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AMENDED IN ASSEMBLY MAY 23, 2014

AMENDED IN ASSEMBLY APRIL 22, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1571

Introduced by Assembly Member Eggman
(Coauthors: ~~Assembly Members~~ *Members Ian Calderon,*
~~Hall, Skinner, Hall, Skinner, and Stone~~)
(Coauthor: Senator Block)

January 30, 2014

An act to amend Sections 1569.15 and 1569.618 of, and to add Sections 1569.356 and 1569.501 to, the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1571, as amended, Eggman. Residential care facilities for the elderly: licensing and regulation.

Existing law, the California Residential Care Facilities for the Elderly Act, provides for the licensure of residential care facilities for the elderly by the State Department of Social Services. Existing law requires any person seeking a license for a residential care facility for the elderly to file an application with the department, as specified. Among other required application information, if the applicant is a firm, association, organization, partnership, business trust, corporation, or company, evidence of reputable and responsible character is required to be submitted as to the members or shareholders thereof, and the person in charge of the residential care facility for the elderly for which the application for issuance of license or special permit is made.

This bill would, among other things, delete the above requirement to submit evidence of reputable and responsible character as to members or shareholders of a firm, association, organization, partnership, business trust, corporation, or company and the person in charge of the facility, and instead would require the applicant to disclose whether the licensee is a for-profit or not-for-profit provider, the names and license numbers of other facilities owned, managed, or operated by the same licensee, and the names and addresses of any persons or organizations listed as owner of record in the real estate, including the buildings and grounds appurtenant to the buildings. The bill would require an applicant to provide additional information, including, but not limited to, the applicant's history of compliance with the requirements imposed under specified facility licenses or a similarly licensed facility, applicable state and federal laws and regulations, and requirements governing the operators of those facilities. The bill would also require that specified applicant information be cross checked with the State Department of Public Health to determine if the applicant has a prior history of operating, holding a position in, or having ownership in, specified licensed facilities.

Existing law requires the Director of Social Services to establish an automated license information system on licensees and former licensees of licensed residential care facilities for the elderly. The system is required to maintain a record of any information that may be pertinent for licensure. A violation of the provisions of the act is a crime.

This bill would require the department, among other things, by July 1, 2015, to post on its Internet Web site residential care facility for the elderly profiles, with specified data. The bill would ~~require by July 1, 2019, require, upon completion of a new community care licensing data system, or as soon as the current data system permits,~~ each licensee of a residential care facility for the elderly to submit a profile of resident characteristics to the department on an annual basis, including, but not limited to, the number of residents in the facility who are bedridden, nonambulatory, receiving hospice care, have one or more allowable health conditions, have one or more restricted or prohibitive health conditions, or who have dementia. The bill would also require the department to develop and implement a ratings system by July 1, 2019, as provided. Because the bill would create a new crime, it would impose a state-mandated local program.

Existing law authorizes the department to deny any application for a residential care facility for the elderly license or to suspend or revoke

those licenses on certain grounds, including, but not limited to, a violation by the licensee of applicable provisions or of the rules and regulations adopted under those provisions, conduct that is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility or the people of the state, or engaging in acts of financial malfeasance concerning the operation of a facility.

This bill would require the department to deny an application for licensure or authorize it to subsequently revoke a license on the grounds that the applicant knowingly made a false statement of fact with regard to information that was required by the application for licensure, and would authorize the department to deny an application for licensure or subsequently revoke a license on the grounds that the applicant did not disclose enforcement actions on the application as required. The bill would also authorize the department to deny an application for licensure on the grounds that the applicant has a history of noncompliance with the requirements imposed under specified facility licenses or a similarly licensed facility in another state, applicable state and federal laws and regulations, and the requirements governing the operators of those facilities.

