of each resident after an event that results in the implementation of the emergency evacuation plan if the resident has not returned to the facility, in addition to the requirements of Health and Safety Code section 1569.695(a)(7)(H).

(5) A clear protocol for notifying residents' responsible parties or family members during evacuation, if reasonably practicable; immediately or as soon as practicable after any relocation; and on a regular basis following any relocation or evacuation.

(6) A written description of the role and responsibility of the facility's administrator and designated substitutes with regard to emergencies, as well as steps the facility has taken to ensure there is a qualified designated substitute at the facility at all times pursuant to Health and Safety Code section 1569.618.

(7) Where audio and visual alarms are absent, an alternative method shall be developed and submitted to the Department for review and approval whereby all facility residents would be notified of the need for

evacuation of the entire facility, including independent living and casita residents, with consideration given to the likelihood that residents may have hearing impairments.

(8) Designation of a staff position at each site to be in charge of safety and security.

(9) A process for communicating with residents, families, hospice providers and others during an evacuation or other disaster where the facility shelters in place, as appropriate, that shall include the use of landlines, cellular telephones, or walkie-talkies throughout all facilities, and taking into consideration whether cellular reception is weak, for purposes of complying with the requirements set forth in Health and Safety Code section 1569.695(a)((7)(C).

D. Within sixty (60) days of the effective date of the Order adopting this Stipulation and Waiver, Respondents shall submit updated staffing plans for Villa Capri and Varenna to the Department to ensure there is sufficient staff, including sufficient staff to reasonably ensure residents receive timely notice of an evacuation and to address residents' needs as reasonably practicable during an evacuation Respondents shall focus particularly on staffing between 10:00 pm and 6:00 am to ensure sufficient staff based on the actual needs of residents in care at the facilities. During the period of probation, these plans shall be readily available for review at the monitoring visits by the Department.

E. In addition to the requirement of Health and Safety Code section 1569.695(b) that each facility staff member receive emergency and disaster plan training upon hire, within sixty (60) days of the effective date of the Order adopting this Stipulation and Waiver, Respondents shall submit an updated training plan to the Department that ensures all current staff, including night staff, have received training required pursuant to this Stipulation and Waiver; and the Order adopting it

and the requirements of Health and Safety Code section 1569.695. Respondents may apply in writing to the Department for an extension of up to thirty (30) additional days to complete this training. During the period of probation, documentation of this training shall be readily available for review at the monitoring visits by the Department.

F. All facility staff, including night staff, shall participate in quarterly drills required pursuant to Health and Safety Code section 1569.695(c). In addition, at least one evacuation drill shall be conducted annually at each facility. Memory care residents are not required to participate in these drills and other residents shall be provided the opportunity to voluntarily participate. The intention is for the annual drill experience to be as realistic as possible; to this end, live substitutes shall be utilized to stand in for residents who are unable or unwilling to participate in the annual drill required by this paragraph and there shall be a minimum participation level, between residents and stand-ins, of a number equivalent to at least 80 percent of facility residents. The facilities shall notify all residents and their responsible parties about the evacuation drill required by this paragraph and maintain written documentation for all residents who choose not to participate in the drill.

4. MONITORING FEE: Respondent Oakmont shall pay a probation monitoring fee equal to the annual fee for the RCFE licenses for Villa Capri and Varenna license during the period of probation, as required by Health and Safety Code sections 1523.1 and 1569.185.

5. VIOLATION OF STIPULATION TERM (FACILITIES): Respondent Oakmont agrees that violation of any of the terms of probation set forth in Paragraph 3, or any other term of this agreement relative to its operation and probation, shall constitute sufficient grounds for the revocation of either or both probationary licenses granted herein. In such an event, Respondent Oakmont will be entitled to an

administrative hearing before the Office of Administrative Hearings on the sole issue of whether there was a serious or substantial violation of a material term and/or condition herein, and whether Respondent Oakmont is responsible for, has caused, and/or has permitted such a violation. Upon a finding that Respondent Oakmont committed a serious or substantial violation of a material condition or term and/or condition herein, the probationary license at issue shall be revoked. Respondent Oakmont agrees that valid service of an Accusation to revoke the probationary license may be effectuated by certified mail at the address identified in the caption of this Stipulation.

6. COMPLETION OF PROBATION (FACILITIES): Unless otherwise terminated earlier consistent with the provsions of Paragraph 2 above,if Respondent Oakmont successfully complies with the applicable terms of this Stipulation, at the end of the probationary period set forth in Paragraph 2, above, the conditions imposed upon the probationary RCFE licenses will expire and Respondent Oakmont's RCFE licenses to operate Villa Capri and Varenna will be granted in full.

7. REVOCATION OF ADMINISTRATOR CERTIFICATES: The administrator certificates of Respondent Smith and Respondent Condie are revoked upon the Department's adoption of this Stipulation as its Order. However, the revocations are STAYED for a period of two (2) years. Respondent Smith and Respondent Condie shall be allowed to petition the Department for early termination of the probationary period after one (1) year.

8. TERMS OF PROBATION (ADMINISTRATORS):

A. During the probationary period described in Paragraph 7, Respondents Smith and Condie agree to receive a minimum of forty (40) total hours of training from local emergency services providers or vendors approved by

the Department's Administrator Certification Unit[3] in the topics set forth below. At least twenty-five (25) of the forty (40) total hours of training shall be in person. The requirements imposed on Respondent Smith and Respondent Condie by this paragraph apply regardless of whether Respondent Smith and Respondent Condie continue to be employed at an Oakmont facility or gain employment at another facility licensed by the Department.

(1) Emergency disaster planning. It is intended that the following subject matters be addressed: Methods for ensuring that every substitute administrator is prepared to function as an administrator; methods to ensure that facility staff are aware of their role in an emergency; and the physical simulation of methods for two staff to transport non-ambulatory residents down flights of stairs.

(2) Facility staffing levels/resource allocation. It is intended that the following subject matters be addressed: Creating staffing schedules to ensure the appropriate level of staffing at all times to ensure that residents' needs are being met and to handle emergencies and evacuations.

