

Introduced by Senator BlockJanuary 23, 2014

An act to amend Sections 1569.23, 1569.62, 1569.625, 1569.626, and 1569.69 of, and to add Sections 1569.371, 1569.39, and 1569.696 to, the Health and Safety Code, relating to residential care facilities for the elderly.

LEGISLATIVE COUNSEL'S DIGEST

SB 911, as introduced, Block. Residential care facilities for the elderly.

(1) 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. A person who violates the act is guilty of a misdemeanor.

Existing law requires that an applicant for a license complete, at a minimum, a 40-hour certification program approved by the department which includes instruction in a uniform code of knowledge.

This bill would change the minimum hours of classroom instruction to 80 hours and would add additional topics to the uniform code of knowledge, including, but not limited to, the adverse effects of psychotropic drugs for use in controlling the behavior of persons with dementia.

By expanding the scope of an existing crime, this bill impose a state-mandated local program.

This bill would require that no licensee, or officer or employee of the licensee, shall discriminate or retaliate against any person receiving the services of the licensee's residential care facility for the elderly, or against any employee of the licensee's facility, on the basis, or for the

reason that, the person, employee, or any other person dialed or called 911.

This bill would require a residential care facility for the elderly that accepts or retains residents with restricted or specialized health conditions employ a registered nurse on a full-time or part-time basis, as appropriate, to oversee the care provided to those residents. A residential care facility for the elderly that accepts or retains residents with restricted or specialized health conditions would be required to have a registered nurse on call 24 hours per day, as specified.

(2) Existing law requires the Director of Social Services to ensure that licensees, administrators, and staffs of residential care facilities for the elderly have appropriate training to provide the care and services for which a license or certificate is issued. The department is required to develop a uniform code of knowledge for the continuing education of administrators of residential care facilities for the elderly.

This bill would also require the department to develop a uniform code of knowledge for the initial certification of administrators, and add additional topics to the uniform code of knowledge, including, but not limited to, applicable laws and regulations and residents' rights.

(3) Existing law requires the department to adopt regulations to require staff members of residential care facilities for the elderly who assist residents with personal activities of daily living to receive 10 hours of training within the first 4 weeks of employment, and 4 hours of training annually thereafter on topics, including, but not limited to, policies and procedures regarding medications.

This bill would increase that training to 40 hours of training within the first 4 weeks of employment, 20 hours of training annually thereafter, and would also require that at least 8 hours of training be completed prior to providing direct care to residents. This bill would exempt a residential care facility for the elderly from these training requirements if they demonstrate to the department that it only employs certified nurse assistants with valid certification, provided that certified nurse assistants receive 8 hours of training within the first 10 days of employment on resident characteristics, plans of care, resident records, and facility practices and procedures.

(4) Existing law requires all direct care staff of a residential care facility for the elderly, which advertises or promotes special care, programming, or environment for persons with dementia, receive 6 hours of resident care orientation within the first 4 weeks of employment and 8 hours of in-service training per year.

This bill would increase that training to 15 hours of resident care orientation within the first 4 weeks of employment and 12 hours of in-service training per year on the subject of providing care and supervision to residents with dementia.

(5) Existing law requires that employees who assist residents with the self-administration of medications at a licensed residential care facility for the elderly, which provides care for 16 or more persons, complete 16 hours of initial training, consisting of 8 hours of hands-on shadowing training and 8 hours of other training or instruction, to be completed within the first 2 weeks of employment. If that facility provides care for 15 or fewer persons, employees are required to complete 6 hours of initial training, consisting of 2 hours of hands-on shadowing training and 4 hours of other training or instruction, to be completed within the first 2 weeks of employment.

This bill would require employees at a licensed residential care facility for the elderly that provides care for 16 or more persons, complete 32 hours of initial training, consisting of 12 hours of hands-on shadowing training and 20 hours of other training or instruction, to be completed within the first 4 weeks of employment. For facilities providing care for 15 or fewer persons, this bill would increase those training requirements to 16 hours of initial training, consisting of 8 hours of hands-on shadowing training, and 8 hours of other training.

This bill would require all direct care staff of residential care facilities for the elderly that serve residents with postural supports, or restricted health conditions or health services, or who receive hospice care services, as described in specified regulations, in addition to other training requirements, receive 15 hours of training on the care, supervision, and special needs of those residents within the first 6 weeks of employment. This bill also would require 12 hours of in-service training per year on the subject of serving those residents.

