

AMENDED IN ASSEMBLY MARCH 24, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1572

Introduced by Assembly Member Eggman
(Coauthor: Assembly Member Skinner)
(Coauthor: Senator Block)

January 30, 2014

An act to amend Sections 1569.157 and 1569.158 of the Health and Safety Code, relating to residential care facilities for the elderly.

LEGISLATIVE COUNSEL'S DIGEST

AB 1572, as amended, Eggman. Residential care facilities for the elderly: resident and family councils.

Existing law provides for the licensure and regulation of residential care facilities for the elderly by the State Department of Social Services and makes a violation of those provisions punishable as a misdemeanor, except as specified.

Existing law requires every licensed residential care facility for the elderly, at the request of a majority of its residents, to assist the residents in establishing and maintaining a resident-oriented facility council. Existing law requires the council to be composed of residents of the facility and authorizes the inclusion of family members of residents of the facility on the council. Existing law authorizes the council to, among other things, make recommendations to facility administrators to improve the quality of daily living in the facility and negotiate to protect residents' rights with facility administrators. Existing law authorizes the assessment of specified civil fines for violations of this provision.

This bill would instead require every licensed residential care facility for the elderly, at the request of 2 or more residents, to assist the

residents in establishing and maintaining a *single* resident council, as specified. The bill would authorize facility staff or others to participate in resident council meetings and activities at the invitation of the council. The bill would authorize a resident council to, among other things, make recommendations to facility administrators to improve the quality of daily living and care in the facility and to promote and protect residents' rights. The bill would require facilities ~~with resident councils to, among other things, consider the recommendations of its council and to respond in writing to~~ *within 14 calendar days regarding any action or inaction taken in response to those recommendations, or any written requests of the council, within 10 working days written concerns or recommendations submitted by the resident council.* The bill would impose certain requirements on facilities relating to the promotion of resident councils, as specified. *The bill would require a facility with a resident council and a licensed capacity of 16 or more residents to appoint a designated staff liaison who shall be responsible for providing assistance to the resident council, as specified.* The bill would prohibit facilities from willfully interfering with the formation, maintenance, or promotion of a resident council, as specified. The bill would require this provision to be posted in a prominent place, as specified. The bill would provide that a violation of these provisions ~~regarding resident councils is not a crime, but would impose a daily \$1,000~~ *\$250 civil penalty for violations a violation of these provisions, as specified.*

Existing law prohibits a facility from prohibiting the formation of a family council, which is defined to mean a meeting of family members, friends, responsible parties, or agents of 2 or more residents to confer in private without facility staff.

This bill would authorize facility personnel or visitors to attend a family council meeting only at the council's invitation and would require a facility ~~to consider the recommendations made by a family council and respond in writing within 10~~ *14 calendar days regarding any action or inaction taken in response to those recommendations written concerns or recommendations submitted by the family council.* The bill would require a facility to provide specified notice regarding the existence of, or ~~ability to right to, form a family council and would require the facility to post the provisions of law governing family councils in a prominent place.~~ *The bill would require a facility with a family council and a licensed capacity of 16 or more residents to appoint a designated staff liaison who shall be responsible for providing assistance to the family council, as specified.* The bill would prohibit a facility from willfully

interfering with the formation, maintenance, or promotion of a family council, or its participation in the regulatory inspection process, as specified. ~~Because a violation of these provisions regarding family councils would be punishable as a misdemeanor, the bill would impose a state-mandated local program. The bill would provide that a violation of these provisions is not a crime, but would impose a daily \$250 civil penalty for a violation of these provisions, as specified.~~

~~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-no*.

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

1 SECTION 1. Section 1569.157 of the Health and Safety Code
2 is amended to read:

3 1569.157. (a) Every licensed residential care facility for the
4 elderly, at the request of two or more residents, shall assist the
5 residents in establishing and maintaining a *single* resident council
6 *at the facility*. The resident council shall be composed of residents
7 of the facility and may include family members or ~~friends of~~
8 ~~residents~~, *resident representatives*, advocates, or long-term care
9 ombudsman program representatives. Facility staff or others,
10 *including long-term care ombudsman program representatives*,
11 may participate in resident council meetings and activities at the
12 invitation of the resident council.

13 (b) A resident council may, among other things, make
14 recommendations to facility administrators to improve the quality
15 of daily living and care in the facility and to promote and protect
16 residents' rights.

