

ASSEMBLY BILL

No. 2066

Introduced by Assembly Member Monning

February 23, 2012

An act to amend Sections 1569.53 and 1569.682 of the Health and Safety Code, relating to residential care facilities for the elderly.

LEGISLATIVE COUNSEL'S DIGEST

AB 2066, as introduced, Monning. Residential care facilities for the elderly: revocation of licenses.

Existing law provides for the licensure and regulation of residential care facilities for the elderly. These provisions are administered by the State Department of Social Services. Violation of these provisions is a misdemeanor.

Existing law requires a licensee of a licensed residential care facility for the elderly to take all reasonable steps to transfer affected residents safely as a result of the forfeiture of a license, the change of use of the facility pursuant to the department's regulations, or the revocation of a license. This requirement includes providing each resident or the resident's responsible person with a written notice no later than 60 days before the intended eviction and, if 7 or more residents will be transferred as a result of the forfeiture of a license, revocation of a license, or change in the use of the facility, submitting a proposed closure plan to the department for approval.

This bill would eliminate the requirement that a licensee comply with these provisions on the basis of the revocation of a license. The bill would instead require the department to make every effort to minimize trauma for residents of the facility, including allowing a facility a closure

date of 60 days following the revocation of the license, except as specified.

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

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

1 SECTION 1. Section 1569.53 of the Health and Safety Code
2 is amended to read:

3 1569.53. (a) Any license suspended or revoked pursuant to
4 this chapter may be reinstated pursuant to Section 11522 of the
5 Government Code.

6 ~~Whenever~~

7 (b) *If a license issued under this chapter for a residential care*
8 *facility for the elderly is suspended, revoked, temporarily*
9 *suspended, forfeited, canceled, or expires, the department shall*
10 *provide written notice of the occurrence within 10 days to the local*
11 *director of social services in the county in which the facility is*
12 *located.*

13 (c) *If a license is revoked, the department shall make every effort*
14 *to minimize trauma for the residents of the facility. This may*
15 *include, but is not limited to, allowing the facility a closure date*
16 *of up to 60 days following the revocation of the license in order*
17 *for the facility to provide a 60-day notice to residents to relocate,*
18 *unless the department determines that a different closure date is*
19 *necessary, based on risks posed to the residents' health or safety.*

20 SEC. 2. Section 1569.682 of the Health and Safety Code is
21 amended to read:

22 1569.682. (a) A licensee of a licensed residential care facility
23 for the elderly shall, prior to transferring a resident of the facility
24 to another facility or to an independent living arrangement as a
25 result of the forfeiture of a license, as described in subdivision (a),
26 (b), or (f) of Section 1569.19, *or a change of use of the facility*
27 *pursuant to the department's regulations, ~~or revocation of a license,~~*
28 *take all reasonable steps to transfer affected residents safely and*
29 *to minimize possible transfer trauma, and shall, at a minimum, do*
30 *all of the following:*

31 (1) Prepare, for each resident, a relocation evaluation of the
32 needs of that resident, which shall include both of the following:

- 1 (A) Recommendations on the type of facility that would meet
2 the needs of the resident based on the current service plan.
- 3 (B) A list of facilities, within a 60-mile radius of the resident's
4 current facility, that meet the resident's present needs.
- 5 (2) Provide each resident or the resident's responsible person
6 with a written notice no later than 60 days before the intended
7 eviction. The notice shall include all of the following:
- 8 (A) The reason for the eviction, with specific facts to permit a
9 determination of the date, place, witnesses, and circumstances
10 concerning the reasons.
- 11 (B) A copy of the resident's current service plan.
- 12 (C) The relocation evaluation.
- 13 (D) A list of referral agencies.
- 14 (E) The right of the resident or resident's legal representative
15 to contact the department to investigate the reasons given for the
16 eviction pursuant to Section 1569.35.
- 17 (3) Discuss the relocation evaluation with the resident and his
18 or her legal representative within 30 days of issuing the notice of
19 eviction.
- 20 (4) Submit a written report of any eviction to the licensing
21 agency within five days.
- 22 (5) Upon issuing the written notice of eviction, a licensee shall
23 not accept new residents or enter into new admission agreements.
- 24 (6) (A) For paid preadmission fees in excess of five hundred
25 dollars (\$500), the resident is entitled to a refund in accordance
26 with all of the following:
- 27 (i) A 100-percent refund if preadmission fees were paid within
28 six months of notice of eviction.
- 29 (ii) A 75-percent refund if preadmission fees were paid more
30 than six months but not more than 12 months before notice of
31 eviction.
- 32 (iii) A 50-percent refund if preadmission fees were paid more
33 than 12 months but not more than 18 months before notice of
34 eviction.
- 35 (iv) A 25-percent refund if preadmission fees were paid more
36 than 18 months but less than 25 months before notice of eviction.
- 37 (B) No preadmission refund is required if preadmission fees
38 were paid 25 months or more before the notice of eviction.
- 39 (C) The preadmission refund required by this paragraph shall
40 be paid within 15 days of issuing the eviction notice. In lieu of the

1 refund, the resident may request that the licensee provide a credit
2 toward the resident's monthly fee obligation in an amount equal
3 to the preadmission fee refund due.

