

AMENDED IN SENATE FEBRUARY 14, 2014

**SENATE BILL**

**No. 894**

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**Introduced by Senator Corbett**

January 13, 2014

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An act to amend Section 1569.525 of the Health and Safety Code, relating to residential care facilities for the elderly.

LEGISLATIVE COUNSEL'S DIGEST

SB 894, as amended, Corbett. Residential care facilities for the elderly: revocation of license.

Existing law, the California Residential Care Facilities for the Elderly Act, provides for the licensure and regulation of residential care facilities for the elderly. These provisions are administered by the State Department of Social Services. Violation of these provisions is a misdemeanor.

Existing law requires, if the Director of Social Services determines that it is necessary to temporarily suspend a license of a residential care facility for the elderly in order to protect the residents or clients of the facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety, the department to make every effort to minimize trauma for the residents. Existing law authorizes and requires the department, in the event of a temporary license suspension or revocation, to comply with specified procedures relating to the transfer of residents, including requiring the department to contact and work with any local agency that may have placement or advocacy responsibility for the residents of a residential care facility for the elderly, as specified, to locate alternative placement sites and contact responsible relatives. Existing law requires, upon an order to revoke a license, a licensee to provide a 60-day written notice of license

revocation that may lead to closure to the resident and the resident's responsible person within 24 hours of receipt of the department's order of revocation. Existing law requires a resident who transfers from the facility during that 60-day period to be entitled to a refund of preadmission fees in accordance with specified provisions.

This bill would require, if the Director of Social Services determines at any time during relocation of residents that it is necessary to protect the residents or clients of the facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety, the department to take any necessary action to minimize trauma for the residents, including, but not limited to, preparing the residents' records and medications for transfer and checking in on the status of all transferred residents within 24 hours of transfer. The bill would additionally require the department to contact the Office of the State ~~Long-term~~ *Long-Term* Care Ombudsman to locate alternative placement sites for residents. The bill would also require, upon an order to suspend a license, a licensee to provide a 60-day written notice of license suspension to the resident or resident's responsible person within 24 hours of receipt of the ~~departments~~ *department's* order of suspension and would require ~~the residents who transfer during the 60-day period~~ *a resident who transfers due to the resident being issued a 60-day notice* to be entitled to a refund of preadmission fees.

This bill would prohibit, upon receipt of an order to suspend or revoke a license, a licensee from accepting new residents or entering into admission agreements for new residents. The bill would generally make a licensee who fails to comply with the requirements of these provisions liable for civil penalties in the amount of \$500 per violation per day for each day that the licensee is in violation of these provisions until the violation has been corrected. The bill would authorize a current or former resident of a residential care facility for the elderly covered under these provisions to bring a civil action against any person, firm, partnership, or corporation who owns, operates, establishes, manages, conducts, or maintains a residential care facility for the elderly who violates the specified rights of a resident.

By expanding the definition of a 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 1569.525 of the Health and Safety Code  
2 is amended to read:

3 1569.525. (a) *¶(1) If the director is reasonably contemplating*  
4 *a temporary suspension or revocation of any license, the*  
5 *department shall provide the Office of the State Long-Term Care*  
6 *Ombudsman with a precautionary notification so that the office*  
7 *may properly prepare to intervene if and when necessary.*

8 (2) *If the director determines that it is necessary to temporarily*  
9 *suspend or to revoke any license of a residential care facility for*  
10 *the elderly in order to protect the residents or clients of the facility*  
11 *from physical or mental abuse, abandonment, or any other*  
12 *substantial threat to health or safety pursuant to Section 1569.50,*  
13 *the department shall make every effort to minimize trauma for the*  
14 *residents.*

15 (b) *The department shall contact the Office of the State*  
16 *Long-Term Care Ombudsman and any local agency that may have*  
17 *placement or advocacy responsibility for the residents of a*  
18 *residential care facility for the elderly after a decision is made to*  
19 *temporarily suspend or to revoke the license of the facility and*  
20 *prior to its implementation. The department shall work with these*  
21 *agencies, and the licensee if the director determines it to be*  
22 *appropriate, to locate alternative placement sites and to contact*  
23 *relatives responsible for the care of these residents.*

24 (c) *The department shall use physicians and surgeons and other*  
25 *medical personnel deemed appropriate by the department to provide*  
26 *onsite evaluation of the residents and assist in any transfers.*

27 (d) *The department shall require the licensee to prepare and*  
28 *submit to the licensing agency a written plan for relocation and*  
29 *compliance with the terms and conditions of the approved plans,*  
30 *and to provide other information as necessary for the enforcement*  
31 *of this section.*

1 (e) Upon receipt of an order to suspend or revoke a license, the  
2 licensee shall be prohibited from accepting new residents or  
3 entering into admission agreements for new residents.

