

CALIFORNIA DEPARTMENT OF AGING

ADDENDUM TO THE FINAL STATEMENT OF REASONS

Section Affected: Section 8040 of Article 3 of Division 1.8, Title 22 of the California Code of Regulations.

Updated Information: The Initial Statement of Reasons and Final Statement of Reasons are included in the file. The information contained in the Final Statement of Reasons is updated as follows:

Proposed CCR section 8040(b) clarifies and makes specific WIC sections 9730 and 9732 which impose potential licensing and civil penalties for willful interference with any lawful action of the Office. Proposed CCR sections 8040(a)(1)(A) and 8040(a)(1)(B) require Ombudsman representatives seeking entry into long-term care facilities, to present photographic identification issued by the Office and make available a copy of the laws and regulations that authorize their access to such facilities. Proposed CCR section 8040(b) is necessary because it clarifies that interference will be deemed willful if it continues after the Ombudsman representative has provided required identification and a copy of the laws and regulations that grant access to long-term care facilities.

Proposed CCR section 8040(b)(1) is necessary to clarify that WIC sections 9730 and 9732 will not apply to a person who willfully interferes with any lawful action of the Office if they are acting under the direction of a person who has authority to take adverse action against them.

Proposed CCR section 8040(b)(2) is necessary to clarify that the person who authorizes a subordinate to interfere with any lawful action of the Office will be the person deemed to have willfully interfered, subject to the penalties imposed by WIC sections 9730 and 9732.

Proposed CCR section 8040(c) will require Ombudsman representatives who encounter willful interference with lawful actions of the Office to notify the appropriate licensing agency and the State Ombudsman within 24 hours of the occurrence. This regulation and the timeframe are necessary to ensure that long-term care patients and residents have regular and timely access to Ombudsman services in accordance with WIC section 9712.5(d) and that Ombudsman representatives have the right to enter long-term care facilities as specified in WIC section 9722(a).