

AMENDED IN ASSEMBLY APRIL 7, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 74

Introduced by Assembly Member Calderon

January 5, 2015

An act to amend Sections 1534, 1569.33, 1597.09, and 1597.55a of the Health and Safety Code, relating to care facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 74, as amended, Calderon. Care facilities: regulatory visits.

Under existing law, the State Department of Social Services regulates the licensure and operation of community care facilities, residential care facilities for the elderly, child day care centers, and family day care homes. Existing law provides that these facilities, except for foster family homes, are subject to unannounced visits by the department at least once every 5 years. Existing law requires the department to conduct an annual unannounced visit under specified circumstances, including when a license is on probation, and to conduct annual unannounced visits to no less than 20% of the facilities, other than foster family homes, that are not subject to an inspection under those specified circumstances.

This bill would instead make every facility of the types described above, except for *foster family homes*, subject to an annual unannounced visit by the department on and after July 1, 2018. The bill would revise the provisions requiring the department to conduct annual unannounced visits to no less than 20% of the facilities by instead requiring the department to conduct annual unannounced visits to no less than 30% of facilities on or before July 1, 2016, and no less than ~~20%~~ 40% of

those facilities on or before July 1, 2017. The bill would also delete the provisions requiring an unannounced visit at least once every 5 years.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 1534 of the Health and Safety Code is
2 amended to read:

3 1534. (a) (1) (A) Except for foster family homes, every
4 licensed community care facility shall be subject to unannounced
5 inspections by the department.

6 (B) Foster family homes shall be subject to announced
7 inspections by the department, except that a foster family home
8 shall be subject to unannounced inspections in response to a
9 complaint, a plan of correction, or under any of the circumstances
10 set forth in subparagraph (B) of paragraph (2).

11 (2) (A) The department may inspect these facilities as often as
12 necessary to ensure the quality of care provided.

13 (B) The department shall conduct an annual unannounced
14 inspection of a facility under any of the following circumstances:

15 (i) When a license is on probation.

16 (ii) When the terms of agreement in a facility compliance plan
17 require an annual inspection.

18 (iii) When an accusation against a licensee is pending.

19 (iv) When a facility requires an annual inspection as a condition
20 of receiving federal financial participation.

21 (v) In order to verify that a person who has been ordered out of
22 a facility by the department is no longer at the facility.

23 (C) The department shall conduct annual announced inspections
24 of no less than 20 percent of foster family homes not subject to an
25 inspection under subparagraph (B).

26 (D) ~~(4)~~(i) On or before July 1, 2016, the department shall
27 conduct annual unannounced visits to no less than 30 percent of
28 facilities that are not subject to an evaluation pursuant to
29 subparagraph (B). These unannounced visits shall be conducted
30 based on a random sampling methodology developed by the
31 department. Under no circumstances shall the department visit a
32 licensed community care facility less often than once every three
33 years.

1 (2)

2 (ii) On or before July 1, 2017, the department shall conduct
3 annual unannounced visits to no less than ~~20~~ 40 percent of facilities
4 that are not subject to an evaluation pursuant to subparagraph (B).
5 These unannounced visits shall be conducted based on a random
6 sampling methodology developed by the department. Under no
7 circumstances shall the department visit a licensed community
8 care facility less often than once every two years.

9 (E) On and after July 1, 2018, the department shall conduct at
10 least one annual unannounced visit to each licensed community
11 care facility.

12 (3) In order to facilitate direct contact with group home clients,
13 the department may interview children who are clients of group
14 homes at any public agency or private agency at which the client
15 may be found, including, but not limited to, a juvenile hall,
16 recreation or vocational program, or a public or nonpublic school.
17 The department shall respect the rights of the child while
18 conducting the interview, including informing the child that he or
19 she has the right not to be interviewed and the right to have another
20 adult present during the interview.

