

AMENDED IN SENATE JUNE 24, 2015

AMENDED IN ASSEMBLY APRIL 23, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 601

Introduced by Assembly Member Eggman
(Principal coauthor: Assembly Member Brown)
(Coauthors: Assembly Members Calderon and Mark Stone)
(Coauthor: Senator Block)

February 24, 2015

An act to amend Sections *1569.2*, *1569.15*, *1569.16*, *1569.50*, *1569.58*, and *1569.618* of, and to add ~~Sections~~ *Section 1569.356* and ~~*1569.501*~~ to, the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 601, as amended, Eggman. Residential care facilities for the elderly: licensing and regulation.

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. Existing law requires any person seeking a license for a residential care facility for the elderly to file an application with the department, as specified. Among other required application information, if the applicant is a firm, association, organization, partnership, business trust, corporation, or company, evidence of reputable and responsible character is required to be submitted as to the members or shareholders thereof, and the person in charge of the residential care facility for the elderly for which the application for issuance of license or special permit is made.

This bill would, among other things, additionally require the applicant to disclose specified information, including whether it is a for-profit or not-for-profit provider, the ~~names and license numbers~~ *name, address, and license number* of other community care or health care facilities owned, managed, or operated by the same *applicant or by any parent organization of the applicant*, and the ~~names and business addresses~~ *name and address* of any person, organization, or entity ~~listed as owner of record in the real estate of the facilities~~ *that owns the real property in which specified facilities are located*. The bill would require an applicant to provide additional information, including evidence of the right of possession of the facility ~~at prior to~~ *at prior to* the time the license is granted. The bill would also require the department to cross-check specified applicant information, *if electronically available*, with the State Department of Public Health to determine if the applicant has a prior history of operating, holding a position in, or having ownership in, specified licensed facilities. *The bill would require the information specified in these provisions to be provided to the department upon initial application for licensure, and any change in the information to be provided within 30 calendar days of the change, except as specified. The bill would also require the department to assess an immediate civil penalty of \$1,000 for a violation of these provisions subsequent to licensure.*

Existing law requires the Director of Social Services to establish an automated license information system on licensees and former licensees of licensed residential care facilities for the elderly. The system is required to maintain a record of any information that may be pertinent for licensure.

This bill would require, to the extent that the department's computer system can *electronically* accommodate additional information, the department to post on its Internet Web site specified information, including the current name, business address, and telephone number of the licensee.

Existing law authorizes the department to deny any application for a license to operate a residential care facility for the elderly or to suspend or revoke a license on certain grounds, including, but not limited to, a violation by the licensee of applicable provisions or of the rules and regulations adopted under those provisions, conduct that is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility or the people of the state, or engaging in acts of financial malfeasance concerning the operation of a facility.

This bill would ~~require~~ *authorize those remedies to be applied if the department finds that specified persons or entities, including any employee, administrator, partner, officer, director, member, or manager of the applicant or licensee, has engaged in any of those conducts relating to specified licensed facilities in California or any other state.* The bill would also authorize the department to deny an application for licensure or ~~authorize it to subsequently revoke a license if the applicant knowingly withheld material information, made a false statement of material fact with regard to information that was required by the application for licensure, and would authorize the department to deny an application for licensure or subsequently revoke a license if the applicant or did not disclose enforcement administrative disciplinary actions on the application as required.~~ The bill would also authorize the department to deny an application for licensure if the applicant has a history of noncompliance with the requirements imposed under specified facility licenses or a similarly licensed facility in another state, applicable state and federal laws and regulations, and the requirements governing the operators of those facilities.

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 1569.2 of the Health and Safety Code is
- 2 amended to read:
- 3 1569.2. As used in this chapter:
- 4 (a) “Administrator” means the individual designated by the
- 5 licensee to act on behalf of the licensee in the overall management
- 6 of the facility. The licensee, if an individual, and the administrator
- 7 may be one and the same person.
- 8 (b) “Beneficial ownership interest” means an ownership interest
- 9 through the possession of stock, equity in capital or any interest
- 10 in the profits of the applicant or licensee or through the possession
- 11 of such an interest in other entities that directly or indirectly hold
- 12 an interest in the applicant or licensee. The percentage of
- 13 beneficial ownership in the applicant or licensee that is held by
- 14 any other entity is determined by multiplying the other entities’
- 15 percentage of ownership interest at each level.
- 16 (ⓑ)

1 (c) “Care and supervision” means the facility assumes
2 responsibility for, or provides or promises to provide in the future,
3 ongoing assistance with activities of daily living without which
4 the resident’s physical health, mental health, safety, or welfare
5 would be endangered. Assistance includes assistance with taking
6 medications, money management, or personal care.