(3) Communication with emergency services. It is intended that the following subject matters be addressed: development of a system and incident command process in the event of a disaster and clear assignment of communication between staff and emergency responders, as well as dissemination of information obtained by emergency responders.

(4) Plan of operations. It is intended that the following subject matters be addressed: Training to ensure each administrator is aware of their role and

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[3] Approved training vendors are listed at cdss.ca.gov/inforesources/Community Care Licensing/ Administrator-Certification/List-of-Approved-Vendors. To the extent necessary to fulfill the requirements of this Stipulation, Respondents may seek approval from the Department for additional vendors.

the role of other staff in the event of an emergency, including methods to ensure that all residents are notified of the emergency and are in safe custody prior to the administrator and staff leaving the premises.

(5) Communicating with residents and responsible parties. It is intended that the following subject matters be addressed: Methods for keeping communications current with on-campus and off-campus residents, to the extent desired by the residents, during regular facility operation and in an emergency; mechanisms for accounting for all residents on and off campus in the event of an emergency; and mechanisms for ensuring that the daily census is accurate.

B. During the probationary period set forth in Paragraph 7, above, prior to accepting a different offer of employment at a facility licensed by the Department, Respondent Smith and Respondent Condie shall provide a copy of this Stipulation to the prospective employer.

C. During the probationary period set forth in Paragraph 7, above, Respondent Smith and Respondent Condie shall inform the Department within ten (10) days if she or he becomes employed at a different licensed facility.

9. COMPLETION OF PROBATION (ADMINISTRATORS): Unless otherwise terminated earlier consistent with the provisions of Paragraph 7, above, if Respondent Smith successfully complies with the applicable terms of this Stipulation, at the end of the probationary period set forth in Paragraph 7, above, the conditions imposed upon her will expire and she will be allowed to work and be present in licensed facilities without restriction. Unless otherwise terminated earlier consistent with the provisions of Paragraph 7, above, if Respondent Condie successfully complies with the applicable terms of this Stipulation, at the end of the probationary period set forth in paragraph 7, above, the conditions imposed upon him will expire and he will be allowed to work and be present in licensed facilities without restriction.

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10. VIOLATION OF PROBATION (ADMINISTRATORS): Respondent Smith agrees that the violation of any terms of this stipulation relative to her will result in the revocation of her administrator's certificate. Respondent Condie agrees that the violation of any terms of this stipulation relative to him will result in the revocation of his administrator's certificate.

In such an event, each Respondent will be individually entitled to an administrative hearing before the Office of Administrative Hearings on the sole issues of whether there was a serious or substantial violation of a material term and/or condition herein relating to that Respondent. Upon a finding that there was a serious or substantial violation of a material term and/or condition herein relating to that Respondent, the Respondent's administrator's certificate will be revoked. Respondent Smith and Respondent Condie agree that valid service of an Accusation be effectuated by certified mail at the address identified in the caption of this Stipulation or at an address subsequently provided in writing to the Department.

11. TOLLING OF PROBATIONARY PERIOD: The probationary period set forth in Paragraph 2, above, is tolled for Villa Capri and/or Varenna during any period that facility is not operating. The probationary period set forth in Paragraph 7, above, is tolled for Respondent Smith and/or Respondent Condie during any period that she or he is not working in a licensed facility. The probationary period for the specific facility or individual shall be extended by the total time during which that facility is not operating or that individual is not working at a licensed facility. Furthermore, if an Accusation or Petition to Revoke Probation is filed during the period of probation, the period of probation for the facility or individual named in the Accusation or Petition to Revoke Probation shall be extended until a final Decision and Order is adopted by the Department.

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12. DEPARTMENT'S AUTHORITY: The fact that the Department may decline or omit to take immediate disciplinary action for a violation of a condition of probation or any of the other terms of this Stipulation does not constitute a waiver by the Department of the right to raise that violation at a later date in a disciplinary proceeding or in any other context. Respondents, and each of them, understand that nothing in this agreement is to be construed to limit the authority of the Department to impose discipline for violations of applicable statutes and regulations. If any Accusation seeking to revoke probation is filed by the Department during the period of probation, then the period of probation and the probationary terms shall be extended, if necessary, and shall remain in force and effect until such time as the Department issues a final Decision and Order on the Accusation.

13. PENDING OR FUTURE FACILITY APPLICATIONS: The Department shall review in good faith and without prejudice any facility applications submitted by Respondent Oakmont, Oakmont Management Group LLC, Oakmont Senior Living LLC, and/or Varenna LLC that are currently pending Department review or are submitted in the future.

14. WAIVER OF HEARING RIGHTS: The parties waive their rights to a hearing in this matter, to present any evidence on their behalf and to cross-examine witnesses testifying on the other party's behalf. The parties waive their rights to further discovery in this matter.

15. WAIVER OF APPEAL/MODIFICATION RIGHTS:

A. Respondents, and each of them, waive all rights of review arising out of this action or this Stipulation and Waiver or the Order implementing it, including, but not limited, to a petition for reinstatement, reduction of penalty, or rehearing, reconsideration, writ of administrative mandamus, any other judicial or administrative review or any other right or ability any Respondent may have to seek to have this Stipulation modified or set aside on any grounds whatsoever,

other than as expressly indicated herein.

B. All citation appeals submitted by Respondent Oakmont prior to the date of the Order adopting this Stipulation and Waiver in response to findings issued by the Department as a result of the events of October 8-9, 2017 are withdrawn.

16. WAIVER OF CLAIMS: The parties waive all legal actions against each other arising out of events that took place on October 8-9, 2017, including any legal actions against Fountaingrove Lodge LLC, Oakmont Management Group LLC, and Oakmont Senior Living LLC, doing business as Fountaingrove Lodge, regarding any facts known to the Department on or prior to the effective date of the Order adopting this Stipulation and Waiver. This waiver of claims does not preclude the following:

(1) Civil penalties;

(2) Monitoring fees; and

(3) Any action arising out of an audit or other review to establish, modify, preserve, enforce, or to recover an overpayment or to reimburse an underpayment of public or private funds.

(4) The issuance of citations or deficiencies arising out of complaints that may be received by the Department after the effective date of the Order adopting this Stipulation and Waiver. Respondents may appeal any such citations or deficiencies.