4 (7) If the resident gives notice five days before leaving the
5 facility, the licensee shall refund to the resident or his or her legal
6 representative a proportional per diem amount of any prepaid
7 monthly fees at the time the resident leaves the facility and the
8 unit is vacated. Otherwise the licensee shall pay the refund within
9 seven days from the date that the resident leaves the facility and
10 the unit is vacated.

11 (8) Within 10 days of all residents having left the facility, the
12 licensee, based on information provided by the resident or
13 resident's legal representative, shall submit a final list of names
14 and new locations of all residents to the department and the local
15 ombudsperson program.

16 (b) If seven or more residents of a residential care facility for
17 the elderly will be transferred as a result of the forfeiture of a
18 license, ~~revocation of a license~~, or change in the use of the facility
19 pursuant to subdivision (a), the licensee shall submit a proposed
20 closure plan to the department for approval. The department shall
21 approve or disapprove the closure plan, and monitor its
22 implementation, in accordance with the following requirements:

23 (1) Upon submission of the closure plan, the licensee shall be
24 prohibited from accepting new residents and entering into new
25 admission agreements for new residents.

26 (2) The closure plan shall meet the requirements described in
27 subdivision (a), and describe the staff available to assist in the
28 transfers. The department's review shall include a determination
29 as to whether the licensee's closure plan contains a relocation
30 evaluation for each resident.

31 (3) Within 15 working days of receipt, the department shall
32 approve or disapprove the closure plan prepared pursuant to this
33 subdivision, and, if the department approves the plan, it shall
34 become effective upon the date the department grants its written
35 approval of the plan.

36 (4) If the department disapproves a closure plan, the licensee
37 may resubmit an amended plan, which the department shall
38 promptly either approve or disapprove, within 10 working days
39 of receipt by the department of the amended plan. If the department

1 fails to approve a closure plan, it shall inform the licensee, in
2 writing, of the reasons for the disapproval of the plan.

3 (5) If the department fails to take action within 20 working days
4 of receipt of either the original or the amended closure plan, the
5 plan, or amended plan, as the case may be, shall be deemed
6 approved.

7 (6) Until such time that the department has approved a licensee's
8 closure plan, the facility shall not issue a notice of transfer or
9 require any resident to transfer.

10 (7) Upon approval by the department, the licensee shall send a
11 copy of the closure plan to the local ombudsperson program.

12 (c) (1) If a licensee fails to comply with the requirements of
13 subdivision (a), and if the director determines that it is necessary
14 to protect the residents of a facility from physical or mental abuse,
15 abandonment, or any other substantial threat to health or safety,
16 the department shall take any necessary action to minimize trauma
17 for the residents. The department shall contact any local agency
18 that may have placement or advocacy responsibility for the
19 residents, and shall work with those agencies to locate alternative
20 placement sites, contact relatives or other persons responsible for
21 the care of these residents, provide onsite evaluation of the
22 residents, and assist in the transfer of residents.

23 (2) The participation of the department and local agencies in
24 the relocation of residents from a residential care facility for the
25 elderly shall not relieve the licensee of any responsibility under
26 this section. A licensee that fails to comply with the requirements
27 of this section shall be required to reimburse the department and
28 local agencies for the cost of providing the relocation services. If
29 the licensee fails to provide the relocation services required in
30 subdivisions (a) and (b), then the department may request that the
31 Attorney General's office, the city attorney's office, or the local
32 district attorney's office seek injunctive relief and damages in the
33 same manner as provided for in Chapter 5 (commencing with
34 Section 17200) of Part 2 of Division 7 of the Business and
35 Professions Code.

36 (d) A licensee who fails to comply with requirements of this
37 section shall be liable for the imposition of civil penalties in the
38 amount of one hundred dollars (\$100) per violation per day for
39 each day that the licensee is in violation of this section, until such
40 time that the violation has been corrected. The civil penalties shall

1 be issued immediately following the written notice of violation.
2 However, if the violation does not present an immediate or
3 substantial threat to the health or safety of residents and the licensee
4 corrects the violation within three days after receiving the notice
5 of violation, the licensee shall not be liable for payment of any
6 civil penalties pursuant to this subdivision related to the corrected
7 violation.

8 (e) A resident of a residential care facility for the elderly covered
9 under this section, may bring a civil action against any person,
10 firm, partnership, or corporation who owns, operates, establishes,
11 manages, conducts, or maintains a residential care facility for the
12 elderly who violates the rights of a resident, as set forth in this
13 section. Any person, firm, partnership, or corporation who owns,
14 operates, establishes, manages, conducts, or maintains a residential
15 care facility for the elderly who violates this section shall be
16 responsible for the acts of the facility's employees and shall be
17 liable for costs and attorney's fees. Any such residential care
18 facility for the elderly may also be enjoined from permitting the
19 violation to continue. The remedies specified in this section shall
20 be in addition to any other remedy provided by law.

21 (f) This section shall not apply to a licensee that has obtained
22 a certificate of authority to offer continuing care contracts, as
23 defined in paragraph (8) of subdivision (c) of Section 1771.