

ASSEMBLY BILL

No. 2301

Introduced by Assembly Member Chu

February 18, 2016

An act to amend Section 1569.269 of the Health and Safety Code, relating to residential care facilities for the elderly.

LEGISLATIVE COUNSEL'S DIGEST

AB 2301, as introduced, Chu. Residential care facilities for the elderly: resident rights.

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 establishes rights for residents of residential care facilities for the elderly, including the right to be granted a reasonable level of personal privacy and the right to be accorded dignity in their personal relationships with staff, residents, and other persons.

This bill would make technical, nonsubstantive changes to these provisions.

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

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

- 1 SECTION 1. Section 1569.269 of the Health and Safety Code
- 2 is amended to read:
- 3 1569.269. (a) Residents of residential care facilities for the
- 4 elderly shall have all of the following rights:

- 1 (1) To be accorded dignity in their personal relationships with
2 staff, residents, and other persons.
- 3 (2) To be granted a reasonable level of personal privacy in
4 accommodations, medical treatment, personal care and assistance,
5 visits, communications, telephone conversations, use of the
6 Internet, and meetings of resident and family groups.
- 7 (3) To confidential treatment of their records and personal
8 information and to approve their release, except as authorized by
9 law.
- 10 (4) To be encouraged and assisted in exercising their rights as
11 citizens and as residents of the facility. Residents shall be free
12 from interference, coercion, discrimination, and retaliation in
13 exercising their rights.
- 14 (5) To be accorded safe, healthful, and comfortable
15 accommodations, furnishings, and equipment.
- 16 (6) To care, supervision, and services that meet their individual
17 needs and are delivered by staff that are sufficient in numbers,
18 qualifications, and competency to meet their needs.
- 19 (7) To be served food of the quality and in the quantity necessary
20 to meet their nutritional needs.
- 21 (8) To make choices concerning their daily life in the facility.
- 22 (9) To fully participate in planning their care, including the right
23 to attend and participate in meetings or communications regarding
24 the care and services to be provided in accordance with Section
25 1569.80, and to involve persons of their choice in the planning
26 process. The licensee shall provide necessary information and
27 support to ensure that residents direct the process to the maximum
28 extent possible, and are enabled to make informed decisions and
29 choices.
- 30 (10) To be free from neglect, financial exploitation, involuntary
31 seclusion, punishment, humiliation, intimidation, and verbal,
32 mental, physical, or sexual abuse.
- 33 (11) To present grievances and recommend changes in policies,
34 procedures, and services to the staff of the facility, the facility's
35 management and governing authority, and to any other person
36 without restraint, coercion, discrimination, reprisal, or other
37 retaliatory actions. The licensee shall take prompt actions to
38 respond to residents' grievances.
- 39 (12) To contact the State Department of Social Services, the
40 long-term care ombudsman, or both, regarding grievances against

1 the licensee. The licensee shall post the telephone numbers and
2 addresses for the local offices of the State Department of Social
3 Services and ombudsman program, in accordance with Section
4 9718 of the Welfare and Institutions Code, conspicuously in the
5 facility foyer, lobby, residents' activity room, or other location
6 easily accessible to residents.

7 (13) To be fully informed, as evidenced by the resident's written
8 ~~acknowledgement~~, *acknowledgment*, prior to or at the time of
9 admission, of all rules governing residents' conduct and
10 responsibilities. In accordance with Section 1569.885, all rules
11 established by a licensee shall be reasonable and shall not violate
12 ~~any~~ rights set forth in this chapter or in other applicable laws or
13 regulations.

14 (14) To receive in the admission agreement a comprehensive
15 description of the method for evaluating residents' service needs
16 and the fee schedule for the items and services provided, and to
17 receive written notice of any rate increases pursuant to Sections
18 1569.655 and 1569.884.

19 (15) To be ~~informed~~ *informed*, in ~~writing~~ *writing*, at or before
20 the time of admission of any resident retention limitations set by
21 the state or licensee, including ~~any~~ limitations or restrictions on
22 the licensee's ability to meet residents' needs.

23 (16) To reasonable accommodation of individual needs and
24 preferences in all aspects of life in the facility, except when the
25 health or safety of the individual or other residents would be
26 endangered.