4 (f) Upon an order to suspend a license, the licensee shall provide  
5 a 60-day written notice of the license suspension to the resident  
6 or resident’s responsible person within 24 hours of receipt of the  
7 department’s order of suspension.

8 (g) Upon an order to revoke a license, the following shall apply:

9 (1) The licensee shall provide a 60-day written notice of license  
10 revocation that may lead to closure to the resident and the resident’s  
11 responsible person within 24 hours of receipt of the department’s  
12 order of revocation.

13 (2) The department shall permit the licensee to secure the  
14 services of a person who is not an immediate family member of  
15 the licensee or an entity that is not owned by the licensee to manage  
16 the day-to-day operations of the residential care facility for the  
17 elderly for a period of at least 60 days, provided that all of the  
18 following conditions are met:

19 (A) A proposal is submitted to the department within 72 hours  
20 of the licensee’s receipt of the department’s order of revocation  
21 that includes both of the following:

22 (i) A completed “Application for a Community Care Facility  
23 or Residential Care Facility for the Elderly License” form (LIC  
24 200), or similar form as determined by the department, signed and  
25 dated by both the licensee and the person or entity described in  
26 paragraph (2).

27 (ii) A copy of the executed agreement between the licensee and  
28 the person or entity described in paragraph (2) that delineates the  
29 roles and responsibilities of each party and specifies that the person  
30 or entity described in paragraph (2) shall have the full authority  
31 necessary to operate the facility, in compliance with all applicable  
32 laws and regulations, and without interference from the licensee.

33 (B) The person or entity described in paragraph (2) shall be  
34 currently licensed and in substantial compliance to operate a  
35 residential care facility for the elderly that is of comparable size  
36 or greater and has comparable programming to the facility. For  
37 purposes of this subparagraph, the following definitions apply:

38 (i) “Comparable programming” includes, but is not limited to,  
39 dementia care, hospice care, and care for residents with exempted  
40 prohibited health care conditions.

1 (ii) “Comparable size” means a facility capacity of 1 to 15  
2 residents, 16 to 49 residents, or 50 or more residents.

3 (C) The person or entity described in paragraph (2) shall not be  
4 subject to the application fee specified in Section 1569.185.

5 (D) If the department denies a proposal to secure the services  
6 of a person or entity pursuant to paragraph (2), this denial shall  
7 not be deemed a denial of a license application subject to the right  
8 to a hearing under Section 1569.22 and other procedural rights  
9 under Section 1569.51.

10 (3) (A) Notwithstanding Section 1569.651 or any other law,  
11 for paid preadmission fees, a resident who transfers from the  
12 facility ~~during the 60-day period after the issuance of an order to~~  
13 ~~suspend or revoke the license due to the resident being issued a~~  
14 ~~60-day notice pursuant to subdivision (f) or paragraph (1), is~~  
15 entitled to a refund in accordance with all of the following:

16 (i) A 100-percent refund if preadmission fees were paid within  
17 six months of the notice of closure required by paragraph (1) or  
18 subdivision (f).

19 (ii) A 75-percent refund if preadmission fees were paid more  
20 than 6 months, but not more than 12 months, before the notice of  
21 closure required by paragraph (1) or subdivision (f).

22 (iii) A 50-percent refund if preadmission fees were paid more  
23 than 12 months, but not more than 18 months, before the notice  
24 of closure required by paragraph (1) or subdivision (f).

25 (iv) A 25-percent refund if preadmission fees were paid more  
26 than 18 months, but not more than 25 months, before the notice  
27 of closure required by paragraph (1) or subdivision (f).

28 (B) No preadmission fee refund is required if preadmission fees  
29 were paid 25 months or more before the notice of closure required  
30 by paragraph (1) or subdivision (f).

31 (C) The preadmission fee refund required by this paragraph  
32 shall be paid within 15 days of issuing the notice of closure  
33 required by paragraph (1) or subdivision (f). In lieu of the refund,  
34 the resident may request that the licensee provide a credit toward  
35 the resident’s monthly fee obligation in an amount equal to the  
36 preadmission fee refund due.

37 (4) If a resident transfers from the facility during the 60-day  
38 period after the issuance of an order to suspend or revoke the  
39 license, and the resident gives notice at least five days before  
40 leaving the facility, the licensee shall refund to the resident or his

1 or her legal representative a proportional per diem amount of any  
2 prepaid monthly fees at the time the resident leaves the facility  
3 and the unit is vacated. Otherwise the licensee shall pay the refund  
4 within seven days from the date that the resident leaves the facility  
5 and the unit is vacated.