17 ~~(c) A facility shall consider the recommendations of its resident~~
18 ~~council and shall respond in writing regarding any action or~~
19 ~~inaction taken in response to those recommendations within 10~~
20 ~~working days.~~

21 ~~(d) A facility shall respond in writing to any written requests~~
22 ~~or concerns of its resident council within 10 working days.~~

- 1 (c) *If a resident council submits written concerns or*
 2 *recommendations, the faculty shall respond in writing regarding*
 3 *any action or inaction taken in response to those concerns or*
 4 *recommendations within 14 calendar days.*
- 5 (e)
- 6 (d) Facility policies on resident councils shall not limit the right
 7 of residents to meet independently with outside persons or facility
 8 personnel as determined solely by the resident council.
- 9 (f)
- 10 (e) Each resident council member shall be informed by the
 11 facility of his or her right to be interviewed as part of the regulatory
 12 inspection process.
- 13 (g)
- 14 (f) Facilities shall promote resident councils as follows:
- 15 (1) If a facility has a resident council, the facility shall inform
 16 ~~prospective and~~ new residents of the existence of the resident
 17 council. The facility shall also provide information on the time,
 18 place, and dates of resident council meetings and the resident
 19 representative to contact regarding involvement in the resident
 20 council.
- 21 (2) If a facility has a resident council and *a licensed capacity*
 22 *of 16 or more beds, more,* the facility shall appoint a designated
 23 ~~staff person~~ *liaison* to assist the resident council, make a room
 24 available for resident council meetings, and provide, ~~in a prominent~~
 25 ~~place, a bulletin board for~~ *on an existing bulletin board that is*
 26 *prominently placed, resident council meeting information.*
- 27 (3) If a facility does not have a resident council, upon admission,
 28 the facility shall ~~provide, both orally and in writing,~~ *provide written*
 29 *information on the resident's right to form a resident council along*
 30 ~~with a copy of this section to the resident, resident's family, friends,~~
 31 ~~or representative of the resident to the resident and the resident~~
 32 *representative, as indicated in the admissions agreement.*
- 33 (4) *Upon request, and with the permission of the resident*
 34 *council, the facility shall share the name and contact information*
 35 *of the designated representative of the resident council with the*
 36 *long-term care ombudsman program.*
- 37 (h)
- 38 (g) A facility shall not willfully interfere with the formation,
 39 maintenance, or promotion of a resident council, or its participation
 40 in the regulatory inspection process. For the purposes of this

1 subdivision, willful interference shall include, but not be limited
2 to, discrimination or retaliation in any way against an individual
3 as a result of his or her participation in a resident council, ~~the~~
4 ~~intentional scheduling of facility events in conflict with a~~
5 ~~previously scheduled resident council meeting, failure to notify~~
6 ~~present or prospective residents of the existence of a resident~~
7 ~~council or their right to form one,~~ refusal to publicize resident
8 council meetings or provide appropriate space for either meetings
9 or a bulletin board, or failure to respond to written requests by the
10 resident council in a timely manner.

11 (i)

12 (h) The text of this section with the heading “Rights of Resident
13 Councils” shall be posted in a prominent place at the facility
14 accessible to residents, family members, ~~friends,~~ and resident
15 representatives.

16 (j)

17 (i) A violation of this section shall not be subject to the
18 provisions of Section 1569.40. *A violation of this section shall*
19 *constitute a violation of resident rights.* Notwithstanding any other
20 law, a facility that violates this section shall be subject to a *daily*
21 *civil penalty of one thousand dollars (\$1,000) for each day the*
22 *violation continues two hundred fifty dollars (\$250) until the*
23 *violation is corrected. A violation shall be deemed to have been*
24 *corrected on the date the facility submits documentation of the*
25 *correction to the department if the correction is verified by the*
26 *department.*

27 SEC. 2. Section 1569.158 of the Health and Safety Code is
28 amended to read:

29 1569.158. (a) A residential care facility for the elderly shall
30 not prohibit the formation of a family council. When requested by
31 a member of the resident’s family or the ~~resident’s resident~~
32 representative, a family council shall be allowed to meet in a
33 common meeting room of the facility during mutually agreed upon
34 hours.