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 1569.15 of the Health and Safety Code
- 2 is amended to read:
- 3 1569.15. (a) Any person seeking a license for a residential
- 4 care facility for the elderly under this chapter shall file with the
- 5 department, pursuant to regulations, an application on forms
- 6 furnished by the department, that shall include, but not be limited
- 7 to, all of the following:
- 8 (1) Evidence satisfactory to the department of the ability of the
- 9 applicant to comply with this chapter and of rules and regulations
- 10 adopted under this chapter by the department.

1 (2) Evidence satisfactory to the department that the applicant
2 is of reputable and responsible character. The evidence shall
3 include, but not be limited to, a criminal record clearance pursuant
4 to Section 1569.17, employment history, and character references.
5 The applicant shall disclose whether the licensee is a for-profit or
6 not-for-profit provider, the names and license numbers of other
7 facilities owned, managed, or operated by the same licensee, and
8 the names and addresses of any persons or organizations listed as
9 owner of record in the real estate, including the buildings and
10 grounds appurtenant to the buildings.

11 (3) Evidence satisfactory to the department that the applicant
12 has sufficient financial resources to maintain the standards of
13 service required by regulations adopted pursuant to this chapter.

14 (4) Disclosure of the applicant's prior or present service in
15 California or any other state as an administrator, general partner,
16 ~~corporate officer~~ *officer*, or director of, or as a person who has
17 held or holds a beneficial ownership of 10 percent or more in, any
18 residential care facility for the elderly, in any facility licensed
19 pursuant to Chapter 1 (commencing with Section 1200), Chapter
20 2 (commencing with Section 1250), or Chapter 3 (commencing
21 with Section 1500), or a similarly licensed facility, and the
22 applicant's history of compliance with the requirements imposed
23 under that license, applicable state and federal laws and regulations,
24 and requirements governing the operators of those facilities.

25 (5) Disclosure of any revocation or other disciplinary action
26 taken, or in the process of being taken, against a license held or
27 previously held by the entities specified in paragraph (4).

28 (6) Any other information as may be required by the department
29 for the proper administration and enforcement of this chapter.

30 (7) Following the implementation of Article 7 (commencing
31 with Section 1569.70), evidence satisfactory to the department of
32 the applicant's ability to meet regulatory requirements for the level
33 of care the facility intends to provide.

34 (8) Evidence satisfactory to the department of adequate
35 knowledge of supportive services and other community supports
36 that may be necessary to meet the needs of elderly residents.

37 (9) A signed statement that the person desiring issuance of a
38 license has read and understood the residential care facility for the
39 elderly statute and regulations.

1 (10) Designation by the applicant of the individual who shall
2 be the administrator of the facility, including, if the applicant is
3 an individual, whether or not the licensee shall also be the
4 administrator.

5 (11) Each applicant shall disclose to the department evidence
6 of the right of possession of the facility at the time the application
7 is granted, which may be satisfied by the submission of a copy of
8 applicable portions of a lease agreement or deed of trust. The names
9 and addresses of any persons or organizations listed as owners of
10 record in the real estate, including the buildings and the grounds
11 appurtenant to the buildings, shall be disclosed to the department.

12 (12) Evidence of successfully completing a certified
13 prelicensure education program pursuant to Section 1569.23.

14 (13) For any facility that promotes or advertises or plans to
15 promote or advertise special care, special programming, or special
16 environments for persons with dementia, disclosure to the
17 department of the special features of the facility in its plan of
18 operation.

19 (b) All applicant information disclosed pursuant to paragraph
20 (4) of subdivision (a) shall be cross-checked with the State
21 Department of Public Health to determine if the applicant has a
22 prior history of operating, holding a position in, or having
23 ownership in, any entity specified in paragraph (4) of subdivision
24 (a).

25 (c) Failure of the applicant to cooperate with the licensing
26 agency in the completion of the application shall result in the denial
27 of the application. Failure to cooperate means that the information
28 described in this section and in the regulations of the department
29 has not been provided, or has not been provided in the form
30 requested by the licensing agency, or both.