(6) 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 1569.23 of the Health and Safety Code
2 is amended to read:

3 1569.23. (a) As a requirement for licensure, the applicant shall
4 demonstrate that he or she has successfully completed a
5 certification program approved by the department.

6 (b) The certification program shall be for a minimum of ~~40~~ 80
7 hours of classroom instruction and include a uniform core of
8 knowledge which shall include all of the following:

9 (1) Law, regulations, policies, and procedural standards that
10 impact the operations of residential care facilities for the elderly.

11 (2) Business operations.

12 (3) Management and supervision of staff.

13 (4) Psychosocial need of the elderly residents.

14 (5) Physical needs for elderly residents.

15 (6) Community and support services.

16 (7) Use, misuse, and interaction of drugs commonly used by
17 the elderly, *and the adverse effects of psychotropic drugs for use*
18 *in controlling the behavior of persons with dementia.*

19 (8) *Nonpharmacologic, person-centered approaches to dementia*
20 *care.*

21 ~~(8)~~

22 (9) Resident admission, retention, and assessment procedures.

23 (10) *Residents' rights, and the importance of initial ongoing*
24 *training for all staff to ensure residents' rights are fully respected*
25 *and implemented.*

26 (c) Successful completion of the certification program shall be
27 demonstrated by passing a written test and submitting a fee of one
28 hundred dollars (\$100) to the department for the issuance of a
29 certificate of completion.

30 (d) The department shall establish by regulation the program
31 content, the testing instrument, process for approving certification
32 programs, and criteria to be used for authorizing individuals or
33 organizations to conduct certification programs. These regulations
34 shall be developed with the participation of provider organizations.

35 (e) This section shall apply to all applications for licensure
36 unless the applicant provides evidence that he or she has a current
37 license for another residential care facility for the elderly which
38 was initially licensed prior to July 1, 1989, or has successfully

1 completed an approved certification program within the prior five
2 years.

3 (f) If the applicant is a firm, partnership, association, or
4 corporation, the chief executive officer, or other person serving in
5 a like capacity, or the designated administrator of the facility shall
6 provide evidence of successfully completing an approved
7 certification program.

8 SEC. 2. Section 1569.371 is added to the Health and Safety
9 Code, to read:

10 1569.371. No licensee, or officer or employee of the licensee,
11 shall discriminate or retaliate in any manner against any person
12 receiving the services of the licensee’s residential care facility for
13 the elderly, or against any employee of the licensee’s facility, on
14 the basis, or for the reason that, the person, employee, or any other
15 person dialed or called 911.

16 SEC. 3. Section 1569.39 is added to the Health and Safety
17 Code, to read:

18 1569.39. (a) A residential care facility for the elderly that
19 accepts or retains residents with restricted or specialized health
20 conditions, as defined by the department to include, at a minimum,
21 bedridden, contractures, decubitus ulcers, healing wounds, or
22 receipt of hospice services, shall employ a registered nurse on a
23 full-time or part-time basis, as appropriate, to oversee the care
24 provided to those residents.

25 (b) A residential care facility for the elderly subject to this
26 section shall also provide for a registered nurse to be on call 24
27 hours per day. The facility may satisfy this on-call requirement by
28 contracting with a nursing agency.

29 SEC. 4. Section 1569.62 of the Health and Safety Code is
30 amended to read:

31 1569.62. (a) The director shall ensure that licensees,
32 administrators, and staffs of residential care facilities for the elderly
33 have appropriate training to provide the care and services for which
34 a license or certificate is issued.

35 (b) The department shall develop ~~jointly with the Department~~
36 ~~of Aging, with input from provider organizations,~~ requirements
37 for a uniform core of knowledge ~~within for~~ the required ~~20 hours~~
38 ~~of initial certification and~~ continuing education for administrators,
39 and their designated substitutes, and for recertification of
40 administrators of residential care facilities for the elderly. This

1 knowledge base shall include, as a minimum, basic understanding
 2 of the psychosocial and physical care needs of elderly persons,
 3 *applicable laws and regulations, residents' rights,* and
 4 administration. ~~The~~ *This training shall be developed in consultation*
 5 *with individuals or organizations with specific expertise in*
 6 *residential care facilities for the elderly or assisted living services,*
 7 *or by an outside source with expertise in residential care facilities*
 8 *for the elderly or assisted living services.*

9 (1) *The initial certification training for administrators shall*
 10 *consist of at least 80 hours.*

11 (2) *The continuing education requirement for administrators is*
 12 *at least 60 hours of training during each two-year certification*
 13 *period.*

14 (c) (1) ~~The department shall develop jointly with the Department~~
 15 ~~of Aging, with input from provider organizations,~~ a uniform
 16 resident assessment tool to be used by all residential care facilities
 17 for the elderly. The assessment tool shall, in lay terms, help to
 18 identify resident needs for service and assistance with activities
 19 of daily living.

