

AMENDED IN SENATE JUNE 14, 2013

AMENDED IN ASSEMBLY APRIL 22, 2013

AMENDED IN ASSEMBLY APRIL 4, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 581**

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**Introduced by Assembly Member Ammiano**

February 20, 2013

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An act to amend Sections 1539, *1568.07*, and 1569.37 of the Health and Safety Code, relating to care facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 581, as amended, Ammiano. ~~Community care facilities and residential care facilities for the elderly:~~ *Care facilities:* retaliation.

Existing law establishes the State Department of Social Services, and sets forth its powers and duties, including, but not limited to, the licensing and regulation of community care facilities ~~and, residential care facilities for persons with chronic, life-threatening illness, and residential care facilities for the elderly~~. Existing law authorizes any person to request an inspection of a facility by transmitting a request to the department alleging a facility violation of applicable law.

Existing law prohibits a licensee from discriminating or retaliating in any manner against any person receiving the services of the facility, or against any employee of the facility, on the basis, or for the reason that, the person or employee or any other person has initiated or participated in an inspection. Existing law makes violation of these provisions a crime.

This bill would, instead, prohibit a ~~community care facility licensee or a residential facility for the elderly licensee~~, or officer or employee

of the licensee, from discriminating or retaliating in any manner, including, but not limited to, eviction or threat of eviction, against any person receiving the services of the facility, or against any employee of the licensee’s facility, on the basis, or for the reason that, the person or employee or any other person has initiated or participated in the filing of a complaint, grievance, or a request for inspection with the department or initiated or participated in the filing of a complaint, grievance, or request for investigation with the local or state ombudsman pursuant to prescribed provisions of law. By expanding the scope of an existing crime, the 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 1539 of the Health and Safety Code is  
 2 amended to read:

3 1539. No licensee, or officer or employee of the licensee, shall  
 4 discriminate or retaliate in any manner, including, but not limited  
 5 to, eviction or threat of eviction, against any person receiving the  
 6 services of the licensee’s community care facility, or against any  
 7 employee of the licensee’s facility, on the basis, or for the reason  
 8 that, the person or employee or any other person has initiated or  
 9 participated in the filing of a complaint, grievance, or a request  
 10 for inspection with the department pursuant to this chapter or has  
 11 initiated or participated in the filing of a complaint, grievance, or  
 12 request for investigation with the appropriate local or state  
 13 ombudsman.

14 SEC. 2. Section 1568.07 of the Health and Safety Code is  
 15 amended to read:

16 1568.07. (a) (1) Within 90 days after a facility accepts its  
 17 first resident for placement following its initial licensure, the  
 18 department shall inspect the facility to evaluate compliance with  
 19 rules and regulations and to assess the facility’s continuing ability  
 20 to meet regulatory requirements. The licensee shall notify the

1 department, within five business days after accepting its first  
2 resident for placement, that the facility has commenced operating.

3 (2) The department may take appropriate remedial action as  
4 provided for in this chapter.

5 (b) (1) Every licensed residential care facility shall be  
6 periodically inspected and evaluated for quality of care by a  
7 representative or representatives designated by the director.  
8 Evaluations shall be conducted at least annually and as often as  
9 necessary to ensure the quality of care being provided.

10 (2) During each licensing inspection the department shall  
11 determine if the facility meets regulatory standards, including, but  
12 not limited to, providing residents with the appropriate level of  
13 care based on the facility's license, providing adequate staffing  
14 and services, updated resident records and assessments, and  
15 compliance with basic health and safety standards.

16 (3) If the department determines that a resident requires a higher  
17 level of care than the facility is authorized to provide, the  
18 department may initiate a professional level of care assessment by  
19 an assessor approved by the department. An assessment shall be  
20 conducted in consultation with the resident, the resident's physician  
21 and surgeon, and the resident's case manager, and shall reflect the  
22 desires of the resident, the resident's physician and surgeon, and  
23 the resident's case manager. The assessment also shall recognize  
24 that certain illnesses are episodic in nature and that the resident's  
25 need for a higher level of care may be temporary.

26 (4) The department shall notify the residential care facility in  
27 writing of all deficiencies in its compliance with this chapter and  
28 the rules and regulations adopted pursuant to this chapter, and shall  
29 set a reasonable length of time for compliance by the facility.

30 (5) Reports on the results of each inspection, evaluation, or  
31 consultation shall be kept on file in the department, and all  
32 inspection reports, consultation reports, lists of deficiencies, and  
33 plans of correction shall be open to public inspection.

34 (c) Any duly authorized officer, employee, or agent of the  
35 department may, upon presentation of proper identification, enter  
36 and inspect any place providing personal care, supervision, and  
37 services, at any time, with or without advance notice, to secure  
38 compliance with, or to prevent a violation of, this chapter.

39 (d) No licensee, *or officer or employee of the licensee*, shall  
40 discriminate or retaliate in any manner, *including, but not limited*

1 *to, eviction or threat of eviction, against any person receiving the*  
 2 *services of the facility of the licensee licensee’s facility, or against*  
 3 *any employee of the licensee’s facility, on the basis, or for the*  
 4 *reason, that a the person or employee or any other person has*  
 5 *initiated or participated in an inspection pursuant to Section*  
 6 ~~1568.071~~ *the filing of a complaint, grievance, or a request for*  
 7 *inspection with the department pursuant to this chapter or has*  
 8 *initiated or participated in the filing of a complaint, grievance, or*  
 9 *request for investigation with the appropriate local or state*  
 10 *ombudsman.*

11 (e) Any person who, without lawful authorization from a duly  
 12 authorized officer, employee, or agent of the department, informs  
 13 an owner, operator, employee, agent, or resident of a residential  
 14 care facility, of an impending or proposed inspection or evaluation  
 15 of that facility by personnel of the department, is guilty of a  
 16 misdemeanor and upon conviction thereof shall be punished by a  
 17 fine not to exceed one thousand dollars (\$1,000), by imprisonment  
 18 in the county jail for a period not to exceed 180 days, or by both  
 19 a fine and imprisonment.

20 ~~SEC. 2.~~

21 *SEC. 3.* Section 1569.37 of the Health and Safety Code is  
 22 amended to read:

23 1569.37. No licensee, or officer or employee of the licensee,  
 24 shall discriminate or retaliate in any manner, including, but not  
 25 limited to, eviction or threat of eviction, against any person  
 26 receiving the services of the licensee’s residential care facility for  
 27 the elderly, or against any employee of the licensee’s facility, on  
 28 the basis, or for the reason that, the person or employee or any  
 29 other person has initiated or participated in the filing of a  
 30 complaint, grievance, or a request for inspection with the  
 31 department pursuant to this chapter, or has initiated or participated  
 32 in the filing of a complaint, grievance, or request for investigation  
 33 with the appropriate local ombudsman, or with the state  
 34 ombudsman recognized pursuant to Chapter 11 (commencing with  
 35 Section 9700) of Division 8.5 of the Welfare and Institutions Code.

36 ~~SEC. 3.~~

37 *SEC. 4.* No reimbursement is required by this act pursuant to  
 38 Section 6 of Article XIII B of the California Constitution because  
 39 the only costs that may be incurred by a local agency or school  
 40 district will be incurred because this act creates a new crime or

1 infraction, eliminates a crime or infraction, or changes the penalty  
2 for a crime or infraction, within the meaning of Section 17556 of  
3 the Government Code, or changes the definition of a crime within  
4 the meaning of Section 6 of Article XIII B of the California  
5 Constitution.

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