17. PUBLIC RECORD: This Stipulation is a public record as required by section 11517(d) of the Government Code. It is accessible to the public pursuant to the Public Records Act, section 6250 et seq. of the Government Code and shall be posted in a prominent place at Villa Capri and Varenna, as well as on Oakmont's website in the section relating to the Tubbs fire.

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18. SIGNATURES: A facsimile or scanned copy of the signature page of this Stipulation will bind the signing party or parties to the terms and conditions herein once any remaining party or parties execute the document and once the Order is executed.

19. COUNTERPARTS: This Stipulation may be executed in counterparts.

20. EFFECTIVE DATE: This Stipulation is effective on the date on which the Department's Order adopting it is executed.

21. NO ORAL MODIFICATION: This Stipulation constitutes the entire agreement between the parties with respect to the Accusation in this case. Moreover, the terms of this Stipulation may not be amended except in writing, signed by all the parties thereto.

22. LICENSEE REPRESENTATIVE: In entering into this Stipulation, Respondent Oakmont represents that its governing bodies have reviewed the allegations contained in the Accusation and that, in executing this Stipulation, the signatories to this Stipulation have the authority to so act on behalf of Respondent Oakmont as designated below.

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IT IS SO STIPULATED:

DATED

COURTNEY SIEGEL
Representative of Respondent Oakmont Management Group, LLC

11-16-18
DATED

NATHAN CONDIE
Respondent

11.16.18
DATED

DEBORAH SMITH
Respondent

11-16-18
DATED

NATHAN CONDIE
Representative for Varenna LLC (Varenna)

11.16.18
DATED

DEBORAH SMITH
Representative for Varenna LLC (Villa Capri)

DATED

JOE Lin
Representative for Oakmont Senior Living, LLC

DATED

JOEL S. GOLDMAN
Attorney for Respondents

IT IS SO STIPULATED:

11/16/18
DATED

C. Siegel
COURTNEY SIEGEL
Representative of Respondent Oakmont Management Group, LLC

DATED

NATHAN CONDIE
Respondent

DATED

DEBORAH SMITH
Respondent

DATED

NATHAN CONDIE
Representative for Varenna LLC (Varenna)

DATED

DEBORAH SMITH
Representative for Varenna LLC (Villa Capri)

11-16-2018
DATED

JOE LIN
Representative for Oakmont Senior Living, LLC

11/19/2018
DATED

JOEL S. GOLDMAN
Attorney for Respondents

DATED

SCOTT J. KIEPEN
Attorney for Respondents

11/19/18
DATED

T. Rufo

TARA RUFO
Attorney for Complainant

11/19/18
DATED

Pamela Dickfoss

PAMELA DICKFOSS, Complainant
Deputy Director
Community Care Licensing Division
Department of Social Services
State of California

11/19/18
DATED

Scott J Kiepen
SCOTT J. KIEPEN
Attorney for Respondents

DATED

TARA RUFO
Attorney for Complainant

DATED

PAMELA DICKFOSS, Complainant
Deputy Director
Community Care Licensing Division
Department of Social Services
State of California

DECISION AND ORDER

The preceding Stipulation hereby is adopted by the Department as its Decision in this matter.

IT IS SO ORDERED THIS 19TH DAY OF NOVEMBER, 2018.

KEVIN MORA
Assistant Chief Counsel
Legal Division

EXHIBIT 1

LEGAL DIVISION
Department of Social Services
Office of Chief Counsel
KEVIN P. MORA
Assistant Chief Counsel
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Senior Staff Attorney
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Oakland, CA 94612
Telephone Number: (510) 622-2689
Facsimile Number: (510) 622-2710

Attorneys for Complainant

BEFORE THE
DEPARTMENT OF SOCIAL SERVICES
STATE OF CALIFORNIA

IN THE MATTER OF:	
VARENNA LLC, OAKMONT SENIOR LIVING LLC, and OAKMONT MANAGEMENT GROUP LLC, **dba Villa Capri** 1397 Fountaingrove Parkway Santa Rosa, CA 95403	CDSS No. 7218241101 **ACCUSATION** (LICENSE REVOCATION)
VARENNA LLC, OAKMONT SENIOR LIVING LLC, and OAKMONT MANAGEMENT GROUP LLC, **dba Varenna at Fountaingrove** 1401 Fountaingrove Parkway Santa Rosa, CA 95403	CDSS No. 7218241101B **ACCUSATION** (LICENSE REVOCATION)
DEBORAH SMITH, Executive Director/Administrator Villa Capri	CDSS No. 7218241101C **ACCUSATION** (ADMINISTRATOR DECERTIFICATION)
DEBORAH SMITH, Executive Director/Administrator Villa Capri	CDSS No. 7218241101D **ACCUSATION** (EXCLUSION ACTION)
NATHAN CONDIE, Executive Director/Administrator Varenna at Fountaingrove	CDSS No. 7218241101E **ACCUSATION** (ADMINISTRATOR DECERTIFICATION)

NATHAN CONDIE,
Executive Director/Administrator
Varenna at Fountaingrove

Respondents.

CDSS No. 7218241101F

ACCUSATION
(EXCLUSION ACTION)

JURISDICTION

1. This matter arises under the California Residential Care Facilities for the Elderly Act, Health and Safety Code section 1569 et seq., which governs the licensing and operation of residential care facilities for the elderly ("RCFEs").

2. Regulations governing the licensing and operation of RCFEs are contained in California Code of Regulations, title 22, section 87100 et seq.[1]

3. The California Department of Social Services ("the Department") is the agency of the State of California responsible for the licensing and inspection of RCFEs.

4. Pursuant to Health and Safety Code section 1569.50, the Department may suspend or revoke an RCFE license.

5. The Department may suspend or revoke an RCFE license if any employee or administrator of the licensee's facility has violated the law governing licensed facilities, pursuant to Health and Safety Code section 1569.50(b).

6. Pursuant to Health and Safety Code section 1569.52, the Department may institute or continue a disciplinary proceeding against an RCFE licensee following the suspension, expiration, or forfeiture of a license.

