

AMENDED IN SENATE MARCH 4, 2014

SENATE BILL

No. 911

Introduced by Senator Block

(Coauthor: Senator Correa)

*(Coauthors: Assembly Members Ammiano, Brown, Chávez, Skinner,
Ting, Wieckowski, and Yamada)*

January 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 amended, Block. Residential care facilities for the elderly.

(1) Existing law, the California Residential Care Facilities for the Elderly Act, provides for the licensure *and regulation* 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 *and subject to civil penalty and suspension or revocation of license*.

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

This bill would change the minimum hours of classroom instruction to ~~80~~ *100* hours, *of which 80 hours are classroom instruction*, 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. *The bill would also*

require the department to annually review the test and update it as necessary to reflect changes in the law and regulations.

~~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~~ *prohibited* health conditions *to* 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~~ *prohibited* 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~~ 24 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~~ *the facility demonstrates* 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~~, *prior to providing direct care to residents*, on resident characteristics, plans of care, resident records, and facility practices and procedures. *This bill would also authorize the department to develop a certification training program with a standardized test for specified staff.*

(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~~, *prior to providing direct care to residents*, 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~~, *prior to providing direct care to residents*. This bill

also would require 12 hours of in-service training per year on the subject of serving those residents.

(6) Because a violation of any of the above provisions would be a misdemeanor, this bill would impose a state-mandated local program.

~~(6) The~~

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 ~~80~~ 100
- 7 hours, of *which 80 hours are* classroom instruction, and include
- 8 a uniform core of knowledge which shall include all of the
- 9 following:
- 10 (1) Law, regulations, policies, and procedural standards that
- 11 impact the operations of residential care facilities for the elderly.
- 12 (2) Business operations.
- 13 (3) Management and supervision of staff.
- 14 (4) Psychosocial need of the elderly residents.
- 15 (5) Physical needs for elderly residents.
- 16 (6) Community and support services.
- 17 (7) Use, misuse, and interaction of drugs commonly used by
- 18 the elderly, and the adverse effects of psychotropic drugs for use
- 19 in controlling the behavior of persons with dementia.
- 20 (8) Nonpharmacologic, person-centered approaches to dementia
- 21 care.
- 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.

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

5 (d) The department shall establish by regulation the program
6 content, the testing instrument, process for approving certification
7 programs, and criteria to be used for authorizing individuals or
8 organizations to conduct certification programs. These regulations
9 shall be developed with the participation of provider organizations
10 *and other stakeholder groups. The department shall review the*
11 *test annually and update it as necessary to reflect changes in law*
12 *and regulations.*

13 (e) This section shall apply to all applications for licensure
14 unless the applicant provides evidence that he or she has a current
15 license for another residential care facility for the elderly which
16 was initially licensed prior to July 1, 1989, or has successfully
17 completed an approved certification program within the prior five
18 years.

19 (f) If the applicant is a firm, partnership, association, or
20 corporation, the chief executive officer, or other person serving in
21 a like capacity, or the designated administrator of the facility shall
22 provide evidence of successfully completing an approved
23 certification program.

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

26 1569.371. (a) No licensee, or officer or employee of the
27 licensee, shall discriminate or retaliate in any manner against any
28 person receiving the services of the licensee's residential care
29 facility for the elderly, or against any employee of the licensee's
30 facility, on the basis, or for the reason that, the person, employee,
31 or any other person dialed or called 911.

32 (b) *A violation of this section is subject to civil penalty pursuant*
33 *to Section 1569.49.*

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

36 1569.39. (a) A residential care facility for the elderly that
37 accepts or retains residents with restricted or ~~specialized~~ *prohibited*
38 health conditions, as defined by the department to include, at a
39 minimum, bedridden, contractures, decubitus ulcers, healing
40 wounds, or receipt of hospice services, shall employ a registered

1 nurse on a full-time or part-time basis, as appropriate, to oversee
2 the care provided to those residents.

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

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

9 1569.62. (a) The director shall ensure that licensees,
10 administrators, and staffs of residential care facilities for the elderly
11 have appropriate training to provide the care and services for which
12 a license or certificate is issued.

13 (b) The department shall develop requirements for a uniform
14 core of knowledge for the required initial certification and
15 continuing education for administrators, and their designated
16 substitutes, and for recertification of administrators of residential
17 care facilities for the elderly. This knowledge base shall include,
18 as a minimum, basic understanding of the psychosocial and
19 physical care needs of elderly persons, applicable laws and
20 regulations, residents’ rights, and administration. This training
21 shall be developed in consultation with individuals or organizations
22 with specific expertise in residential care facilities for the elderly
23 or assisted living services, or by an outside source with expertise
24 in residential care facilities for the elderly or assisted living
25 services.