7 (d) “Chain” means a group of two or more licensees that are
8 controlled, as defined in this section, by the same person or entities.

9 (e) “Control” means the ability to direct the operation or
10 management of the applicant or licensee and includes the ability
11 to exercise control through intermediary or subsidiary entities.

12 ~~(e)~~

13 (f) “Department” means the State Department of Social Services.

14 ~~(d)~~

15 (g) “Director” means the Director of Social Services.

16 ~~(e)~~

17 (h) “Health-related services” mean services that shall be directly
18 provided by an appropriate skilled professional, including a
19 registered nurse, licensed vocational nurse, physical therapist, or
20 occupational therapist.

21 ~~(f)~~

22 (i) “Instrumental activities of daily living” means any of the
23 following: housework, meals, laundry, taking of medication, money
24 management, appropriate transportation, correspondence,
25 telephoning, and related tasks.

26 ~~(g)~~

27 (j) “License” means a basic permit to operate a residential care
28 facility for the elderly.

29 (k) “Parent organization” means an organization in control of
30 another organization either directly or through one or more
31 intermediaries.

32 ~~(h)~~

33 (l) “Personal activities of daily living” means any of the
34 following: dressing, feeding, toileting, bathing, grooming, and
35 mobility and associated tasks.

36 ~~(i)~~

37 (m) “Personal care” means assistance with personal activities
38 of daily living, to help provide for and maintain physical and
39 psychosocial comfort.

40 ~~(j)~~

1 (n) “Protective supervision” means observing and assisting
2 confused residents, including persons with dementia, to safeguard
3 them against injury.

4 ~~(k)~~

5 (o) (1) “Residential care facility for the elderly” means a
6 housing arrangement chosen voluntarily by persons 60 years of
7 age or over, or their authorized representative, where varying levels
8 and intensities of care and supervision, protective supervision, or
9 personal care are provided, based upon their varying needs, as
10 determined in order to be admitted and to remain in the facility.
11 Persons under 60 years of age with compatible needs may be
12 allowed to be admitted or retained in a residential care facility for
13 the elderly as specified in Section 1569.316.

14 ~~This~~

15 (2) *This* subdivision shall be operative only until the enactment
16 of legislation implementing the three levels of care in residential
17 care facilities for the elderly pursuant to Section 1569.70.

18 ~~(l)~~

19 (p) “Residential care facility for the elderly” means a housing
20 arrangement chosen voluntarily by persons 60 years of age or over,
21 or their authorized representative, where varying levels and
22 intensities of care and supervision, protective supervision, personal
23 care, or health-related services are provided, based upon their
24 varying needs, as determined in order to be admitted and to remain
25 in the facility. Persons under 60 years of age with compatible needs
26 may be allowed to be admitted or retained in a residential care
27 facility for the elderly as specified in Section 1569.316.

28 This subdivision shall become operative upon the enactment of
29 legislation implementing the three levels of care in residential care
30 facilities for the elderly pursuant to Section 1569.70.

31 ~~(m)~~

32 (q) “Sundowning” means a condition in which persons with
33 cognitive impairment experience recurring confusion,
34 disorientation, and increasing levels of agitation that coincide with
35 the onset of late afternoon and early evening.

36 ~~(n)~~

37 (r) “Supportive services” means resources available to the
38 resident in the community that help to maintain their functional
39 ability and meet their needs as identified in the individual resident
40 assessment. Supportive services may include any of the following:

1 medical, dental, and other health care services; transportation;
2 recreational and leisure activities; social services; and counseling
3 services.

4 ~~SECTION 1.~~

5 *SEC. 2.* Section 1569.15 of the Health and Safety Code is
6 amended to read:

7 1569.15. (a) Any person seeking a license for a residential
8 care facility for the elderly under this chapter shall file with the
9 department, pursuant to regulations, an application on forms
10 furnished by the department, that shall include, but not be limited
11 to, all of the following:

12 (1) Evidence satisfactory to the department of the ability of the
13 applicant to comply with this chapter and of rules and regulations
14 adopted under this chapter by the department.