7. The Department may prohibit any person from being a licensee, owning a beneficial ownership interest of 10 percent or more in a licensed facility, or being an administrator, officer, director, member, or manager of a licensee or entity controlling a licensee, and may further prohibit any licensee from employing, or continuing the

[1] Subsequent references to any regulation section(s) are to Title 22 of the California Code of Regulations.

employment of, or allowing in a licensed facility, or allowing contact with clients of a licensed facility by, any employee, prospective employee, or person who is not a client of an RCFE pursuant to Health and Safety Code section 1569.58 and may revoke or deem forfeited the certificate of an administrator pursuant to Health and Safety Code section 1569.616(h)(2) and Regulation section 87408(a).

8. Pursuant to Health and Safety Code section 1569.58(f), the Department may institute or continue a disciplinary proceeding against a person following the resignation, withdrawal of employment application, or change of duties, or any discharge, failure to hire, or reassignment of the person by the licensee or if the person no longer has contact with clients of the facility.

9. Pursuant to Health and Safety Code sections 1569.51(b), and 1569.58(e), the standard of proof to be applied in this proceeding is a preponderance of evidence.

10. Administrative proceedings before the Department must be conducted in conformity with the provisions of the California Administrative Procedure Act, Chapter 5, Government Code section 11500 et seq.

THE PARTIES

11. Complainant **PAMELA DICKFOSS** is the authorized representative of the Director of the Department pursuant to a delegation of authority. Pursuant to Government Code section 11503, Complainant files this Accusation in her official capacity.

12. Respondents **VARENNA LLC, OAKMONT SENIOR LIVING LLC, and OAKMONT MANAGMENT GROUP LLC** (collectively, "Respondent LICENSEE") are licensed by the Department to operate an RCFE with a total capacity of 80 residents at 1397 Fountaingrove Parkway, Santa Rosa, a facility known as Villa Capri ("Villa Capri").

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A copy of Villa Capri's most recent license setting forth the capacity, limitations, and effective dates accompanies this Accusation as **ATTACHMENT A** and is incorporated by reference.

13. Respondent **LICENSEE** is also licensed by the Department to operate an RCFE with a total capacity of 322 residents at 1401 Fountaingrove Parkway, Santa Rosa, a facility known as Varenna at Fountaingrove ("Varenna"). A copy of Varenna's most recent license setting forth the capacity, limitations, and effective dates accompanies this Accusation as **ATTACHMENT B** and is incorporated by reference.

14. In October 2017, Respondent **DEBORAH SMITH** was employed by Respondent **LICENSEE** as Villa Capri's Executive Director and Administrator.

15. In October 2017, Respondent **NATHAN CONDIE** was employed by Respondent **LICENSEE** as Varenna's Executive Director and Administrator.

16. Respondent **LICENSEE**, by virtue of licensure, must operate in accordance with the statutes and regulations governing the licensing and operation of RCFEs and is subject to RCFE revocation if any employee or administrator of the licensee's facility has violated the law governing licensed facilities, pursuant to Health and Safety Code section 1569.50(b).

17. Respondents **DEBORAH SMITH** and **NATHAN CONDIE**, by virtue of presence in or contact with clients of an RCFE, are subject to the jurisdictional provisions of Health and Safety Code sections 1569.17 and 1569.58. Further, Respondents **DEBORAH SMITH** and **NATHAN CONDIE**, by virtue of administrator certification, must comply with the statutes and regulations governing the certification of administrators pursuant to Health and Safety Code section 1569.616 and Regulation sections 87405, 87408, and 87409. Copies of the applicable statutes and regulations accompany this Accusation as **ATTACHMENT C** and are incorporated by reference.

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FACTUAL ALLEGATIONS

VILLA CAPRI

SUBJECT MATTER: CARE AND SUPERVISION/NIGHT SUPERVISION/STAFF TRAINING/EVACUATION PROCEDURES/PERSONAL RIGHTS (Villa Capri)

APPLICABLE LAW: Health and Safety Code sections 1569.269(a)(6); 1569.50(a) and (b); 1569.58(a); 1569.625; and 1569.695

Regulation sections 87101 (a)(1) and (6) and (n)(2) [definitions]; 87205 [licensee accountability]; 87212(b)(2) [emergency disaster plan]; 87405 [administrator qualifications and duties]; 87411 [personnel requirements]; 87415 [familiarity with planned emergency procedures]; and 87468(a) [personal rights]

ALLEGATIONS:

18. On the night of October 8-9, 2017, 62 elderly and disabled residents were residing and receiving care at Villa Capri. Of those 62 residents, 25 were part of the memory care (dementia) unit and 37 were in assisted living. All 25 of the memory care residents were considered nonambulatory because they were unable to exit unassisted in an emergency, pursuant to section 87101(n)(2). In addition, of the 37 residents in assisted living, at least 22 were nonambulatory.

Four staff were on duty at Villa Capri overnight to care for the 62 residents. Marie So was the substitute administrator at Villa Capri, as required in section 87405(a), supervising Annet Rivas, Cynthia Arroyo, and Elizabeth Lopez.

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An evacuation of Villa Capri was required on the night of October 8-9, 2017 due to wildfires. Respondent **LICENSEE** failed to ensure that Villa Capri staff members were able to provide adequate care and supervision to residents at Villa Capri on October 8-9, 2017, as follows:

A. Respondent **LICENSEE**, and its agents/employees, including Respondent **DEBORAH SMITH**, Villa Capri's administrator, failed to ensure that Marie So, Annet Rivas, Cynthia Arroyo, and Elizabeth Lopez were familiar with Villa Capri's planned emergency procedures or participated in emergency training, as required by Health and Safety Code section 1569.625(c)(6) and Regulation section 87415(a).

B. Marie So, Villa Capri's substitute administrator, was unable to direct staff during the evacuation and did not know the facility's evacuation plan. She did not utilize Villa Capri's emergency binder during the evacuation, did not know where keys for facility vehicles were kept, where flashlights were kept, or where batteries for flashlights were kept, nor did she know how to direct the staff she was supervising during the emergency, in violation of Regulation section 87415(a). While employed at Villa Capri, Marie So had never participated in a fire drill involving evacuating all residents.