20 ~~The~~

21 (2) *The departments shall develop a mandatory training program*
 22 *on the utilization of the assessment tool to be given to*
 23 *administrators and their designated substitutes.*

24 SEC. 5. Section 1569.625 of the Health and Safety Code is
 25 amended to read:

26 1569.625. (a) The Legislature finds that the quality of services
 27 provided to residents of residential care facilities for the elderly is
 28 dependent upon the training and skills of staff. ~~†~~

29 (b) *The current training requirements for staff of residential*
 30 *care facilities for the elderly are insufficient to meet the range of*
 31 *care needs of the residents of those facilities. It is the intent of the*
 32 *Legislature in enacting this section to ensure that direct-care staff*
 33 *have the knowledge and proficiency to carry out the tasks of their*
 34 *jobs.*

35 (b)

36 (c) The department shall adopt regulations to require staff
 37 members of residential care facilities for the elderly who assist
 38 residents with personal activities of daily living to receive
 39 appropriate training. This training shall consist of ~~10~~ 40 hours of
 40 training within the first four weeks of employment, *at least eight*

1 *of which must be completed prior to providing direct care to*
2 *residents, and ~~four~~ 20 hours annually thereafter. This training shall*
3 *be administered on the job, or in a classroom setting, or any*
4 *combination of the two. The department shall establish, ~~in~~*
5 *~~consultation with provider organizations,~~ the subject matter*
6 *required for this training. *This training shall be developed in**
7 *consultation with individuals or organizations with specific*
8 *expertise in residential care facilities for the elderly or assisted*
9 *living services, or by an outside source with expertise in residential*
10 *care facilities for the elderly or assisted living services, as defined*
11 *in Section 1771.*

12 ~~(e)~~

13 (d) The training shall include, but not be limited to, the
14 following:

15 (1) Physical limitations and needs of the elderly.

16 (2) Importance and techniques for personal care services.

17 (3) Residents' rights.

18 (4) Policies and procedures regarding medications.

19 (5) *FDA-approved uses for psychoactive drugs, common side*
20 *effects, and the increased risk of death when elderly residents with*
21 *dementia are given antipsychotic medications.*

22 (6) *The special needs of persons with Alzheimer's disease and*
23 *dementia, including nonpharmacologic person-centered*
24 *approaches to dementia care.*

25 ~~(5)~~

26 (7) Psychosocial needs of the elderly.

27 (8) *This subdivision shall not apply to a residential care facility*
28 *for the elderly that demonstrates to the department that the facility*
29 *employs only certified nurse assistants with valid certification,*
30 *pursuant to Section 1337.2, except that certified nurse assistants*
31 *with valid certification shall receive eight hours of training within*
32 *the first 10 days of employment on resident characteristics, resident*
33 *records, and facility practices and procedures.*

34 SEC. 6. Section 1569.626 of the Health and Safety Code is
35 amended to read:

36 1569.626. All residential care facilities for the elderly that
37 advertise or promote special care, special programming, or a special
38 environment for persons with dementia, in addition to complying
39 with the training requirements described in Section 1569.625, shall
40 meet the following training requirements for all direct care staff:

1 (a) ~~Six~~ *Fifteen* hours of resident care orientation within the first
 2 four weeks of employment. All ~~six~~ *15* hours shall be devoted to
 3 the care of persons with dementia. The facility may utilize various
 4 methods of instruction including, but not limited to, preceptorship,
 5 mentoring, and other forms of observation and demonstration. The
 6 orientation time shall be exclusive of any administrative instruction.