15 (2) Evidence satisfactory to the department that the applicant
16 is of reputable and responsible character. The evidence shall
17 include, but not be limited to, a criminal record clearance pursuant
18 to Section 1569.17, employment history, and character references.
19 If the applicant is a firm, association, organization, partnership,
20 business trust, corporation, or company, like evidence shall be
21 submitted as to the ~~members or shareholders thereof~~ *individuals*
22 *or entities* holding a beneficial ownership interest of 10 percent
23 or more, and the person who has operational control of the
24 residential care facility for the elderly for which the application
25 for issuance of license or special permit is made. *Notwithstanding*
26 *anything in this section, an applicant or licensee is not required*
27 *to disclose the names of investors in a publicly traded company*
28 *or investment fund if those investors are silent investors who do*
29 *not have influence or control over the investments or operations*
30 *of the company or fund.*

31 ~~(3) The applicant shall disclose whether it is a for-profit or~~
32 ~~not-for-profit provider, the names and license numbers of other~~
33 ~~community care or health care facilities owned, managed, or~~
34 ~~operated by the same applicant and by any parent organization of~~
35 ~~the applicant, the names and business addresses of any person,~~
36 ~~organization, or entity listed as the owner of record in the real~~
37 ~~estate of the facilities, including the buildings and grounds~~
38 ~~appurtenant to the buildings, and the email address of the applicant.~~

39 (3) *If applicable, the following information:*

40 (A) *Whether it is a for-profit or not-for-profit provider.*

1 (B) *The name, address, license number, and licensing agency*
2 *name of other community care or health care facilities owned,*
3 *managed, or operated by the same applicant or by any parent*
4 *organization of the applicant.*

5 (C) *The name and business address of any person or entity that*
6 *controls, as defined in Section 1569.2, the applicant.*

7 (D) *If part of a chain, as defined in Section 1569.2, a diagram*
8 *indicating the relationship between the applicant and the persons*
9 *or entities that are part of the chain, including those that are*
10 *controlled by the same parties, and in a separate list, the name,*
11 *address, and license number, if applicable, for each person or*
12 *entity in the diagram.*

13 (E) *The name and address of any persons, organizations, or*
14 *entities that own the real property on which the facility seeking*
15 *licensure and the licensed facilities described in subparagraph*
16 *(B) are located.*

17 (F) *The name and address of any management company serving*
18 *the facility and the same information required of applicants in*
19 *subparagraphs (C) and (D) for the management company.*

20 (4) Evidence satisfactory to the department that the applicant
21 has sufficient financial resources to maintain the standards of
22 service required by regulations adopted pursuant to this chapter.

23 ~~(5) Disclosure of the applicant's or the applicant's chief~~
24 ~~executive officer, general partner, or like party's~~ *The name of the*
25 *person with operational control of the applicant, such as the chief*
26 *executive officer, general partner, owner or like party, and state*
27 *that person's prior or present service in California or any other*
28 *state as an administrator, chief executive officer, general partner,*
29 ~~corporate officer or director like role of,~~ *or as a person who has*
30 *held or holds a beneficial ownership interest of 10 percent or more*
31 *in, any residential care facility for the elderly, in any facility*
32 *licensed pursuant to Chapter 1 (commencing with Section 1200),*
33 *Chapter 2 (commencing with Section 1250), or Chapter 3*
34 *(commencing with Section 1500), or a similarly licensed facility*
35 *in California or any other state within the past 10 years.*

36 (6) *The following information regarding the applicant and each*
37 *individual or entity identified pursuant to paragraph (5):*

38 ~~(6) Disclosure of any~~

39 (A) *Any revocation, suspension, probation, exclusion order, or*
40 *other similar administrative disciplinary action taken that was filed*

1 *and sustained* in California or any other state, or in the process of
2 being ~~taken, adjudicated,~~ against a facility *associated with a person*
3 ~~identified in pursuant to paragraph (5) or against a license held or~~
4 ~~previously held by the entities and persons specified in paragraph~~
5 ~~(5) by any authority responsible for the licensing of health,~~
6 *residential, or community care facilities* within the past 10 years.