35 (b) Facility policies on family councils shall in no way limit the
36 right of residents and participants in a family council to meet
37 independently with outside persons, including members of
38 nonprofit or government organizations or with facility personnel
39 during nonworking hours.

1 (c) “Family council” for the purpose of this section means a
2 meeting of family members, friends, representatives, or agents as
3 defined in Section 14110.8 of the Welfare and Institutions Code
4 of two or more residents to confer in private without facility staff.

5 (d) Family councils shall be provided adequate space on a
6 prominent bulletin board or other posting area for the display of
7 meeting notices, minutes, information, and newsletters.

8 (e) Facility personnel or visitors may attend a family council
9 meeting only at the family council’s invitation.

10 ~~(f) The facility shall consider the recommendations made by a~~
11 ~~family council and shall respond in writing regarding any action~~
12 ~~or inaction taken in response to those recommendations within 10~~
13 ~~working days of receiving the recommendations.~~

14 *(f) If a family council submits written concerns or*
15 *recommendations, the facility shall respond in writing regarding*
16 *any action or inaction taken in response to the concerns or*
17 *recommendations within 14 calendar days.*

18 (g) (1) If a facility has a family council, the facility shall include
19 notice of the family council and its meetings ~~in monthly billing~~
20 ~~statements and at least quarterly in other~~ *to family members and*
21 *resident representatives in routine mailings, mailings* and shall
22 inform family ~~members, friends,~~ *members and resident*
23 *representatives of prospective, new, new and current residents who*
24 *are identified on the admissions agreement, agreement during the*
25 *admissions process, process or in the resident’s records, of the*
26 *existence of the family council, the time and place of meetings of*
27 *the family council, and the name of the family council*
28 *representative.*

29 (2) If a facility does not have a family council, the facility shall
30 provide, upon admission of a new resident, ~~both orally and in~~
31 ~~writing,~~ *written* information to the resident’s ~~family, friends, family~~
32 ~~and representatives~~ *resident representative* of their right to form
33 a family council.

34 (3) *Upon request, and with the permission of the family council,*
35 *the facility shall share the name and contact information of the*
36 *designated representative of the family council with the long-term*
37 *care ombudsman program.*

38 (h) If a facility has a family council and a licensed capacity of
39 16 or ~~more residents,~~ *more,* the facility shall appoint a designated
40 staff ~~person~~ *liaison* who shall be responsible for providing

1 assistance to the family council and responding to written requests
2 that result from family council meetings.

3 ~~(i) A facility shall inform family council members of their right
4 to be interviewed as part of the regulatory inspection process.~~

5 ~~(j) A facility shall post the text of this section with the heading,
6 “Rights of Family Councils,” in a prominent place accessible to
7 residents and family members, friends, and representatives of
8 residents.~~

9 ~~(k)~~

10 (i) A facility shall not willfully interfere with the formation,
11 maintenance, or promotion of a family council, or its participation
12 in the regulatory inspection process. For the purposes of this
13 subdivision, willful interference shall include, but shall not be
14 limited to, discrimination or retaliation in any way against an
15 individual as a result of his or her participation in a family council,
16 ~~the intentional scheduling of facility events in conflict with a
17 previously scheduled family council meeting, failure to notify
18 family, friends, or representatives of residents of the existence of
19 a family council or their right to form one as provided in this
20 section,~~ refusal to publicize family council meetings or provide
21 appropriate space for meetings or postings as required under this
22 section, or failure to respond to written requests by a family council
23 in a timely manner.

24 (j) *A violation of this section shall not be subject to the
25 provisions of Section 1569.40. A violation of this section shall
26 constitute a violation of resident rights. Notwithstanding any other
27 law, a facility that violates this section shall be subject to a daily
28 civil penalty of two hundred fifty dollars (\$250) until the violation
29 is corrected. A violation shall be deemed to have been corrected
30 on the date the facility submits documentation of the correction to
31 the department if the correction is verified by the department.*

32 ~~SEC. 3. No reimbursement is required by this act pursuant to
33 Section 6 of Article XIII B of the California Constitution because
34 the only costs that may be incurred by a local agency or school
35 district will be incurred because this act creates a new crime or
36 infraction, eliminates a crime or infraction, or changes the penalty
37 for a crime or infraction, within the meaning of Section 17556 of
38 the Government Code, or changes the definition of a crime within
39 the meaning of Section 6 of Article XIII B of the California
40 Constitution.~~

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