

ASSEMBLY BILL

No. 364

Introduced by Assembly Member Ian Calderon

February 14, 2013

An act to amend Section 1534 of the Health and Safety Code, relating to community care facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 364, as introduced, Ian Calderon. Community care facilities: unannounced visits.

The California Community Care Facilities Act provides for the licensure and regulation of community care facilities by the State Department of Social Services. Existing law requires, except as otherwise specified, that every licensed community care facility be subject to unannounced visits by the department and requires the department to visit the facilities as often as necessary to ensure the quality of care provided, but no less often than once every 5 years.

This bill would instead require the department to visit a community care facility no less often than once every 2 years.

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 1534 of the Health and Safety Code is
- 2 amended to read:
- 3 1534. (a) (1) Every licensed community care facility shall be
- 4 subject to unannounced visits by the department. The department

1 shall visit these facilities as often as necessary to ensure the quality
2 of care provided.

3 (A) The department shall conduct an annual unannounced visit
4 to a facility under any of the following circumstances:

5 (i) When a license is on probation.

6 (ii) When the terms of agreement in a facility compliance plan
7 require an annual evaluation.

8 (iii) When an accusation against a licensee is pending.

9 (iv) When a facility requires an annual visit as a condition of
10 receiving federal financial participation.

11 (v) In order to verify that a person who has been ordered out of
12 a facility by the department is no longer at the facility.

13 (B) (i) The department shall conduct annual unannounced visits
14 to no less than 20 percent of facilities not subject to an evaluation
15 under subparagraph (A). These unannounced visits shall be
16 conducted based on a random sampling methodology developed
17 by the department.

18 (ii) If the total citations issued by the department exceed the
19 previous year's total by 10 percent, the following year the
20 department shall increase the random sample by an additional 10
21 percent of the facilities not subject to an evaluation under
22 subparagraph (A). The department may request additional resources
23 to increase the random sample by 10 percent.

24 (C) Under no circumstance shall the department visit a
25 community care facility less often than once every ~~five~~ two years.

26 (D) In order to facilitate direct contact with group home clients,
27 the department may interview children who are clients of group
28 homes at any public agency or private agency at which the client
29 may be found, including, but not limited to, a juvenile hall,
30 recreation or vocational program, or a nonpublic school. The
31 department shall respect the rights of the child while conducting
32 the interview, including informing the child that he or she has the
33 right not to be interviewed and the right to have another adult
34 present during the interview.

35 (2) The department shall notify the community care facility in
36 writing of all deficiencies in its compliance with the provisions of
37 this chapter and the rules and regulations adopted pursuant to this
38 chapter, and shall set a reasonable length of time for compliance
39 by the facility.

1 (3) Reports on the results of each inspection, evaluation, or
2 consultation shall be kept on file in the department, and all
3 inspection reports, consultation reports, lists of deficiencies, and
4 plans of correction shall be open to public inspection.

5 (b) (1) Nothing in this section shall limit the authority of the
6 department to inspect or evaluate a licensed foster family agency,
7 a certified family home, or any aspect of a program where a
8 licensed community care facility is certifying compliance with
9 licensing requirements.

10 (2) Upon a finding of noncompliance by the department, the
11 department may require a foster family agency to deny or revoke
12 the certificate of approval of a certified family home, or take other
13 action the department may deem necessary for the protection of a
14 child placed with the family home. The family home shall be
15 afforded the due process provided pursuant to this chapter.

16 (3) If the department requires a foster family agency to deny or
17 revoke the certificate of approval, the department shall serve an
18 order of denial or revocation upon the certified or prospective
19 foster parent and foster family agency that shall notify the certified
20 or prospective foster parent of the basis of the department's action
21 and of the certified or prospective foster parent's right to a hearing.

22 (4) Within 15 days after the department serves an order of denial
23 or revocation, the certified or prospective foster parent may file a
24 written appeal of the department's decision with the department.
25 The department's action shall be final if the certified or prospective
26 foster parent does not file a written appeal within 15 days after the
27 department serves the denial or revocation order.

28 (5) The department's order of the denial or revocation of the
29 certificate of approval shall remain in effect until the hearing is
30 completed and the director has made a final determination on the
31 merits.

32 (6) A certified or prospective foster parent who files a written
33 appeal of the department's order with the department pursuant to
34 this section shall, as part of the written request, provide his or her
35 current mailing address. The certified or prospective foster parent
36 shall subsequently notify the department in writing of any change
37 in mailing address, until the hearing process has been completed
38 or terminated.

39 (7) Hearings held pursuant to this section shall be conducted in
40 accordance with Chapter 5 (commencing with Section 11500) of

1 Division 3 of Title 2 of the Government Code. In all proceedings
2 conducted in accordance with this section the standard of proof
3 shall be by a preponderance of the evidence.

4 (8) The department may institute or continue a disciplinary
5 proceeding against a certified or prospective foster parent upon
6 any ground provided by this section, enter an order denying or
7 revoking the certificate of approval, or otherwise take disciplinary
8 action against the certified or prospective foster parent,
9 notwithstanding any resignation, withdrawal of application,
10 surrender of the certificate of approval, or denial or revocation of
11 the certificate of approval by the foster family agency.

12 (9) A foster family agency's failure to comply with the
13 department's order to deny or revoke the certificate of employment
14 by placing or retaining children in care shall be grounds for
15 disciplining the licensee pursuant to Section 1550.