21 (4) The department shall notify the community care facility in
22 writing of all deficiencies in its compliance with the provisions of
23 this chapter and the rules and regulations adopted pursuant to this
24 chapter, and shall set a reasonable length of time for compliance
25 by the facility.

26 (5) Reports on the results of each inspection, evaluation, or
27 consultation shall be kept on file in the department, and all
28 inspection reports, consultation reports, lists of deficiencies, and
29 plans of correction shall be open to public inspection.

30 (b) (1) This section does not limit the authority of the
31 department to inspect or evaluate a licensed foster family agency,
32 a certified family home, or any aspect of a program in which a
33 licensed community care facility is certifying compliance with
34 licensing requirements.

35 (2) (A) A foster family agency shall conduct an announced
36 inspection of a certified family home during the annual
37 recertification described in Section 1506 in order to ensure that
38 the certified family home meets all applicable licensing standards.
39 A foster family agency may inspect a certified family home as
40 often as necessary to ensure the quality of care provided.

1 (B) In addition to the inspections required pursuant to
2 subparagraph (A), a foster family agency shall conduct an
3 unannounced inspection of a certified family home under any of
4 the following circumstances:

- 5 (i) When a certified family home is on probation.
6 (ii) When the terms of the agreement in a facility compliance
7 plan require an annual inspection.
8 (iii) When an accusation against a certified family home is
9 pending.
10 (iv) When a certified family home requires an annual inspection
11 as a condition of receiving federal financial participation.
12 (v) In order to verify that a person who has been ordered out of
13 a certified family home by the department is no longer at the home.
14 (3) Upon a finding of noncompliance by the department, the
15 department may require a foster family agency to deny or revoke
16 the certificate of approval of a certified family home, or take other
17 action the department may deem necessary for the protection of a
18 child placed with the certified family home. The certified parent
19 or prospective foster parent shall be afforded the due process
20 provided pursuant to this chapter.
21 (4) If the department requires a foster family agency to deny or
22 revoke the certificate of approval, the department shall serve an
23 order of denial or revocation upon the certified or prospective
24 foster parent and foster family agency that shall notify the certified
25 or prospective foster parent of the basis of the department's action
26 and of the certified or prospective foster parent's right to a hearing.
27 (5) Within 15 days after the department serves an order of denial
28 or revocation, the certified or prospective foster parent may file a
29 written appeal of the department's decision with the department.
30 The department's action shall be final if the certified or prospective
31 foster parent does not file a written appeal within 15 days after the
32 department serves the denial or revocation order.
33 (6) The department's order of the denial or revocation of the
34 certificate of approval shall remain in effect until the hearing is
35 completed and the director has made a final determination on the
36 merits.
37 (7) A certified or prospective foster parent who files a written
38 appeal of the department's order with the department pursuant to
39 this section shall, as part of the written request, provide his or her
40 current mailing address. The certified or prospective foster parent

1 shall subsequently notify the department in writing of any change
2 in mailing address, until the hearing process has been completed
3 or terminated.

4 (8) Hearings held pursuant to this section shall be conducted in
5 accordance with Chapter 5 (commencing with Section 11500) of
6 Part 1 of Division 3 of Title 2 of the Government Code. In all
7 proceedings conducted in accordance with this section the standard
8 of proof shall be by a preponderance of the evidence.

9 (9) The department may institute or continue a disciplinary
10 proceeding against a certified or prospective foster parent upon
11 any ground provided by this section or Section 1550, enter an order
12 denying or revoking the certificate of approval, or otherwise take
13 disciplinary action against the certified or prospective foster parent,
14 notwithstanding any resignation, withdrawal of application,
15 surrender of the certificate of approval, or denial or revocation of
16 the certificate of approval by the foster family agency.

17 (10) A foster family agency's failure to comply with the
18 department's order to deny or revoke the certificate of approval
19 by placing or retaining children in care shall be grounds for
20 disciplining the licensee pursuant to Section 1550.