31 (d) The information required by this section shall be provided
32 to the department upon initial application for licensure, and any
33 change in the information shall be provided to the department
34 within 30 calendar days of that change.

35 (e) (1) The department shall deny an application for licensure
36 or may subsequently revoke a license under this chapter on the
37 grounds that the applicant knowingly made a false statement of
38 fact with regard to information that was required by the application
39 for licensure.

1 (2) The department may deny an application for licensure or
2 may subsequently revoke a license under this chapter on the
3 grounds that the applicant did not disclose enforcement actions on
4 the application as required by paragraph (5) of subdivision (a).

5 SEC. 2. Section 1569.356 is added to the Health and Safety
6 Code, to read:

7 1569.356. (a) By July 1, 2015, the department shall post on
8 its Internet Web site residential care facility for the elderly profiles,
9 with data, including, but not limited to, all of the following:

10 ~~(1) The name, address, and telephone number of the licensed~~
11 ~~providers, including the owner and the licensee, the number of~~
12 ~~licensed beds in the facility, including the number of~~
13 ~~nonambulatory beds, whether the facility is permitted to provide~~
14 ~~hospice care services, whether the facility has a special care unit~~
15 ~~or program for people with Alzheimer’s disease and other~~
16 ~~dementias and has a delayed egress or secured perimeter system~~
17 ~~in place, and information required pursuant to Section 1569.15.~~

18 ~~(2) Aggregate information on each facility, including, for each~~
19 ~~of the previous five years, the number of complaints filed against~~
20 ~~the facility, the number of deficiencies, enforcement actions~~
21 ~~resulting in fines against the facility, and the amount of the fines~~
22 ~~assessed and the amount collected.~~

23 ~~(3) Department actions, including license suspensions,~~
24 ~~revocations, probations, settlements, stipulations, accusations,~~
25 ~~audits, noncompliance conference summaries or other~~
26 ~~administrative or legal actions, and when the administrative or~~
27 ~~legal action was taken and will be terminated.~~

28 (b) To the extent that the department’s computer system can
29 accommodate additional residential care facility for the elderly
30 profile information, the department shall, as soon as possible but
31 no later than January 1, 2019, post on its Internet Web site the
32 following information:

33 *(1) The name, address, and telephone number of the licensed*
34 *providers, the status of the license, and the facility capacity.*

35 *(2) Aggregate information on each facility, including, for each*
36 *of the previous five years, the number of site visits and inspections,*
37 *the number of substantiated and inconclusive complaint allegations*
38 *filed against the facility, and the number and type of citations*
39 *assessed against the facility.*

1 (3) Department actions, including license suspensions,
2 revocations, and probations.

3 (b) The department shall actively seek technologies that enable
4 it to post the following information on its Internet Web site, or if
5 none exist, upon completion of a new community care licensing
6 data system, the department shall post on its Internet Web site all
7 of the following information:

8 (1) The name, address, and telephone number of the licensed
9 providers, including the owner and the licensee, the number of
10 licensed beds in the facility, including the number of
11 nonambulatory beds, whether the facility is permitted to provide
12 hospice care services, whether the facility has a special care unit
13 or program for people with Alzheimer's disease and other
14 dementias and has a delayed egress or secured perimeter system
15 in place, and information required pursuant to Section 1569.15.

16 ~~(1)~~

17 (2) Complaints, including the nature of the complaint, results
18 of the complaint investigation, actions taken, and the dates that
19 the complaint was received, investigated, and closed.

20 ~~(2)~~

21 (3) Violations assessed, including the type of deficiency, status
22 of the violation, the facility's plan of correction, when the
23 corrections were completed, information as to whether an appeal
24 has been filed, whether fines were assessed and the amount
25 collected, and whether a deficiency was dismissed on appeal.

26 ~~(3) Posting of the facility inspection~~

27 (4) Facility inspection reports and plans of correction, including
28 findings of the most recent inspection report and the date that the
29 inspection was conducted.