26 (1) The initial certification training for administrators shall
27 consist of at least ~~80~~ 100 hours.

28 (2) The continuing education requirement for administrators is
29 at least 60 hours of training during each two-year certification
30 period.

31 (c) (1) The department shall develop a uniform resident
32 assessment tool to be used by all residential care facilities for the
33 elderly. The assessment tool shall, in lay terms, help to identify
34 resident needs for service and assistance with activities of daily
35 living.

36 (2) The departments shall develop a mandatory training program
37 on the utilization of the assessment tool to be given to
38 administrators and their designated substitutes.

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

1 1569.625. (a) The Legislature finds that the quality of services
2 provided to residents of residential care facilities for the elderly is
3 dependent upon the training and skills of staff.

4 (b) The current training requirements for staff of residential care
5 facilities for the elderly are insufficient to meet the range of care
6 needs of the residents of those facilities. It is the intent of the
7 Legislature in enacting this section to ensure that ~~direct-care~~ *direct*
8 *care* staff have the knowledge and proficiency to carry out the
9 tasks of their jobs.

10 (c) The department shall adopt regulations to require staff
11 members of residential care facilities for the elderly who assist
12 residents with personal activities of daily living to receive
13 appropriate training. This training shall consist of 40 hours of
14 training within the first four weeks of employment, at least ~~eight~~
15 *24* of which ~~must~~ *shall* be completed prior to providing direct care
16 to residents, and 20 hours annually thereafter. This training shall
17 be administered on the job, or in a classroom setting, or any
18 combination of the two. The department shall establish the subject
19 matter required for this training. This training shall be developed
20 in consultation with individuals or organizations with specific
21 expertise in residential care facilities for the elderly or assisted
22 living services, or by an outside source with expertise in residential
23 care facilities for the elderly or assisted living services, as defined
24 in Section 1771.

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

- 27 (1) Physical limitations and needs of the elderly.
- 28 (2) Importance and techniques for personal care services.
- 29 (3) Residents' rights.
- 30 (4) Policies and procedures regarding medications.
- 31 (5) FDA-approved uses for psychoactive drugs, common side
32 effects, and the increased risk of death when elderly residents with
33 dementia are given antipsychotic medications.

34 (6) The special needs of persons with Alzheimer's disease and
35 dementia, including nonpharmacologic person-centered approaches
36 to dementia care.

37 (7) Psychosocial needs of the elderly.

38 (8) This subdivision shall not apply to a residential care facility
39 for the elderly that demonstrates to the department that the facility
40 employs only certified nurse assistants with valid certification,

1 pursuant to Section 1337.2, except that certified nurse assistants
2 with valid certification shall receive eight hours of training ~~within~~
3 ~~the first 10 days of employment~~, *prior to providing direct care to*
4 *residents*, on resident characteristics, resident records, and facility
5 practices and procedures.

6 *(e) The department may develop a certification training program*
7 *with a standardized test for staff pursuant to this section and*
8 *Sections 1569.626, 1569.69, and 1569.696.*

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

11 1569.626. All residential care facilities for the elderly that
12 advertise or promote special care, special programming, or a special
13 environment for persons with dementia, in addition to complying
14 with the training requirements described in Section 1569.625, shall
15 meet the following training requirements for all direct care staff:

16 (a) Fifteen hours of resident care orientation ~~within the first four~~
17 ~~weeks of employment~~, *prior to providing direct care to residents*.
18 All 15 hours shall be devoted to the care of persons with dementia.
19 The facility may utilize various methods of instruction including,
20 but not limited to, preceptorship, mentoring, and other forms of
21 observation and demonstration. The orientation time shall be
22 exclusive of any administrative instruction.

23 (b) Twelve hours of in-service training per year on the subject
24 of providing care and supervision to residents with dementia. This
25 training shall be developed in consultation with individuals or
26 organizations with specific expertise in dementia care or by an
27 outside source with expertise in dementia care. In formulating and
28 providing this training, reference may be made to written materials
29 and literature on dementia and the care and treatment of persons
30 with dementia. This training requirement may be provided at the
31 facility or offsite and may include a combination of observation
32 and practical application.