21 SEC. 2. Section 1569.33 of the Health and Safety Code is
22 amended to read:

23 1569.33. (a) Every licensed residential care facility for the
24 elderly shall be subject to unannounced visits by the department.
25 The department shall visit these facilities as often as necessary to
26 ensure the quality of care provided.

27 (b) The department shall conduct an annual unannounced visit
28 of a facility under any of the following circumstances:

29 (1) When a license is on probation.

30 (2) When the terms of agreement in a facility compliance plan
31 require an annual evaluation.

32 (3) When an accusation against a licensee is pending.

33 (4) When a facility requires an annual visit as a condition of
34 receiving federal financial participation.

35 (5) In order to verify that a person who has been ordered out of
36 the facility for the elderly by the department is no longer at the
37 facility.

38 (c) (1) On or before July 1, 2016, the department shall conduct
39 annual unannounced visits to no less than 30 percent of facilities
40 that are not subject to an evaluation pursuant to subdivision (b).

1 These unannounced visits shall be conducted based on a random
2 sampling methodology developed by the department. Under no
3 circumstances shall the department visit a licensed residential care
4 facility for the elderly less often than once every three years.

5 (2) If the total citations issued by the department exceed the
6 previous year's total by 10 percent, the following year the
7 department shall increase the random sample by 10 percent of the
8 facilities not subject to an evaluation under subdivision (b). The
9 department may request additional resources to increase the random
10 sample by 10 percent.

11 (3) On or before July 1, 2017, the department shall conduct
12 annual unannounced visits to no less than ~~20~~ 40 percent of facilities
13 that are not subject to an evaluation pursuant to subdivision (b).
14 These unannounced visits shall be conducted based on a random
15 sampling methodology developed by the department. Under no
16 circumstance shall the department visit a licensed residential care
17 facility for the elderly less often than once every two years.

18 (4) On and after July 1, 2018, the department shall conduct at
19 least one annual unannounced visit to each licensed residential
20 care facility for the elderly.

21 (d) (1) The department shall notify the residential care facility
22 for the elderly in writing of all deficiencies in its compliance with
23 the provisions of this chapter and the rules and regulations adopted
24 pursuant to this chapter.

25 (2) Unless otherwise specified in the plan of correction, the
26 residential care facility for the elderly shall remedy the deficiencies
27 within 10 days of the notification.

28 (e) (1) Reports on the results of each inspection, evaluation, or
29 consultation shall be kept on file in the department, and all
30 inspection reports, consultation reports, lists of deficiencies, and
31 plans of correction shall be open to public inspection.

32 (2) (A) The department shall post on its Internet Web site
33 information on how to obtain an inspection report.

34 (B) It is the intent of the Legislature that the department shall
35 make inspection reports available on its Internet Web site by
36 January 1, 2020.

37 (f) As a part of the department's evaluation process, the
38 department shall review the plan of operation, training logs, and
39 marketing materials of any residential care facility for the elderly
40 that advertises or promotes special care, special programming, or

1 a special environment for persons with dementia to monitor
2 compliance with Sections 1569.626 and 1569.627.

3 (g) (1) The department shall design, or cause to be designed,
4 a poster that contains information on the appropriate reporting
5 agency in case of a complaint or emergency.

6 (2) Each residential care facility for the elderly shall post this
7 poster in the main entryway of its facility.

8 SEC. 3. Section 1597.09 of the Health and Safety Code is
9 amended to read:

10 1597.09. (a) Each licensed child day care center shall be
11 subject to unannounced visits by the department. The department
12 shall visit these facilities as often as necessary to ensure the quality
13 of care provided.

14 (b) The department shall conduct an annual unannounced visit
15 to a licensed child day care center under any of the following
16 circumstances:

17 (1) When a license is on probation.

18 (2) When the terms of agreement in a facility compliance plan
19 require an annual evaluation.

20 (3) When an accusation against a licensee is pending.

21 (4) In order to verify that a person who has been ordered out of
22 a child day care center by the department is no longer at the facility.