C. Elizabeth Lopez did not know there was an emergency binder or where it was kept, or where the facility vehicle keys were kept. While employed at Villa Capri, Elizabeth Lopez had never participated in a fire drill involving evacuating all residents.

D. Cynthia Arroyo did not know where keys to facility vehicles were kept; she spent an hour unsuccessfully searching for facility vehicle keys in the scheduling office, the activities room, the med tech office, and other locations without finding the keys. Cynthia Arroyo had never participated in a fire drill while employed at Villa Capri.

E. Anett Rivas did not know where facility vehicle keys were kept. While employed at Villa Capri, she had never participated in a fire drill involving evacuating all residents in response to an outside fire while employed at Villa Capri.

F. On the night of the fire, Elizabeth Lopez and Cynthia Arroyo were incapable of performing standard caregiver duties, such as transferring residents and turning residents, due to limitations on their ability to lift more than 10 pounds or use both hands.

G. On October 9, 2017, at some point around 3:00 or 3:30 a.m., the exact time of which is unknown to Complainant, Marie So, the designated substitute administrator for Villa Capri, decided to leave two untrained staff, Cynthia Arroyo and Elizabeth Lopez, at the facility with approximately 30 elderly and infirm residents to await evacuation, although there were not adequate vehicles to provide transportation to all of the residents. Anett Rivas had already left the facility with other residents. When Marie So eventually arrived an at evacuation center, she did not notify anyone of the situation, nor did she call 911 to notify emergency responders while she was on her way to the evacuation center as a passenger in a vehicle. After Marie So left Villa Capri on the night of the fire, staff Cynthia Arroyo and Elizabeth Lopez departed from the facility in their personal vehicles with approximately six residents, leaving more than 20 elderly and infirm residents remaining at Villa Capri with no staff supervision.

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H. As a result of the events described above, no staff were at Villa Capri to assist with the evacuation of more than 20 remaining elderly and infirm facility residents. These residents would have perished when the facility burned to the ground during the fire if the following had not happened:

i. After all Villa Capri staff left the facility, family members of Villa Capri residents stayed at the facility alone with residents and continued assisting non-ambulatory residents who were left stranded on the second floor and other residents who remained inside the facility lobby behind a locking door. Melissa Langhals made contact with a police cruiser that was passing by and asked for help.

ii. When emergency responders arrived at Villa Capri, family members assisted them with the evacuation of the more than 20 remaining facility residents after all Villa Capri staff were gone. If these family members and emergency responders had not evacuated Villa Capri residents, more than 20 residents would have perished when Villa Capri burned to the ground after all staff left the facility.

I. When emergency responders arrived at Villa Capri, they noticed a large-capacity bus parked nearby that would have been useful to evacuate residents sitting unused in a parking lot near the facility. They were unable to use the bus because they did not have keys.

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SUBJECT MATTER: ADMINISTRATOR QUALIFICATIONS

APPLICABLE LAW: Health and Safety Code sections 1569.58(a)(1) and (2); 1569.616

Regulation section 87405(d)(1), (2), (4), and (5) and (h)

ALLEGATIONS:

19. Respondent **DEBORAH SMITH**, the administrator of Villa Capri, failed to train facility staff or to adequately direct the work of others, as described in paragraph 18, above, and incorporated here by reference.

20. Respondent **DEBORAH SMITH** was contacted by Villa Capri substitute administrator Marie So at approximately 11:30 p.m. on the night of the fire when the facility's power went out. Because the power was out, the doors to the memory care unit, which housed people with dementia who could be at risk of wandering, were not secure. There were three doors through which demented residents might exit the facility, unsafely. Respondent Deborah Smith directed Marie So to station staff at the facility exits, which compromised staff members' ability to provide direct care to residents. However, Respondent Deborah Smith did not go to Villa Capri to assist at that time, despite the circumstances.

21. Respondent **DEBORAH SMITH** spoke to Marie So at approximately 1:30 a.m. on the night of the fire and was informed that Villa Capri residents were being moved for evacuation. After speaking with Marie So, Respondent Deborah Smith began driving toward Villa Capri, but did not make it to the facility. Instead, Respondent Deborah Smith returned to her home for an unknown amount of time before heading to an evacuation center. She eventually arrived at an evacuation center at approximately 6:00 a.m on October 9, 2018.

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SUBJECT MATTER: SAFEGUARD PERSONAL PROPERTY AND VALUABLES

APPLICABLE LAW: Health and Safety Code sections 1569.50(a) and (b); Regulation section 87217(b) [safeguard personal property and valuables]

ALLEGATIONS:

22. On or about October 17, 2017, Respondent **LICENSEE**, or individuals authorized to act on its behalf, decided to clear the Villa Capri site and began to do so, using large equipment, without allowing residents or their families access to the site to search for personal belongings that may have survived the fire. Between October 10, 2017 and October 16, 2017, at least two Villa Capri residents' family members had been informed by Respondent **LICENSEE**, or individuals authorized to act on its behalf, that they would receive communication about property retrieval.

VARENNA

SUBJECT MATTER: CARE AND SUPERVISION/NIGHT SUPERVISION/STAFF TRAINING/EVACUATION PROCEDURES/PERSONAL RIGHTS (Varenna)

APPLICABLE LAW: Health and Safety Code sections 1569.269; 1569.50(a) and (b); 1569.58(a); 1569.625; and 1569.695
Regulation sections 87205 [licensee accountability]; 87212(b)(2) [emergency disaster plan]; 87405(a), (b), (d), and (h) [administrator qualifications and duties]; 87415 [familiarity with planned emergency procedures]; and 87468(a) [personal rights]

ALLEGATIONS:

23. On October 8-9, 2017, 228 elderly residents were being cared for and resided at Varenna. Of those 228 residents, 142 were in Varenna's main building; 43 were in two separate free standing buildings; and 43 were in individual "casitas." Of the

142 residents in Varenna's main building, 13 residents had been determined by Respondent **LICENSEE** to need care and supervision and a 14th resident was on hospice.