7 (B) *Copies of final findings, orders, or both, issued by any*
8 *health, residential, or community care licensing agency or any*
9 *court relevant to the actions described in subparagraph (A).*

10 (C) *Any petition for bankruptcy relief filed within five years of*
11 *the date of application involving operation or closure of a*
12 *community care facility licensed in California or any other state,*
13 *the court, date, and case number of the filing, and whether a*
14 *discharge was granted. If a discharge was not granted, the*
15 *applicant shall provide copies of any court findings supporting*
16 *denial of discharge.*

17 (7) Any other information as may be required by the department
18 for the proper administration and enforcement of this chapter.

19 (8) Following the implementation of Article 7 (commencing
20 with Section 1569.70), evidence satisfactory to the department of
21 the applicant's ability to meet regulatory requirements for the level
22 of care the facility intends to provide.

23 (9) Evidence satisfactory to the department of adequate
24 knowledge of supportive services and other community supports
25 that may be necessary to meet the needs of elderly residents.

26 (10) A signed statement that the person desiring issuance of a
27 license has read and understood the residential care facility for the
28 elderly statute and regulations.

29 (11) Designation by the applicant of the individual who shall
30 be the administrator of the facility, including, if the applicant is
31 an individual, whether or not the ~~licensee~~ *applicant* shall also be
32 the administrator.

33 (12) Evidence of the right of possession of the facility ~~at prior~~
34 *to the time the license is granted, which may be satisfied by the*
35 *submission of a copy of ~~applicable portions of a~~ the entire lease*
36 *agreement or deed.*

37 (13) Evidence of successfully completing a certified prelicensure
38 education program pursuant to Section 1569.23.

39 (14) For any facility that promotes or advertises or plans to
40 promote or advertise special care, special programming, or special

1 environments for persons with dementia, disclosure to the
2 department of the special features of the facility in its plan of
3 operation.

4 (b) The department shall cross-check all applicant information
5 disclosed pursuant to paragraph (5) of subdivision (a), *if*
6 *electronically available*, with the State Department of Public
7 Health to determine if the applicant has a prior history of operating,
8 holding a position in, or having ownership in, any entity specified
9 in paragraph (5) of subdivision (a).

10 (c) Failure of the applicant to cooperate with the licensing
11 agency in the completion of the application may result in the denial
12 of the application. Failure to cooperate means that the information
13 described in this section and in the regulations of the department
14 has not been provided, or has not been provided in the form
15 requested by the licensing agency, or both.

16 (d) The information required by this section shall be provided
17 to the department upon initial application for licensure, and any
18 change in the information shall be provided to the department
19 within 30 calendar days of that ~~change~~. *change unless a shorter*
20 *timeframe is required by the department. A licensee of multiple*
21 *facilities may provide a single notice of changes to the department*
22 *on behalf of all licensed facilities within the chain. Information*
23 *pertaining to facilities operated in other states may be updated on*
24 *an annual basis, except the following information shall be provided*
25 *within 30 calendar days of the change:*

26 (1) *Information specified in paragraph (6) of subdivision (a).*

27 (2) *Information regarding newly acquired community care or*
28 *health care facilities owned, managed, or operated by the licensee*
29 *or by any parent organization of the licensee.*

30 (e) *An applicant or licensee shall maintain an email address of*
31 *record with the department. The applicant or licensee shall provide*
32 *written notification to the department of the email address and of*
33 *any change to the email address within 10 business days of the*
34 *change.*

35 (e)

36 (f) (1) The department ~~shall~~ *may* deny an application for
37 licensure or may subsequently revoke a license under this chapter
38 if the applicant knowingly *withheld material information* or made
39 a false statement of *material* fact with regard to information that
40 was required by the application for licensure.

1 (2) The department may deny an application for licensure or
2 may subsequently revoke a license under this chapter if the
3 applicant did not disclose ~~enforcement~~ *administrative disciplinary*
4 actions on the application as required by paragraph (6) of
5 subdivision (a).

6 (3) *In addition to the remedies provided under this chapter, the*
7 *department shall, subsequent to licensure, assess a civil penalty*
8 *of one thousand dollars (\$1,000) for a material violation of this*
9 *section.*

10 *SEC. 3. Section 1569.16 of the Health and Safety Code is*
11 *amended to read:*

12 1569.16. (a) (1) If an application for a license indicates, or
13 the department determines during the application review process,
14 that the applicant previously was issued a license under this chapter
15 or under Chapter 1 (commencing with Section 1200), Chapter 2
16 (commencing with Section 1250), Chapter 3 (commencing with
17 Section 1500), Chapter 3.01 (commencing with Section 1568.01),
18 Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5
19 (commencing with Section 1596.90), or Chapter 3.6 (commencing
20 with Section 1597.30) and the prior license was revoked within
21 the preceding two years, the department shall cease any further
22 review of the application until two years have elapsed from the
23 date of the revocation. All residential care facilities for the elderly
24 are exempt from the health planning requirements contained in
25 Part 2 (commencing with Section 127125) of Division 107.