23 (c) (1) On or before July 1, 2016, the department shall conduct
24 an annual unannounced visit to no less than 30 percent of facilities
25 not subject to an evaluation pursuant to subdivision (b). These
26 unannounced visits shall be conducted based on a random sampling
27 methodology developed by the department. Under no circumstance
28 shall the department visit a licensed child day care center less often
29 than once every three years.

30 (2) If the total citations issued by the department exceed the
31 previous year's total by 10 percent, the following year the
32 department shall increase the random sample by 10 percent of
33 facilities not subject to an evaluation under subdivision (b). The
34 department may request additional resources to increase the random
35 sample by 10 percent.

36 (3) On or before July 1, 2017, the department shall conduct
37 annual unannounced visits to no less than ~~20~~ 40 percent of the
38 licensed child day care centers that are not subject to an evaluation
39 pursuant to subdivision (b). These unannounced visits shall be
40 conducted based on a random sampling methodology developed

1 by the department. Under no circumstance shall the department
2 visit a licensed child day care center less often than once every
3 two years.

4 (d) On and after July 1, 2018, the department shall conduct at
5 least one annual unannounced visit to each licensed child day care
6 center.

7 SEC. 4. Section 1597.55a of the Health and Safety Code is
8 amended to read:

9 1597.55a. Every licensed family day care home shall be subject
10 to unannounced visits by the department as provided in this section.
11 The department shall visit these facilities as often as necessary to
12 ensure the quality of care provided.

13 (a) The department shall conduct an announced site visit prior
14 to the initial licensing of the applicant.

15 (b) The department shall conduct an annual unannounced visit
16 to a facility under any of the following circumstances:

17 (1) When a license is on probation.

18 (2) When the terms of agreement in a facility compliance plan
19 require an annual evaluation.

20 (3) When an accusation against a licensee is pending.

21 (4) In order to verify that a person who has been ordered out of
22 a family day care home by the department is no longer at the
23 facility.

24 (c) (1) On or before July 1, 2016, the department shall conduct
25 annual unannounced visits to no less than 30 percent of facilities
26 that are not subject to an evaluation pursuant to subdivision (b).
27 These unannounced visits shall be conducted based on a random
28 sampling methodology developed by the department. Under no
29 circumstance shall the department visit a licensed family day care
30 home less often than once every three years.

31 (2) If the total citations issued by the department exceed the
32 previous year's total by 10 percent, the following year the
33 department shall increase the random sample by 10 percent of the
34 facilities not subject to an evaluation under subdivision (b). The
35 department may request additional resources to increase the random
36 sample by 10 percent.

37 (3) On or before July 1, 2017, the department shall conduct
38 annual unannounced visits to no less than ~~20~~ 40 percent of the
39 licensed family day care homes that are not subject to an evaluation
40 pursuant to subdivision (b). These unannounced visits shall be

1 conducted based on a random sampling methodology developed
2 by the department. Under no circumstance shall the department
3 visit a licensed family day care home less often than once every
4 two years.

5 (d) On and after July 1, 2018, the department shall conduct at
6 least one annual unannounced visit to each licensed family day
7 care home.

8 (e) A public agency under contract with the department may
9 make spot checks if it does not result in any cost to the state.
10 However, spot checks shall not be required by the department.

11 (f) The department or licensing agency shall make an
12 unannounced site visit on the basis of a complaint and a followup
13 visit as provided in Section 1596.853.

14 (g) An unannounced site visit shall adhere to both of the
15 following conditions:

16 (1) The visit shall take place only during the facility's normal
17 business hours or at any time family day care services are being
18 provided.

19 (2) The inspection of the facility shall be limited to those parts
20 of the facility in which family day care services are provided or
21 to which the children have access.

22 (h) The department shall implement this section during periods
23 that Section 1597.55b is not being implemented in accordance
24 with Section 18285.5 of the Welfare and Institutions Code.

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