27 (17) To reasonable accommodation of resident preferences
28 concerning room and roommate choices.

29 (18) To written notice of ~~any~~ room changes at least 30 days in
30 advance unless the request for a change is agreed to by the resident,
31 required to fill a vacant bed, or necessary due to an emergency.

32 (19) To share a room with the resident's spouse, domestic
33 partner, or a person of resident's choice when both spouses,
34 partners, or residents live in the same facility and consent to the
35 arrangement.

36 (20) To select their own physicians, pharmacies, privately paid
37 personal assistants, hospice agency, and health care providers, in
38 a manner that is consistent with the resident's contract of admission
39 or other rules of the facility, and in accordance with this act.

1 (21) To have prompt access to review all of their records and
2 to purchase photocopies. Photocopied records shall be promptly
3 provided, not to exceed two business days, at a cost not to exceed
4 the community standard for photocopies.

5 (22) To be protected from involuntary transfers, discharges, and
6 evictions in violation of state laws and regulations. Facilities shall
7 not involuntarily transfer or evict residents for grounds other than
8 those specifically enumerated under state law or regulations, and
9 shall comply with enumerated eviction and relocation protections
10 for residents. For purposes of this paragraph, “involuntary” means
11 a transfer, discharge, or eviction that is initiated by the licensee,
12 not by the resident.

13 (23) To move from a facility.

14 (24) To consent to have relatives and other individuals of the
15 resident’s choosing visit during reasonable hours, privately and
16 without prior notice.

17 (25) To receive written information on the right to establish an
18 advanced health care directive and, pursuant to Section 1569.156,
19 the licensee’s written policies on honoring those directives.

20 (26) To be encouraged to maintain and develop their fullest
21 potential for independent living through participation in activities
22 that are designed and implemented for this purpose, in accordance
23 with Section 87219 of Title 22 of the California Code of
24 Regulations.

25 (27) To organize and participate in a resident council that is
26 established pursuant to Section 1569.157.

27 (28) To protection of their property from theft or loss in
28 accordance with Sections 1569.152, 1569.153, and 1569.154.

29 (29) To manage their financial affairs. A licensee shall not
30 require residents to deposit their personal funds with the licensee.
31 Except as provided in approved continuing care agreements, a
32 licensee, or a spouse, domestic partner, relative, or employee of a
33 licensee, shall not do any of the following:

34 (A) Accept appointment as a guardian or conservator of the
35 person or estate of a resident.

36 (B) Become or act as a representative payee for any payments
37 made to a resident, without the written and documented consent
38 of the resident or the resident’s representative.

39 (C) Serve as an agent for a resident under ~~any~~ a general or
40 special power of attorney.

1 (D) Become or act as a joint tenant on ~~any~~ *an* account with a
2 resident.

3 (E) Enter into a loan or promissory agreement or otherwise
4 borrow money from a resident without a notarized written
5 agreement outlining the terms of the repayment being given to the
6 resident.

7 (30) To keep, have access to, and use their own personal
8 possessions, including toilet articles, and to keep and be allowed
9 to spend their own money, unless limited by statute or regulation.

10 (b) A licensed residential care facility for the elderly shall not
11 discriminate against a person seeking admission or a resident based
12 on sex, race, color, religion, national origin, marital status,
13 registered domestic partner status, ancestry, actual or perceived
14 sexual orientation, or actual or perceived gender identity.

15 (c) No provision of a contract of admission, including all
16 documents that a resident or his or her representative is required
17 to sign as part of the contract for, or as a condition of, admission
18 to a residential care facility for the elderly, shall require that a
19 resident waive benefits or rights to which he or she is entitled under
20 this chapter or provided by federal or other state law or regulation.

21 (d) Residents' family members, friends, and representatives
22 have the right to organize and participate in a family council that
23 is established pursuant to Section 1569.158.

24 (e) The rights specified in this section shall be in addition to
25 any other rights provided by law.

26 (f) The provisions of this section are severable. If any provision
27 of this section or its application is held invalid, that invalidity shall
28 not affect other provisions or applications that can be given effect
29 without the invalid provision or application.