26 (2) If an application for a license or special permit indicates,
27 or the department determines during the application review process,
28 that the applicant previously was issued a certificate of approval
29 by a foster family agency that was revoked by the department
30 pursuant to subdivision (b) of Section 1534 within the preceding
31 two years, the department shall cease any further review of the
32 application until two years shall have elapsed from the date of the
33 revocation.

34 (3) If an application for a license or special permit indicates,
35 or the department determines during the application review process,
36 that the applicant was excluded from a facility licensed by the
37 department pursuant to Section 1558, 1568.092, 1569.58, or
38 1596.8897, the department shall cease any further review of the
39 application unless the excluded individual has been reinstated

1 pursuant to Section 11522 of the Government Code by the
2 department.

3 (b) If an application for a license or special permit indicates,
4 or the department determines during the application review process,
5 that the applicant had previously applied for a license under any
6 of the chapters listed in paragraph (1) of subdivision (a) and the
7 application was denied within the last year, the department shall,
8 except as provided in Section 1569.22, cease further review of the
9 application until one year has elapsed from the date of the denial
10 letter. In those circumstances where denials are appealed and
11 upheld at an administrative hearing, review of the application shall
12 cease for one year from the date of the decision and order being
13 rendered by the department. The cessation of review shall not
14 constitute a denial of the application. *If there are coapplicants and*
15 *the department denies a license due to concerns pertaining solely*
16 *to one of the coapplicants, any other coapplicant may withdraw*
17 *its application, and with the department's written consent pursuant*
18 *to Section 1569.52, shall not be deemed to have a license*
19 *application denied.*

20 (c) If an application for a license or special permit indicates,
21 or the department determines during the application review process,
22 that the applicant had previously applied for a certificate of
23 approval with a foster family agency and the department ordered
24 the foster family agency to deny the application pursuant to
25 subdivision (b) of Section 1534, the department shall cease further
26 review of the application as follows:

27 (1) In cases where the applicant petitioned for a hearing, the
28 department shall cease further review of the application until one
29 year has elapsed from the effective date of the decision and order
30 of the department upholding a denial.

31 (2) In cases where the department informed the applicant of
32 his or her right to petition for a hearing and the applicant did not
33 petition for a hearing, the department shall cease further review
34 of the application until one year has elapsed from the date of the
35 notification of the denial and the right to petition for a hearing.

36 (3) The department may continue to review the application if
37 it has determined that the reasons for the denial of the application
38 were due to circumstances and conditions that either have been
39 corrected or are no longer in existence.

1 (d) The cessation of review shall not constitute a denial of the
 2 application for purposes of Section 1526 or any other law.

3 ~~SEC. 2.~~

4 *SEC. 4.* Section 1569.356 is added to the Health and Safety
 5 Code, to read:

6 1569.356. To the extent that the department’s computer system
 7 can *electronically* accommodate additional residential care facility
 8 for the elderly profile information, the department shall post on
 9 its Internet Web site the current name, business address, and
 10 telephone number of the licensee, the name of the owner of the
 11 residential care facility for the elderly, if not the same as the
 12 licensee, the name of any parent ~~corporation~~, *organization*, the
 13 licensed capacity of the facility, including the capacity for
 14 nonambulatory residents, whether the facility is permitted to accept
 15 and retain residents receiving hospice care services, whether the
 16 facility has a special care unit or program for people with
 17 Alzheimer’s disease and other dementias and has a delayed egress
 18 or secured perimeter system in place, *or both*, and information
 19 required pursuant to *subparagraph (B) of paragraph (3) of*
 20 *subdivision (a) of Section 1569.15.*

21 ~~SEC. 3.~~ Section 1569.501 is added to the Health and Safety
 22 Code, immediately following Section 1569.50, to read:

23 1569.501. ~~(a) The department may deny an application for~~
 24 ~~licensure under this chapter if the applicant has a history of~~
 25 ~~noncompliance with any of the following:~~

26 (1) ~~Requirements imposed upon any residential care facility for~~
 27 ~~the elderly license, any facility licensed pursuant to Chapter 1~~
 28 ~~(commencing with Section 1200), Chapter 2 (commencing with~~
 29 ~~Section 1250), or Chapter 3 (commencing with Section 1500), or~~
 30 ~~a similarly licensed facility in another state.~~

31 (2) ~~Applicable state and federal laws and regulations.~~

32 (3) ~~Requirements governing the operators of the facilities~~
 33 ~~specified in paragraph (1).~~

34 (b) ~~This section applies to an applicant that is or was an~~
 35 ~~administrator, general partner, chief executive officer or like party,~~
 36 ~~corporate officer or director of, or is a person who has held or~~
 37 ~~holds a beneficial ownership of 10 percent or more in, any~~
 38 ~~residential care facility for the elderly, in any facility licensed~~
 39 ~~pursuant to Chapter 1 (commencing with Section 1200), Chapter~~

1 ~~2 (commencing with Section 1250), or Chapter 3 (commencing~~
2 ~~with Section 1500), or a similarly licensed facility in another state.~~

3 ~~(e) Noncompliance by the chief executive officer, general~~
4 ~~partner, or like party with the requirements of this chapter and its~~
5 ~~implementing regulations may be the basis for license decisions~~
6 ~~against the owner.~~

7 *SEC. 5. Section 1569.50 of the Health and Safety Code is*
8 *amended to read:*

9 1569.50. (a) The department may deny an application for a
10 license or may suspend or revoke a license issued under this chapter
11 upon any of the following grounds and in the manner provided in
12 this chapter:

13 (1) Violation by the licensee of this chapter or of the rules and
14 regulations adopted under this chapter.

15 (2) Aiding, abetting, or permitting the violation of this chapter
16 or of the rules and regulations adopted under this chapter.

17 (3) Conduct that is inimical to the health, morals, welfare, or
18 safety of either an individual in or receiving services from the
19 facility or the people of the State of California.

20 (4) The conviction of a licensee, or other person mentioned in
21 Section 1569.17 at any time before or during licensure, of a crime
22 as defined in Section 1569.17.

23 (5) Engaging in acts of financial malfeasance concerning the
24 operation of a facility, including, but not limited to, improper use
25 or embezzlement of client moneys and property or fraudulent
26 appropriation for personal gain of facility moneys and property,
27 or willful or negligent failure to provide services for the care of
28 clients.

29 (b) *The remedies provided in this section may be applied if the*
30 *department finds that any employee, administrator, partner, officer,*
31 *director, member, or manager of the applicant or licensee, any*
32 *person who controls, as defined in Section 1569.2, the licensee,*
33 *or any person who holds a beneficial ownership interest of 10*
34 *percent or more in the applicant or licensee has engaged in the*
35 *conduct described in subdivision (a) related to any facility licensed*
36 *pursuant to Chapter 1 (commencing with Section 1200), Chapter*
37 *2 (commencing with Section 1250), or Chapter 3 (commencing*
38 *with Section 1500), or a similarly licensed facility in California*
39 *or any other state.*

40 (b)

1 (c) The director may temporarily suspend a license, prior to a
2 hearing when, in the opinion of the director, the action is necessary
3 to protect residents or clients of the facility from physical or mental
4 abuse, abandonment, or any other substantial threat to health or
5 safety. The director shall notify the licensee of the temporary
6 suspension and the effective date of the temporary suspension and
7 at the same time shall serve the provider with an accusation. Upon
8 receipt of a notice of defense to the accusation by the licensee, the
9 director shall, within 15 days, set the matter for hearing, and the
10 hearing shall be held as soon as possible but not later than 30 days
11 after receipt of the notice. The temporary suspension shall remain
12 in effect until the time the hearing is completed and the director
13 has made a final determination on the merits. However, the
14 temporary suspension shall be deemed vacated if the director fails
15 to make a final determination on the merits within 30 days after
16 the original hearing has been completed.

17 (e)

18 (d) A licensee who abandons the facility and the residents in
19 care resulting in an immediate and substantial threat to the health
20 and safety of the abandoned residents, in addition to revocation of
21 the license pursuant to this section, shall be excluded from licensure
22 in facilities licensed by the department without the right to petition
23 for reinstatement.