Two direct care staff were on duty at the facility to care for Varenna's 228 residents overnight. Alma Dichoso was the lead direct care staff member in charge and Theresa Martinez was the second direct care staff member. Two maintenance staff members, Andre Blakely and Michael Rodriquez, were also on night duty.

An evacuation of the facility was required due to wildfires. Respondent **LICENSEE** failed to ensure that facility staff members were able to provide adequate care and supervision to elderly clients at the facility on October 8-9, 2017, as follows:

A. Facility staff, including Alma Dichoso and Theresa Martinez, were not trained in emergency evacuations or fire emergencies. Staff Maria Cervantes (a.k.a Jophell), who was not on duty but who came to the facility during the fire to help, also had not received training in emergency evacuations or fire emergencies.

B. Respondent **NATHAN CONDIE**, the administrator for Varenna, arrived at the facility at approximately 12:30 a.m - 1:00 a.m. As the facility administrator, he was in charge of Varenna staff. However, Respondent **NATHAN CONDIE** did not provide any response to questions from Theresa Martinez, Andre Blakely, or Michael Rodriguez, each of whom separately asked Respondent **NATHAN CONDIE** about Varenna's evacuation plan that night.

C. Varenna staff, including Alma Dichoso, Andre Blakely, and Michael Rodriguez, were evacuating facility residents from their rooms at approximately 2:00 a.m. - 2:30 a.m. when Respondent **NATHAN CONDIE** directed them to return the residents to their rooms instead of continuing with the evacuation. Respondent **NATHAN CONDIE** stated that he did not want to cause issues or make trouble for Respondent **LICENSEE**.

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D. Respondent **NATHAN CONDIE** left Varenna at approximately 3:30 a.m. without notifying staff that he was leaving permanently or directing them how to proceed. Respondent **NATHAN CONDIE** left behind more than 70 residents with three on-duty staff members who were not trained in evacuation procedures: Alma Dichoso, Theresa Martinez, and Andre Blakely. Facility staff received no further communication from Respondent **NATHAN CONDIE** during the evacuation.

E. When Respondent **NATHAN CONDIE** left the facility, he was aware that a large-capacity facility bus was in the parking lot, in sight of the facility, and that the keys for the vehicle were in the drawer of a desk at the facility. However, Respondent **NATHAN CONDIE** did not ensure that staff on site, under his supervision, were aware of the location of those keys or tell them to use the bus to evacuate residents. In addition, Respondent **NATHAN CONDIE** did not use the large facility bus himself to evacuate residents; instead, he took a small number of residents in his personal car and left the facility. The bus could have been used to evacuate approximately 26 residents. Respondent **NATHAN CONDIE** did not ensure that all residents at Varenna were awake or alerted to the situation when he left.

F. At some point after Respondent **NATHAN CONDIE** left, the remaining staff departed from Varenna while residents remained asleep in their rooms. As a result, residents, their families and friends, and emergency responders had to evacuate approximately 70 residents, as follows, without staff assistance:

i. A friend of Resident # 1's granddaughter arrived and evacuated Resident # 1 sometime between 3:30 a.m. and 4:30 a.m.

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ii. Resident # 2 and Resident # 3 were awakened by a neighbor knocking on their door at approximately 4:00 a.m., saying that they had to evacuate immediately. They did so without ever seeing or being notified by facility staff.

iii. Resident # 4's grandson arrived at approximately 4:00 a.m. to help his grandfather. His grandfather had already left the facility, but he was besieged by questions about what to do and became aware that there were many residents in the darkened, smoky building who needed help. Resident # 4's grandson ran door-to-door banging on doors to locate and awaken residents, assisted them into the building lobby, and started a list of resident names. Resident # 4's grandson voluntarily stayed at the facility for approximately three hours, actively helping to evacuate residents for the full time.

iv. Emergency responders arrived at approximately 4:15 a.m. and joined Resident # 4's grandson in waking and evacuating residents. No facility staff were present when emergency responders arrived at the facility. Therefore, emergency responders had no staff assistance in obtaining resident names, identifying residents who had been evacuated, identifying residents who were still in the building, or providing a list of evacuated room numbers to ensure that all residents were accounted for. They kicked in locked doors throughout the facility and alerted sleeping residents. Eventually, busses ordered by emergency responders arrived. According to estimates by Santa Rosa Police, "close to 100 residents" were evacuated from the facility, including many who used walkers and wheelchairs.

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v. Resident # 5 voluntarily assisted emergency responders by showing them where to look for residents in outlying buildings, where many residents were found asleep.

vi. After speaking with her brother by phone, Resident # 4's granddaughter arrived at the facility at approximately 4:50 a.m. and helped emergency responders locate and evacuate residents. Resident # 4's granddaughter voluntarily stayed at the facility for approximately two hours, helping to evacuate residents.

G. The following Varenna residents were never evacuated and learned the following morning that an evacuation had taken place while they were asleep:

i. Resident # 6,

ii. Resident # 7, and

iii. Resident # 8.

SUBJECT MATTER: ADMINISTRATOR QUALIFICATIONS; CONDUCT INIMICAL

APPLICABLE LAW: Health and Safety Code sections 1569.58(a) and 1569.616

Regulation section 87405(d)(1), (2), and (5) and (h) (4)

ALLEGATIONS:

24. Respondent **NATHAN CONDIE** did not demonstrate that he had knowledge of the requirements for providing appropriate care and supervision to residents; that he had knowledge of and ability to conform to applicable laws relating to oversight of the facility; or that he behaved in a manner that demonstrated good character on October 8-9, 2017, in violation of regulation section 87405(d)(1), (2), and (5), as described in Paragraph 23, above, and incorporated here by reference.

25. Respondent **NATHAN CONDIE** failed to train facility staff, as required by regulation section 87405(h)(4), as described in Paragraph 23, above, and incorporated here by reference.

SUBJECT MATTER: FALSE CLAIMS

APPLICABLE LAW: Health and Safety Code sections 1569.30 and 1569.50
Regulation section 87207

ALLEGATIONS:

26. On or about July 31, 2018, Respondent **LICENSEE** published information online, available to the public, entitled "The Real Story of Oakmont Senior Living and the Tubbs Fire," which contains false and misleading statements, in violation of regulation section 87207. The false or misleading statements contained therein include, but are not limited to, the following:

A. "A total of 7 employees successfully evacuated all residents at Villa Capri." This is a false and misleading statement; see Paragraph 18(H).