7 (b) ~~Eight~~ *Twelve* hours of in-service training per year on the
 8 subject of ~~servicing~~ *providing care and supervision to* residents with
 9 dementia. This training shall be developed in consultation with
 10 individuals or organizations with specific expertise in dementia
 11 care or by an outside source with expertise in dementia care. In
 12 formulating and providing this training, reference may be made
 13 to written materials and literature on dementia and the care and
 14 treatment of persons with dementia. ~~This training requirement may~~
 15 ~~be satisfied in one day or over a period of time.~~ This training
 16 requirement may be provided at the facility or offsite and may
 17 include a combination of observation and practical application.

18 SEC. 7. Section 1569.69 of the Health and Safety Code is
 19 amended to read:

20 1569.69. (a) Each residential care facility for the elderly
 21 licensed under this chapter shall ensure that each employee of the
 22 facility who assists residents with the self-administration of
 23 medications meets the following training requirements:

24 (1) In facilities licensed to provide care for 16 or more persons,
 25 the employee shall complete ~~16~~ *32* hours of initial training. This
 26 training shall consist of ~~eight~~ *12* hours of hands-on shadowing
 27 training, which shall be completed prior to assisting with the
 28 self-administration of medications, and ~~eight~~ *20* hours of other
 29 training or instruction, as described in subdivision (f), which shall
 30 be completed within the first ~~two~~ *four* weeks of employment.

31 (2) In facilities licensed to provide care for 15 or fewer persons,
 32 the employee shall complete ~~six~~ *16* hours of initial training. This
 33 training shall consist of ~~two~~ *eight* hours of hands-on shadowing
 34 training, which shall be completed prior to assisting with the
 35 self-administration of medications, and ~~four~~ *eight* hours of other
 36 training or instruction, as described in subdivision (f), which shall
 37 be completed within the first two weeks of employment.

38 (3) An employee shall be required to complete the training
 39 requirements for hands-on shadowing training described in this
 40 subdivision prior to assisting any resident in the self-administration

1 of medications. The training and instruction described in this
2 subdivision shall be completed, in their entirety, within the first
3 two weeks of employment.

4 (4) The training shall cover all of the following areas:

5 (A) The role, responsibilities, and limitations of staff who assist
6 residents with the self-administration of medication, including
7 tasks limited to licensed medical professionals.

8 (B) An explanation of the terminology specific to medication
9 assistance.

10 (C) An explanation of the different types of medication orders:
11 prescription, over-the-counter, controlled, and other medications.

12 (D) An explanation of the basic rules and precautions of
13 medication assistance.

14 (E) Information on medication forms and routes for medication
15 taken by residents.

16 (F) A description of procedures for providing assistance with
17 the self-administration of medications in and out of the facility,
18 and information on the medication documentation system used in
19 the facility.

20 (G) An explanation of guidelines for the proper storage, security,
21 and documentation of centrally stored medications.

22 (H) A description of the processes used for medication ordering,
23 refills, and the receipt of medications from the pharmacy.

24 (I) An explanation of medication side effects, adverse reactions,
25 ~~and errors~~, *the adverse effects of psychotropic drugs for use in*
26 *controlling the behavior of persons with dementia, and the*
27 *increased risk of death when elderly residents with dementia are*
28 *given antipsychotic medications.*

29 (5) To complete the training requirements set forth in this
30 subdivision, each employee shall pass an examination that tests
31 the employee's comprehension of, and competency in, the subjects
32 listed in paragraph (4).

33 (6) Residential care facilities for the elderly shall encourage
34 pharmacists and licensed medical professionals to use plain English
35 when preparing labels on medications supplied to residents. As
36 used in this section, "plain English" means that no abbreviations,
37 symbols, or Latin medical terms shall be used in the instructions
38 for the self-administration of medication.

39 (7) The training requirements of this section are not intended
40 to replace or supplant those required of all staff members who

1 assist residents with personal activities of daily living as set forth
2 in ~~Section~~ *Sections 1569.625 and 1569.696*.

3 (8) The training requirements of this section shall be repeated
4 if either of the following occurs:

5 (A) An employee returns to work for the same licensee after a
6 break of service of more than 180 consecutive calendar days.

7 (B) An employee goes to work for another licensee in a facility
8 in which he or she assists residents with the self-administration of
9 medication.

10 (b) Each employee who received training and passed the
11 examination required in paragraph (5) of subdivision (a), and who
12 continues to assist with the self-administration of medicines, shall
13 also complete ~~four~~ *eight* hours of in-service training on
14 medication-related issues in each succeeding 12-month period.

15 (c) The requirements set forth in subdivisions (a) and (b) do not
16 apply to persons who are licensed medical professionals.