24 *SEC. 6. Section 1569.58 of the Health and Safety Code is*
25 *amended to read:*

26 1569.58. (a) The department may prohibit any person from
27 being a ~~member of the board of directors, an executive director, a~~
28 ~~board member, or an officer of a licensee, or a licensee, owning a~~
29 *beneficial ownership interest of 10 percent or more in a licensed*
30 *facility, or being an administrator, officer, director, member, or*
31 *manager of a licensee or entity controlling a licensee, and may*
32 *further prohibit any licensee from employing, or continuing the*
33 *employment of, or allowing in a licensed facility, or allowing*
34 *contact with clients of a licensed facility by, any employee,*
35 *prospective employee, or person who is not a client and who ~~has~~*
36 *has done any of the following:*

37 (1) Violated, or aided or permitted the violation by any other
38 person of, any provisions of this chapter or of any rules or
39 regulations promulgated under this chapter.

1 (2) Engaged in conduct that is inimical to the health, morals,
2 welfare, or safety of either an individual in or receiving services
3 from the facility, or the people of the State of California.

4 (3) Been denied an exemption to work or to be present in a
5 facility, when that person has been convicted of a crime as defined
6 in Section 1569.17.

7 (4) Engaged in any other conduct that would constitute a basis
8 for disciplining a licensee.

9 (5) Engaged in acts of financial malfeasance concerning the
10 operation of a facility, including, but not limited to, improper use
11 or embezzlement of client moneys and property or fraudulent
12 appropriation for personal gain of facility moneys and property,
13 or willful or negligent failure to provide services for the care of
14 clients.

15 (b) The excluded person, the facility, and the licensee shall be
16 given written notice of the basis of the department's action and of
17 the excluded person's right to an appeal. The notice shall be served
18 either by personal service or by registered mail. Within 15 days
19 after the department serves the notice, the excluded person may
20 file with the department a written appeal of the exclusion order.
21 If the excluded person fails to file a written appeal within the
22 prescribed time, the department's action shall be final.

23 (c) (1) The department may require the immediate removal of
24 a member of the board of directors, an executive director, or an
25 officer of a licensee or exclusion of an employee, prospective
26 employee, or person who is not a client from a facility pending a
27 final decision of the matter, when, in the opinion of the director,
28 the action is necessary to protect residents or clients from physical
29 or mental abuse, abandonment, or any other substantial threat to
30 their health or safety.

31 (2) If the department requires the immediate removal of a
32 member of the board of directors, an executive director, or an
33 officer of a licensee or exclusion of an employee, prospective
34 employee, or person who is not a client from a facility the
35 department shall serve an order of immediate exclusion upon the
36 excluded person that shall notify the excluded person of the basis
37 of the department's action and of the excluded person's right to a
38 hearing.

39 (3) Within 15 days after the department serves an order of
40 immediate exclusion, the excluded person may file a written appeal

1 of the exclusion with the department. The department's action
2 shall be final if the excluded person does not appeal the exclusion
3 within the prescribed time. The department shall do the following
4 upon receipt of a written appeal:

5 (A) Within 30 days of receipt of the appeal, serve an accusation
6 upon the excluded person.

7 (B) Within 60 days of receipt of a notice of defense by the
8 excluded person pursuant to Section 11506 of the Government
9 Code, conduct a hearing on the accusation.

10 (4) An order of immediate exclusion of the excluded person
11 from the facility shall remain in effect until the hearing is
12 completed and the director has made a final determination on the
13 merits. However, the order of immediate exclusion shall be deemed
14 vacated if the director fails to make a final determination on the
15 merits within 60 days after the original hearing has been completed.

16 (d) An excluded person who files a written appeal of the
17 exclusion order with the department pursuant to this section shall,
18 as part of the written request, provide his or her current mailing
19 address. The excluded person shall subsequently notify the
20 department in writing of any change in mailing address, until the
21 hearing process has been completed or terminated.

22 (e) Hearings held pursuant to this section shall be conducted in
23 accordance with Chapter 5 (commencing with Section 11500) of
24 Division 3 of Title 2 of the Government Code. The standard of
25 proof shall be the preponderance of the evidence and the burden
26 of proof shall be on the department.