B. "This [the evacuation of Villa Capri] was a team effort led by staff, with help from family members, which we [Oakmont] greatly appreciated. Staff members, along with family members evacuated the last residents." These are false and misleading statements; see Paragraph 18(H).

27. On or about October 26, 2018, Pooya Ansari, an employee of Respondent **LICENSEE**, told a Department representative that he had returned to Varenna with two other staff members in the morning following the fire to ensure that no residents remained at the facility. He told the Department that the three searched Varenna and found no remaining residents. He stated that all areas of Varenna had been evacuated. These statements were false; Pooya Ansari and the two other staff found at least three residents at the facility in the morning following the fire and transported those residents from the facility.

28. On or about October 26, 2018, Joel Ruiz, an employee of Respondent **LICENSEE**, told a Department representative that had returned to Varenna with two other staff members in the morning following the fire to ensure that no residents

remained at the facility. He told the Department that he went to every room of Varenna, including the "casitas," and found no remaining residents. He said all residents had been evacuated. This statement was false; Joel Ruiz and the two other staff found at least three residents at the facility in the morning following the fire and transported those residents from the facility after they were found.

SUBJECT MATTER: CONDUCT INIMICAL

APPLICABLE LAW: Health and Safety Code sections 1569.50(a) and 1569.58

ALLEGATIONS:

29. Respondent **LICENSEE**, or its agents/employees, engaged in conduct that is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility, or the people of the State of California, as alleged in Paragraphs 18 through 28, above, and incorporated here by reference.

30. Respondent **DEBORAH SMITH** engaged in conduct that is inimical to the health, morals, welfare, or safety of an individual in or receiving services from the facility, or the people of the State of California, as described in Paragraphs 18, 19, 20, and 21, above, and incorporated here by reference.

31. Respondent **NATHAN CONDIE** engaged in conduct that is inimical to the health, morals, welfare, or safety of an individual in or receiving services from the facility, or the people of the State of California, as described in Paragraphs 23, 24, and 25, above, and incorporated here by reference.

CAUSE FOR LICENSE REVOCATION, ORDERS OF EXCLUSION, AND ADMINISTRATOR DECERTIFICATIONS

32. The facts alleged in paragraphs 18 through 28, individually and/or jointly, provide cause, pursuant to Health and Safety Code section 1569.50(a)-(b) to revoke Respondents **VARENNA LLC, OAKMONT SENIOR LIVING LLC, and OAKMONT MANAGEMENT GROUP LLC's** license to operate Villa Capri and Varrena.

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33. The facts alleged in paragraphs 18 through 28, individually and/or jointly, constitute conduct by Respondents **VARENNA LLC; OAKMONT SENIOR LIVING LLC, and OAKMONT MANAGEMENT GROUP LLC** that is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility or the people of the State of California. These facts provide cause, pursuant to Health and Safety Code section 1569.50(a)(3), to revoke Respondents' license to operate the Villa Capri and Varenna.

34. The facts alleged in paragraphs 18, 19, 20, and 21, individually and/or jointly, provide cause, pursuant to Health and Safety Code section and 1569.58(a)(1) and (2) and Welfare and Institutions Code section 16519.6(g)(1) to prohibit Respondent **DEBORAH SMITH** from being a licensee; owning a beneficial ownership interest of 10 percent or more in a licensed facility; or being an administrator, officer, director, member, or manager of a licensee or entity controlling a licensee; and, further, from employment in, presence in, and contact with clients of, any facility licensed by the Department or certified by a licensed foster family agency, or any resource family home, for the remainder of Respondent's life, as well as to revoke Respondent **DEBORAH SMITH's** administrator certificate.

35. The facts alleged in paragraphs 23, 24, and 25, individually and/or jointly, provide cause, pursuant to Health and Safety Code section and 1569.58(a)(1) and (2) and Welfare and Institutions Code section 16519.6(g)(1) to prohibit Respondent **NATHAN CONDIE** from being a licensee; owning a beneficial ownership interest of 10 percent or more in a licensed facility; or being an administrator, officer, director, member, or manager of a licensee or entity controlling a licensee; and, further, from employment in, presence in, and contact with clients of, any facility licensed by the Department or certified by a licensed foster family agency, or any resource family home, for the remainder of Respondent **NATHAN CONDIE's** life, as well as to revoke Respondent **NATHAN CONDIE's** administrator certificate.

PETITION FOR RELIEF

36. WHEREFORE, Complainant requests that Respondents **VARENNA LLC, OAKMONT SENIOR LIVING LLC, and OAKMONT MANAGEMENT GROUP LLC's** license to operate the facility be revoked.

37. WHEREFORE, Complainant requests that Respondent **DEBORAH SMITH** be prohibited for the remainder of her life from being a licensee; owning a beneficial ownership interest of 10 percent or more in a licensed facility; or being an administrator, officer, director, member, or manager of a licensee or entity controlling a licensee; and, further, from employment in, presence in, and from contact with clients of, any facility licensed by the Department or certified by a licensed foster family agency, or any resource family home[2] and that her administrator certificate be revoked.

38. WHEREFORE, Complainant requests that Respondent **NATHAN CONDIE** be prohibited for the remainder of his life from being a licensee; owning a beneficial ownership interest of 10 percent or more in a licensed facility; or being an administrator, officer, director, member, or manager of a licensee or entity controlling a licensee; and, further, from employment in, presence in, and from contact with clients of, any facility licensed by the Department or certified by a licensed foster family agency, or any resource family home[3] and that his administrator certificate be revoked.

DATED: SEP 04 2018

Pamela Dickfoss

PAMELA DICKFOSS
Deputy Director
Community Care Licensing Division
California Department of Social Services

9/4/18

[2] If an exclusion is granted, Government Code section 11522 allows for a petition to the Department after one year, and annually thereafter, for a reduction in penalty.