17 (d) Each residential care facility for the elderly that provides
18 employee training under this section shall use the training material
19 and the accompanying examination that are developed by, or in
20 consultation with, a licensed nurse, pharmacist, or physician. The
21 licensed residential care facility for the elderly shall maintain the
22 following documentation for each medical consultant used to
23 develop the training:

24 (1) The name, address, and telephone number of the consultant.

25 (2) The date when consultation was provided.

26 (3) The consultant's organization affiliation, if any, and any
27 educational and professional qualifications specific to medication
28 management.

29 (4) The training topics for which consultation was provided.

30 (e) Each person who provides employee training under this
31 section shall meet the following education and experience
32 requirements:

33 (1) A minimum of five hours of initial, or certified continuing,
34 education or three semester units, or the equivalent, from an
35 accredited educational institution, on topics relevant to medication
36 management.

37 (2) The person shall meet any of the following practical
38 experience or licensure requirements:

1 (A) Two years of full-time experience, within the last four years,
2 as a consultant with expertise in medication management in areas
3 covered by the training described in subdivision (a).

4 (B) Two years of full-time experience, or the equivalent, within
5 the last four years, as an administrator for a residential care facility
6 for the elderly, during which time the individual has acted in
7 substantial compliance with applicable regulations.

8 (C) Two years of full-time experience, or the equivalent, within
9 the last four years, as a direct care provider assisting with the
10 self-administration of medications for a residential care facility
11 for the elderly, during which time the individual has acted in
12 substantial compliance with applicable regulations.

13 (D) Possession of a license as a medical professional.

14 (3) The licensed residential care facility for the elderly shall
15 maintain the following documentation on each person who provides
16 employee training under this section:

17 (A) The person's name, address, and telephone number.

18 (B) Information on the topics or subject matter covered in the
19 training.

20 (C) The time, dates, and hours of training provided.

21 (f) Other training or instruction, as required in paragraphs (1)
22 and (2) of subdivision (a), may be provided offsite, and may use
23 various methods of instruction, including, but not limited to, all
24 of the following:

25 (1) Lectures by presenters who are knowledgeable about
26 medication management.

27 (2) Video recorded instruction, interactive material, online
28 training, and books.

29 (3) Other written or visual materials approved by organizations
30 or individuals with expertise in medication management.

31 (g) Residential care facilities for the elderly licensed to provide
32 care for 16 or more persons shall maintain documentation that
33 demonstrates that a consultant pharmacist or nurse has reviewed
34 the facility's medication management program and procedures at
35 least twice a year.

36 (h) Nothing in this section authorizes unlicensed personnel to
37 directly administer medications.

38 SEC. 8. Section 1569.696 is added to the Health and Safety
39 Code, to read:

1 1569.696. (a) All residential care facilities for the elderly that
2 serve residents with postural supports, as described in Section
3 87608 of Title 22 of the California Code of Regulations, or
4 restricted health conditions or health services, as described in
5 Section 87612 of Title 22 of the California Code of Regulations,
6 or who receive hospice services, as described in Section 87633 of
7 Title 22 of the California Code of Regulations, in addition to
8 complying with the training requirements in Section 1569.625,
9 shall meet the following training requirements for all direct care
10 staff:

11 (1) Fifteen hours of training on the care, supervision, and special
12 needs of those residents within the first six weeks of employment.
13 The facility may utilize various methods of instruction, including,
14 but not limited to, preceptorship, mentoring, and other forms of
15 observation and demonstration. The orientation time shall be
16 exclusive of any administrative instruction.

17 (2) Twelve hours thereafter of in-service training per year on
18 the subject of serving those residents.

19 (b) This training shall be developed in consultation with
20 individuals or organizations with specific expertise in the care of
21 those residents described in subdivision (a). In formulating and
22 providing this training, reference may be made to written materials
23 and literature. This training requirement may be provided at the
24 facility or offsite and may include a combination of observation
25 and practical application.

26 SEC. 9. No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution because
28 the only costs that may be incurred by a local agency or school
29 district will be incurred because this act creates a new crime or
30 infraction, eliminates a crime or infraction, or changes the penalty
31 for a crime or infraction, within the meaning of Section 17556 of
32 the Government Code, or changes the definition of a crime within
33 the meaning of Section 6 of Article XIII B of the California
34 Constitution.