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

35 1569.69. (a) Each residential care facility for the elderly
36 licensed under this chapter shall ensure that each employee of the
37 facility who assists residents with the self-administration of
38 medications meets the following training requirements:

39 (1) In facilities licensed to provide care for 16 or more persons,
40 the employee shall complete 32 hours of initial training. This

1 training shall consist of 12 hours of hands-on shadowing training,
2 which shall be completed prior to assisting with the
3 self-administration of medications, and 20 hours of other training
4 or instruction, as described in subdivision (f), which shall be
5 completed within the first four weeks of employment.

6 (2) In facilities licensed to provide care for 15 or fewer persons,
7 the employee shall complete 16 hours of initial training. This
8 training shall consist of eight hours of hands-on shadowing training,
9 which shall be completed prior to assisting with the
10 self-administration of medications, and eight hours of other training
11 or instruction, as described in subdivision (f), which shall be
12 completed within the first two weeks of employment.

13 (3) An employee shall be required to complete the training
14 requirements for hands-on shadowing training described in this
15 subdivision prior to assisting any resident in the self-administration
16 of medications. The training and instruction described in this
17 subdivision shall be completed, in their entirety, within the first
18 two weeks of employment.

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

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

23 (B) An explanation of the terminology specific to medication
24 assistance.

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

27 (D) An explanation of the basic rules and precautions of
28 medication assistance.

29 (E) Information on medication forms and routes for medication
30 taken by residents.

31 (F) A description of procedures for providing assistance with
32 the self-administration of medications in and out of the facility,
33 and information on the medication documentation system used in
34 the facility.

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

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

39 (I) An explanation of medication side effects, adverse reactions,
40 errors, the adverse effects of psychotropic drugs for use in

1 controlling the behavior of persons with dementia, and the
2 increased risk of death when elderly residents with dementia are
3 given antipsychotic medications.

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

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

14 (7) The training requirements of this section are not intended
15 to replace or supplant those required of all staff members who
16 assist residents with personal activities of daily living as set forth
17 in Sections 1569.625 and 1569.696.

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

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

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

25 (b) Each employee who received training and passed the
26 examination required in paragraph (5) of subdivision (a), and who
27 continues to assist with the self-administration of medicines, shall
28 also complete eight hours of in-service training on
29 medication-related issues in each succeeding 12-month period.

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

32 (d) Each residential care facility for the elderly that provides
33 employee training under this section shall use the training material
34 and the accompanying examination that are developed by, or in
35 consultation with, a licensed nurse, pharmacist, or physician. The
36 licensed residential care facility for the elderly shall maintain the
37 following documentation for each medical consultant used to
38 develop the training:

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

40 (2) The date when consultation was provided.

1 (3) The consultant’s organization affiliation, if any, and any
2 educational and professional qualifications specific to medication
3 management.

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

5 (e) Each person who provides employee training under this
6 section shall meet the following education and experience
7 requirements:

8 (1) A minimum of five hours of initial, or certified continuing,
9 education or three semester units, or the equivalent, from an
10 accredited educational institution, on topics relevant to medication
11 management.

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

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

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

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

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

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

30 (A) The person’s name, address, and telephone number.

31 (B) Information on the topics or subject matter covered in the
32 training.

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

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

38 (1) Lectures by presenters who are knowledgeable about
39 medication management.

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

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

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

10 (h) Nothing in this section authorizes unlicensed personnel to
11 directly administer medications.

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

14 1569.696. (a) All residential care facilities for the elderly that
15 serve residents with postural supports, as described in Section
16 87608 of Title 22 of the California Code of Regulations, or
17 restricted health conditions or health services, as described in
18 Section 87612 of Title 22 of the California Code of Regulations,
19 or who receive hospice services, as described in Section 87633 of
20 Title 22 of the California Code of Regulations, in addition to
21 complying with the training requirements in Section 1569.625,
22 shall meet the following training requirements for all direct care
23 staff:

24 (1) Fifteen hours of training on the care, supervision, and special
25 needs of those residents ~~within the first six weeks of employment,~~
26 *prior to providing direct care to residents.* The facility may utilize
27 various methods of instruction, including, but not limited to,
28 preceptorship, mentoring, and other forms of observation and
29 demonstration. The orientation time shall be exclusive of any
30 administrative instruction.

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

33 (b) This training shall be developed in consultation with
34 individuals or organizations with specific expertise in the care of
35 those residents described in subdivision (a). In formulating and
36 providing this training, reference may be made to written materials
37 and literature. This training requirement may be provided at the
38 facility or offsite and may include a combination of observation
39 and practical application.

1 SEC. 9. 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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