[3] If an exclusion is granted, Government Code section 11522 allows for a petition to the Department after one year, and annually thereafter, for a reduction in penalty.

EXHIBIT 2

Assembly Bill No. 3098

CHAPTER 348

An act to amend Section 1569.695 of the Health and Safety Code, relating to residential care facilities for the elderly.

[Approved by Governor September 11, 2018. Filed with Secretary of State September 11, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3098, Friedman. Residential care facilities for the elderly: emergency and disaster plans.

Existing law provides for the licensure and regulation of residential care facilities for the elderly by the State Department of Social Services. Existing law requires a facility to have an emergency plan that includes specified provisions and is available, upon request, to residents onsite and available to local emergency responders. Existing law exempts a facility that has obtained a certificate of authority to offer continuing care contracts from this requirement. A violation of these provisions is punishable as a misdemeanor.

This bill would repeal the above-described provision exempting a facility that has obtained a certificate of authority to offer continuing care contracts from the requirement of having an emergency plan. The bill would require the emergency and disaster plan to include additional elements, including a contact information list and at least 2 shelter locations for housing residents during an evacuation. The bill would require a facility to provide training on the emergency and disaster plan to each staff member upon hire and annually thereafter. The bill would also require a facility to review and make updates to the emergency and disaster plan annually, as specified, and to conduct a drill for various emergency situations at least once quarterly for each shift. The bill would require the facility to make the emergency and disaster plan available, upon request, to any responsible party for a resident and the local long-term care ombudsman, and would require an applicant seeking a license for a new facility to submit the emergency and disaster plan with the initial license application. The bill would require the department's Community Care Licensing Division to confirm, during annual visits, that the emergency and disaster plan is on file at the facility and includes required content and would encourage the facility to have the plan reviewed by local emergency authorities. Because a violation of these provisions would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 1569.695 of the Health and Safety Code is amended to read:

1569.695. (a) In addition to any other requirement of this chapter, a residential care facility for the elderly shall have an emergency and disaster plan that shall include, but not be limited to, all of the following:

(1) Evacuation procedures, including identification of an assembly point or points that shall be included in the facility sketch.

(2) Plans for the facility to be self-reliant for a period of not less than 72 hours immediately following any emergency or disaster, including, but not limited to, a short-term or long-term power failure. If the facility plans to shelter in place and one or more utilities, including water, sewer, gas, or electricity, is not available, the facility shall have a plan and supplies available to provide alternative resources during an outage.

(3) Transportation needs and evacuation procedures to ensure that the facility can communicate with emergency response personnel or can access the information necessary in order to check the emergency routes to be used at the time of an evacuation and relocation necessitated by a disaster. If the transportation plan includes the use of a vehicle owned or operated by the facility, the keys to the vehicle shall be available to staff on all shifts.

(4) A contact information list of all of the following:

(A) Emergency response personnel.

(B) The Community Care Licensing Division within the State Department of Social Services.

(C) The local long-term care ombudsman.

(D) Transportation providers.

(5) At least two appropriate shelter locations that can house facility residents during an evacuation. One of the locations shall be outside of the immediate area.

(6) The location of utility shut-off valves and instructions for use.

(7) Procedures that address, but are not limited to, all of the following:

(A) Provision of emergency power that could include identification of suppliers of backup generators. If a permanently installed generator is used, the plan shall include its location and a description of how it will be used. If a portable generator is used, the manufacturer's operating instructions shall be followed.

(B) Responding to an individual resident's needs if the emergency call buttons are inoperable.

(C) Process for communicating with residents, families, hospice providers, and others, as appropriate, that might include landline telephones, cellular telephones, or walkie-talkies. A backup process shall also be established.

Residents and their responsible parties shall be informed of the process for communicating during an emergency.

(D) Assistance with, and administration of, medications.

(E) Storage and preservation of medications, including the storage of medications that require refrigeration.

(F) The operation of assistive medical devices that need electric power for their operation, including, but not limited to, oxygen equipment and wheelchairs.

(G) A process for identifying residents with special needs, such as hospice, and a plan for meeting those needs.

(H) Procedures for confirming the location of each resident during an emergency response.

(b) A facility shall provide training on the plan to each staff member upon hire and annually thereafter. The training shall include staff responsibilities during an emergency or disaster.

(c) A facility shall conduct a drill at least quarterly for each shift. The type of emergency covered in a drill shall vary from quarter to quarter, taking into account different emergency scenarios. An actual evacuation of residents is not required during a drill. While a facility may provide an opportunity for residents to participate in a drill, it shall not require any resident participation. Documentation of the drills shall include the date, the type of emergency covered by the drill, and the names of staff participating in the drill.

(d) A facility shall review the plan annually and make updates as necessary, including changes in floor plans and the population served. The licensee or administrator shall sign and date documentation to indicate that the plan has been reviewed and updated as necessary.

(e) A facility shall have all of the following information readily available to facility staff during an emergency:

(1) A resident roster with the date of birth for each resident.

(2) An appraisal of resident needs and services plan for each resident.

(3) A resident medication list for residents with centrally stored medications.

(4) Contact information for the responsible party and physician for each resident.

(f) A facility shall have both of the following in place:

(1) An evacuation chair at each stairwell, on or before July 1, 2019.

(2) A set of keys available to facility staff on each shift for use during an evacuation that provides access to all of the following:

(A) All occupied resident units.

(B) All facility vehicles.

(C) All facility exit doors.

(D) All facility cabinets and cupboards or files that contain elements of the emergency and disaster plan, including, but not limited to, food supplies and protective shelter supplies.

(g) A facility shall make the plan available upon request to residents onsite, any responsible party for a resident, the local long-term care

ombudsman, and local emergency responders. Resident and employee information shall be kept confidential.

(h) An applicant seeking a license for a new facility shall submit the emergency and disaster plan with the initial license application required under Section 1569.15.

(i) The department's Community Care Licensing Division shall confirm, during annual licensing visits, that the emergency and disaster plan is on file at the facility and includes required content.

(j) A facility is encouraged to have the emergency and disaster plan reviewed by local emergency authorities.

(k) Nothing in this section shall create a new or additional requirement for the department to evaluate the emergency and disaster plan.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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