30 (c) Any resolution of an appeal pertaining to a violation or
31 complaint shall be updated in a timely manner.

32 ~~(d) By July 1, 2019, Upon completion of a new community care~~
33 ~~licensing data system, or as soon as the current system permits,~~
34 each licensee of a residential care facility for the elderly shall
35 submit a profile of resident characteristics to the department on
36 an annual basis, including, but not limited to, the number of
37 residents in the facility who are bedridden, nonambulatory,
38 receiving hospice care, have one or more allowable health
39 conditions, have one or more restricted or prohibitive health
40 conditions, or have dementia. The department shall include this

1 information on the facility profile and on the online consumer
2 information system annually.

3 (e) By July 1, 2019, the department shall develop and implement
4 a ratings system designed to allow consumers to compare
5 residential care facilities for the elderly.

6 (1) At a minimum, the ratings system shall be updated to reflect
7 the most recent inspection report, as required by Section 1569.33.

8 (2) The ratings shall be based on a facility's inspection, and
9 other factors as determined by the department in consultation with
10 stakeholders.

11 (f) It is the intent of the Legislature that the department, in
12 developing and establishing the system pursuant to this section,
13 shall work with stakeholder groups, including consumer
14 organizations.

15 (g) In implementing this section, the department shall ensure
16 the confidentiality of personal and identifying information of
17 residents and employees and shall not disclose this information
18 through the consumer information service system developed
19 pursuant to this section.

20 SEC. 3. Section 1569.501 is added to the Health and Safety
21 Code, immediately following Section 1569.50, to read:

22 1569.501. (a) The department may deny an application for
23 licensure under this chapter on the grounds that the applicant has
24 a history of noncompliance with the requirements imposed upon
25 any residential care facility for the elderly license, any facility
26 licensed pursuant to Chapter 1 (commencing with Section 1200),
27 Chapter 2 (commencing with Section 1250), or Chapter 3
28 (commencing with Section 1500), or a similarly licensed facility
29 in another state, applicable state and federal laws and regulations,
30 and the requirements governing the operators of those facilities.

31 (b) This section applies to an applicant that is or was an
32 administrator, general partner, corporate officer, or director of, or
33 is a person who has held or holds a beneficial ownership of 10
34 percent or more in, any residential care facility for the elderly, in
35 any facility licensed pursuant to Chapter 1 (commencing with
36 Section 1200), Chapter 2 (commencing with Section 1250), or
37 Chapter 3 (commencing with Section 1500), or a similarly licensed
38 facility in another state.

39 SEC. 4. Section 1569.618 of the Health and Safety Code is
40 amended to read:

1 1569.618. (a) The administrator designated by the licensee
2 pursuant to paragraph (11) of subdivision (a) of Section 1569.15
3 shall be present at the facility during normal working hours. A
4 facility manager designated by the licensee with notice to the
5 department, shall be responsible for the operation of the facility
6 when the administrator is temporarily absent from the facility.

7 (b) “Facility manager” means a person on the premises with
8 the authority and responsibility necessary to manage and control
9 the day-to-day operation of a residential care facility for the elderly
10 and supervise the clients. The facility manager, licensee, and
11 administrator, or any combination thereof, may be the same person
12 provided he or she meets all applicable requirements. If the
13 administrator is also the facility manager for the same facility, he
14 or she shall be limited to the administration and management of
15 only one facility.

16 SEC. 5. No reimbursement is required by this act pursuant to
17 Section 6 of Article XIII B of the California Constitution because
18 the only costs that may be incurred by a local agency or school
19 district will be incurred because this act creates a new crime or
20 infraction, eliminates a crime or infraction, or changes the penalty
21 for a crime or infraction, within the meaning of Section 17556 of
22 the Government Code, or changes the definition of a crime within
23 the meaning of Section 6 of Article XIII B of the California
24 Constitution.

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