6 (5) Within 24 hours after all residents who are transferring  
7 pursuant to these provisions have left the facility, the licensee that  
8 had his or her license revoked shall, based on information provided  
9 by the resident or the resident’s legal representative, submit a final  
10 list of names and new locations of all residents to the department  
11 and the local ombudsman program.

12 (h) If at any point during the relocation process the director  
13 determines that it is necessary to protect the residents of a facility  
14 from physical or mental abuse, abandonment, or any other  
15 substantial threat to health or safety, the department shall take any  
16 necessary action to minimize trauma for the residents. The  
17 department is responsible for the health and safety of all residents  
18 until all residents have been appropriately placed. These  
19 responsibilities shall include, but not be limited to, all of the  
20 following:

21 (1) Contact any local agency that may have placement or  
22 advocacy responsibility for the residents, and work with those  
23 agencies to locate alternative placement sites.

24 (2) Contact the residents’ relatives, legal representatives,  
25 authorized agents in a health care directive, or responsible parties.

26 (3) Assist in the transfer of residents, and, if necessary, arrange  
27 or provide transportation.

28 (4) Provide onsite evaluation of the residents and use any  
29 medical personnel deemed appropriate by the department to provide  
30 onsite evaluation of the residents and assist in any transfers.

31 (5) Arrange for or provide care and supervision.

32 (6) Distribute medications.

33 (7) Arrange for the preparation and service of meals and snacks.

34 (8) Prepare the residents’ records and medications for transfer  
35 of each resident.

36 (9) Assist in any way necessary to facilitate a safe transfer of  
37 all residents.

38 (10) Check on the status of ~~all~~ *each* transferred residents within  
39 24 hours of transfer.

1 (i) The participation of the department and local agencies in the  
2 relocation of residents from a residential care facility for the elderly  
3 shall not relieve the licensee of any responsibility under this  
4 section. A licensee that fails to comply with the requirements of  
5 this section shall be required to reimburse the department and local  
6 agencies for the cost of providing these services. If the licensee  
7 fails to provide the services required in this section, the department  
8 shall request that the Attorney General's office, the city attorney's  
9 office, or the local district attorney's office seek injunctive relief  
10 and damages.

11 (j) Notwithstanding Section 1569.49, a licensee who fails to  
12 comply with *the* requirements of this section shall be liable for  
13 civil penalties in the amount of five hundred dollars (\$500) per  
14 violation per day for each day that the licensee is in violation of  
15 this section, until the violation has been corrected. The civil  
16 penalties shall be issued immediately following the written notice  
17 of violation. ~~However, if the violation does not present an~~  
18 ~~immediate or substantial threat to the health and safety of residents~~  
19 ~~and the licensee corrects the violation within three calendar days~~  
20 ~~after receiving the notice of the violation, the licensee shall not be~~  
21 ~~liable for payment of any civil penalties pursuant to this subdivision~~  
22 ~~related to the corrected violation.~~

23 (k) A current or former resident of a residential care facility for  
24 the elderly covered under this section, may bring a civil action  
25 against any person, firm, partnership, or corporation who owns,  
26 operates, establishes, manages, conducts, or maintains a residential  
27 care facility for the elderly who violates the rights of a resident,  
28 as set forth in this section. Any person, firm, partnership, or  
29 corporation who owns, operates, establishes, manages, conducts,  
30 or maintains a residential care facility for the elderly who violates  
31 this section shall be responsible for the acts of the ~~facilities~~ *facility*  
32 employees and shall be liable for costs and attorney's fees. The  
33 residential care facility for the elderly may also be enjoined from  
34 permitting the violation to continue. The remedies specified in this  
35 section shall be in addition to any other remedy provided by law.

36 (l) This section shall not preclude the department from amending  
37 the effective date in the order of the suspension or revocation of  
38 a license and closing the facility, or from pursuing any other  
39 available remedies if necessary to protect the health and safety of  
40 the residents in care.

1 SEC. 2. No reimbursement is required by this act pursuant to  
2 Section 6 of Article XIII B of the California Constitution because  
3 the only costs that may be incurred by a local agency or school  
4 district will be incurred because this act creates a new crime or  
5 infraction, eliminates a crime or infraction, or changes the penalty  
6 for a crime or infraction, within the meaning of Section 17556 of  
7 the Government Code, or changes the definition of a crime within  
8 the meaning of Section 6 of Article XIII B of the California  
9 Constitution.

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