

AMENDED IN ASSEMBLY APRIL 1, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 261

Introduced by Assembly Member Chesbro

February 7, 2013

An act to *amend Section 1569.884 of, and to add Section 1569.652* to the Health and Safety Code, relating to residential care facilities for the elderly.

LEGISLATIVE COUNSEL'S DIGEST

AB 261, as amended, Chesbro. Residential care facilities for the elderly: fees and charges.

Existing law provides for the licensure and regulation of residential care facilities for the elderly, as defined, by the State Department of Social Services, including, among other things, regulation of fees and charges. Existing law requires the admission agreement for a residential care facility for the elderly to contain specified elements. Under existing law, a violation of any of these provisions is punishable as a misdemeanor.

This bill would prohibit a residential care facility for the elderly from requiring advance notice for terminating an admission agreement upon the death of a resident, ~~and~~ would prohibit the facility from assessing any fees once all personal property of the deceased is ~~removed~~. *removed from the facility, and would prohibit the facility from impeding the removal of a deceased resident's personal belongings, as specified. The bill would require a residential care facility for the elderly to issue a refund of any fees paid in advance, covering the time after a deceased resident's belongings have been removed, within 15 days of those belongings being removed. The bill would also require a residential*

care facility for the elderly to, within 3 days of becoming aware of a resident's death, provide written notice to specified persons of the facility's policies regarding contract termination at death and refunds, and to include in the admission agreement the conditions under which those refunds will be issued. The bill would exempt from these provisions fees charged by a continuing care equity project or to amounts deducted from entrance fee refunds or repayment, as defined.

By creating a new 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.

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 1569.652 is added to the Health and
- 2 Safety Code, to read:
- 3 1569.652. (a) A residential care facility for the elderly shall
- 4 not require advance notice for terminating an admission agreement
- 5 upon the death of a resident. A residential care facility for the
- 6 elderly shall not assess any fees once all personal property
- 7 belonging to the deceased resident is removed from the living unit.
- 8 (b) Upon the death of a resident, a licensee shall not impede
- 9 the removal of the resident's personal belongings from the facility
- 10 during reasonable hours by an individual or individuals authorized
- 11 by the resident or the resident's responsible person, as identified
- 12 in the admission agreement or addendum, or by a representative
- 13 of the resident's estate.
- 14 (c) A refund of any fees paid in advance covering the time after
- 15 the belongings have been removed from the facility shall be issued
- 16 to the individual, individuals, or entity contractually responsible
- 17 for the fees or, if the deceased resident paid the fees, to the
- 18 resident's estate, within 15 days after those belongings are
- 19 removed.
- 20 (d) If fees are assessed while a resident's belongings remain in
- 21 a unit after the resident is deceased, a licensee shall, within three

1 *days of becoming aware of the resident's death, provide to the*
2 *resident's responsible person written notice of the facility's policies*
3 *regarding contract termination upon death and refunds.*

4 *(e) This section shall not apply to fees charged by a continuing*
5 *care equity project as defined in paragraph (6) of subdivision (c)*
6 *of Section 1771 or to amounts deducted from entrance fee refunds*
7 *or repayments described in paragraph (2) of subdivision (r) of*
8 *Section 1771.*

9 *SEC. 2. Section 1569.884 of the Health and Safety Code is*
10 *amended to read:*

11 1569.884. The admission agreement shall include all of the
12 following:

13 (a) A comprehensive description of any items and services
14 provided under a single fee, such as a monthly fee for room, board,
15 and other items and services.

16 (b) A comprehensive description of, and the fee schedule for,
17 all items and services not included in a single fee. In addition, the
18 agreement shall indicate that the resident shall receive a monthly
19 statement itemizing all separate charges incurred by the resident.

20 (c) A facility may assess a separate charge for an item or service
21 only if that separate charge is authorized by the admission
22 agreement. If additional services are available through the facility
23 to be purchased by the resident that were not available at the time
24 the admission agreement was signed, a list of these services and
25 charges shall be provided to the resident or the resident's
26 representative. A statement acknowledging the acceptance or
27 refusal to purchase the additional services shall be signed and dated
28 by the resident or the resident's representative and attached to the
29 admission agreement.

30 (d) An explanation of the use of third-party services within the
31 facility that are related to the resident's service plan, including,
32 but not limited to, ancillary, health, and medical services, how
33 they may be arranged, accessed, and monitored, any restrictions
34 on third-party services, and who is financially responsible for the
35 third-party services.

36 (e) A comprehensive description of billing and payment policies
37 and procedures.

38 (f) The conditions under which rates may be increased pursuant
39 to Section 1569.655.

1 (g) The facility’s policy concerning family visits and other
2 communication with residents, pursuant to Section 1569.313.

3 (h) The facility’s policy concerning refunds, *including the*
4 *conditions under which a refund for advanced monthly fees will*
5 *be returned in the event of a resident’s death, pursuant to Section*
6 *1569.652.*

7 (i) Conditions under which the agreement may be terminated.

8 (j) An explanation of the facility’s responsibility to prepare a
9 relocation evaluation, for each resident and a closure plan and to
10 provide notice in the case of an eviction pursuant to Section
11 1569.682.

12 ~~SEC. 2.~~

13 SEC. 3. No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution because
15 the only costs that may be incurred by a local agency or school
16 district will be incurred because this act creates a new crime or
17 infraction, eliminates a crime or infraction, or changes the penalty
18 for a crime or infraction, within the meaning of Section 17556 of
19 the Government Code, or changes the definition of a crime within
20 the meaning of Section 6 of Article XIII B of the California
21 Constitution.