27 (f) The department may institute or continue a disciplinary
28 proceeding against a member of the board of directors, an executive
29 director, or an officer of a licensee or an employee, prospective
30 employee, or person who is not a client upon any ground provided
31 by this section. The department may enter an order prohibiting
32 any person from being a member of the board of directors, an
33 executive director, or an officer of a licensee, or prohibiting the
34 excluded person's employment or presence in the facility, or
35 otherwise take disciplinary action against the excluded person,
36 notwithstanding any resignation, withdrawal of employment
37 application, or change of duties by the excluded person, or any
38 discharge, failure to hire, or reassignment of the excluded person
39 by the licensee or that the excluded person no longer has contact
40 with clients at the facility.

1 (g) A licensee's failure to comply with the department's
2 exclusion order after being notified of the order shall be grounds
3 for disciplining the licensee pursuant to Section 1569.50.

4 (h) (1) (A) In cases where the excluded person appealed the
5 exclusion order and there is a decision and order of the department
6 upholding the exclusion order, the person shall be prohibited from
7 working in any facility or being licensed to operate any facility
8 licensed by the department or from being a certified foster parent
9 for the remainder of the excluded person's life, unless otherwise
10 ordered by the department.

11 (B) The excluded individual may petition for reinstatement one
12 year after the effective date of the decision and order of the
13 department upholding the exclusion order pursuant to Section
14 11522 of the Government Code. The department shall provide the
15 excluded person with a copy of Section 11522 of the Government
16 Code with the decision and order.

17 (2) (A) In cases where the department informed the excluded
18 person of his or her right to appeal the exclusion order and the
19 excluded person did not appeal the exclusion order, the person
20 shall be prohibited from working in any facility or being licensed
21 to operate any facility licensed by the department or a certified
22 foster parent for the remainder of the excluded person's life, unless
23 otherwise ordered by the department.

24 (B) The excluded individual may petition for reinstatement after
25 one year has elapsed from the date of the notification of the
26 exclusion order pursuant to Section 11522 of the Government
27 Code. The department shall provide the excluded person with a
28 copy of Section 11522 of the Government Code with the exclusion
29 order.

30 ~~SEC. 4.~~

31 *SEC. 7.* Section 1569.618 of the Health and Safety Code is
32 amended to read:

33 1569.618. (a) The administrator designated by the licensee
34 pursuant to paragraph (11) of subdivision (a) of Section 1569.15
35 shall be present at the facility during normal working hours. A
36 facility manager designated by the licensee with notice to the
37 department, shall be responsible for the operation of the facility
38 when the administrator is temporarily absent from the facility.

39 (b) At least one administrator, facility manager, or designated
40 substitute who is at least 21 years of age and has qualifications

1 adequate to be responsible and accountable for the management
2 and administration of the facility pursuant to Title 22 of the
3 California Code of Regulations shall be on the premises 24 hours
4 per day. The designated substitute may be a direct care staff
5 member who shall not be required to meet the educational,
6 certification, or training requirements of an administrator. The
7 designated substitute shall meet qualifications that include, but are
8 not limited to, all of the following:

9 (1) Knowledge of the requirements for providing care and
10 supervision appropriate to each resident of the facility.

11 (2) Familiarity with the facility’s planned emergency procedures.

12 (3) Training to effectively interact with emergency personnel
13 in the event of an emergency call, including an ability to provide
14 a resident’s medical records to emergency responders.

15 (c) The facility shall employ, and the administrator shall
16 schedule, a sufficient number of staff members to do all of the
17 following:

18 (1) Provide the care required in each resident’s written record
19 of care as described in Section 1569.80.

20 (2) Ensure the health, safety, comfort, and supervision of the
21 residents.

22 (3) Ensure that at least one staff member who has
23 cardiopulmonary resuscitation (CPR) training and first aid training
24 is on duty and on the premises at all times. This paragraph shall
25 not be construed to require staff to provide CPR.

26 (4) Ensure that the facility is clean, safe, sanitary, and in good
27 repair at all times.

28 (d) “Facility manager” means a person on the premises with the
29 authority and responsibility necessary to manage and control the
30 day-to-day operation of a residential care facility for the elderly
31 and supervise the clients. The facility manager, licensee, and
32 administrator, or any combination thereof, may be the same person
33 provided he or she meets all applicable requirements. If the
34 administrator is also the facility manager for the same facility, he
35 or she shall be limited to the administration and management of
36 only one facility.

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