

AMENDED IN SENATE JULY 1, 2003

AMENDED IN SENATE JUNE 12, 2003

AMENDED IN ASSEMBLY MAY 7, 2003

AMENDED IN ASSEMBLY APRIL 21, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1369

Introduced by Assembly Member Pavley
(Coauthors: Assembly Members Calderon, Hancock, Koretz,
Maze, Mullin, and Vargas)
(Coauthors: Senators Figueroa, Machado, Romero, and Soto)

February 21, 2003

An act to add Section 1569.6 to the Health and Safety Code, relating to residential care facilities for the elderly.

LEGISLATIVE COUNSEL'S DIGEST

AB 1369, as amended, Pavley. Residential care facilities for the elderly: automatic external defibrillators.

Existing law authorizes the Emergency Medical Services Authority to establish minimum standards for the training and use of automatic external defibrillators by individuals not otherwise licensed or certified for the use of the device.

~~Under existing law, the State Department of Health Services licenses and regulates skilled nursing and intermediate care facilities.~~

Under existing law, the State Department of Social Services licenses and regulates residential care facilities for the elderly.

A violation of provisions relating to residential care facilities for the elderly is a crime.

This bill would, commencing ~~January~~ July 1, 2005, require every residential care facility for the elderly, where the facility’s licensed bed capacity exceeds 60 persons to purchase, *use in accordance with law*, and train personnel in the use of, automatic external defibrillators. This bill would also provide that, except as prescribed, when an employee of a residential care facility for the elderly uses *or attempts to use* an automatic external defibrillator to render emergency care or treatment in a manner consistent with the bill, neither the employee nor the board of directors of that facility is liable for civil damages resulting from any acts or omissions in rendering the emergency care or treatment.

This bill would provide that, if a residential care facility for the elderly resident executes *an advance health care directive, including, but not limited to*, a request to forego resuscitative measures, ~~an advanced directive~~, or a do-not-resuscitate order, the resident shall indicate separately, in writing *by using a “Do Not AED” order*, if he or she does not want facility employees to use an automatic external defibrillator if he or she needs emergency care or treatment. *The bill would also establish procedures to be used by facilities with respect to the presentation and maintenance of “Do Not AED” orders, and would require facilities to provide residents with additional specified information.*

Because this bill would create a new crime, it would impose new duties upon local law enforcement agencies, thus constituting 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.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

- 1 SECTION 1. Section 1569.6 is added to the Health and Safety
- 2 Code, to read:



1 1569.6. (a) Commencing ~~January~~ *July* 1, 2005, every
2 residential care facility for the elderly as defined in Section 1569.2
3 with a licensed bed capacity that exceeds 60 persons shall
4 purchase, *use in accordance with law*, and train personnel in the
5 use of, an automatic external defibrillator pursuant to Section
6 1797.190 and paragraphs (1) and (2) of subdivision (b) of Section
7 1797.196.

8 (b) An employee of a residential care facility for the elderly
9 who uses, *or attempts to use*, an automatic external defibrillator
10 consistent with the terms of this section to render emergency care
11 or treatment is not liable for civil damages resulting from any acts
12 or omissions in rendering the emergency care or treatment, except
13 as provided in subdivision (d).

14 (c) When an employee uses, *or attempts to use*, an automatic
15 external defibrillator consistent with the requirements of this
16 section to render emergency ~~medical~~ care or treatment, the
17 members of the board of directors of the facility shall not be liable
18 for civil damages resulting from any act or omission in rendering
19 the emergency care or treatment, except as provided in subdivision
20 (d).

21 (d) Subdivision (b) does not apply in the case of personal injury
22 or wrongful death that results from gross negligence or willful or
23 wanton misconduct on the part of the person who uses an
24 automatic external defibrillator to render emergency care or
25 treatment.

26 (e) (1) This section may not be construed to permit the use of
27 an automatic external defibrillator contrary to *an advance health*
28 *care directive, including, but not limited to*, a request to forego
29 resuscitative measures, ~~advance directives, or a do-not-resuscitate~~
30 ~~orders~~ *order*.

31 (2) If a resident executes *an advance health care directive,*
32 *including, but not limited to*, a request to forego resuscitative
33 measures, ~~an advance directive,~~ or a do-not-resuscitate order, the
34 resident shall indicate separately, in writing *by executing a “Do*
35 *Not AED” order*, if he or she does not want facility employees to
36 use an automatic external defibrillator if he or she needs
37 emergency care or treatment. *Notwithstanding any advance health*
38 *care directive to the contrary, if a resident has executed a ‘Do Not*
39 *AED’ order, employees trained in the use of automatic external*



1 defibrillators may withhold the use of an automatic external
2 defibrillator.

3 (f) For residents who have not completed an advance health
4 care directive, as specified in this section, a residential care facility
5 for the elderly shall present a 'Do Not AED' order to residents or
6 their responsible parties, which will allow residents to document
7 their wishes on the use of the device.

8 (g) (1) In order to implement this section, residential care
9 facilities for the elderly shall establish policies or procedures, or
10 appropriately amend their current policies and procedures, to
11 address the presentation, processing, maintenance, revision, and
12 information-dissemination of 'Do Not AED' orders, and to the
13 extent possible, make these processes consistent with current
14 systems for advance health care directives pursuant to Section
15 1569.156.

16 (2) Lists of those residents who have completed a 'Do Not AED'
17 order shall be made available to employees trained in the use of
18 the automatic external defibrillator in the facility, and a copy of the
19 list shall be maintained with the automatic external defibrillator
20 unit, or units if more than one is maintained in the facility. 'Do Not
21 AED' orders shall be maintained in the resident file, with copies
22 in other locations where advance health care directives are also
23 stored and maintained in the facility.

24 (3) 'Do Not AED' orders for new residents shall be presented
25 and discussed upon admission. The presentation and discussion of
26 these orders may be conducted at the time that advance health care
27 directives would also be presented and discussed with the
28 prospective resident.

29 (4) Prior to implementing this section, the facility shall inform
30 current residents or their responsible parties about automatic
31 external defibrillators and 'Do Not AED' orders. Information
32 provided to residents shall include information consistent with that
33 published and distributed by the American Heart Association and
34 the American Red Cross on automatic external defibrillators.

35 (5) The facilities shall provide information, when possible and
36 appropriate, to residents or their responsible parties asking if a
37 'Do Not AED' order should be readdressed or changed, at the
38 wishes and discretion of the resident or their responsible parties.
39 This shall be done in a method to be determined by the policies and
40 procedures and at a minimum of once every two years.



1 (6) *Issues of implementation not addressed in this section shall*
2 *be subject to the policies and procedures of the facility, to the extent*
3 *that they are consistent with existing law and regulations.*

4 (h) *The department may adopt emergency regulations to*
5 *implement this section in accordance with the rulemaking*
6 *provisions of the Administrative Procedure Act (Chapter 3.5*
7 *(commencing with Section 11340) of Part 1 of Division 3 of Title*
8 *2 of the Government Code). The initial adoption of emergency*
9 *regulations and one readoption of the initial regulations shall be*
10 *deemed to be an emergency and necessary for the immediate*
11 *preservation of the public peace, health and safety, or general*
12 *welfare. Initial emergency regulations and the first readoption of*
13 *those regulations shall be exempt from review by the Office of*
14 *Administrative Law. The initial emergency regulations and the*
15 *first readoption of those regulations authorized by this subdivision*
16 *shall be submitted to the Office of Administrative Law for filing*
17 *with the Secretary of State and publication in the California Code*
18 *of Regulations and each shall remain in effect for no more than 180*
19 *days.*

20 (i) *Nothing in this section shall apply to a resident receiving*
21 *hospice services from a licensed hospice, as defined in Section*
22 *1339.31, who has completed an advance health care directive, as*
23 *defined in Section 4605 of the Probate Code, or a request to forego*
24 *resuscitative measures, as defined in Section 4780 of the Probate*
25 *Code.*

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

