

ASSEMBLY BILL

No. 402

Introduced by Assembly Member Hannigan

February 14, 1995

An act to amend Sections 1569.613, 1569.616, and 1569.617 of, and to repeal Section 1569.615 of, the Health and Safety Code, relating to residential care facilities for the elderly, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 402, as introduced, Hannigan. Residential care facilities for the elderly.

Existing law, the California Residential Care Facilities for the Elderly Act, provides for the licensure and regulation of residential care facilities for the elderly, as defined. The act requires any person who becomes an administrator of a residential care facility for the elderly to provide documentation of having completed a certification program approved by the State Department of Social Services. The act also requires that an applicant for licensure as a residential care facility for the elderly successfully complete a certification program approved by the department and requires that a fee be paid for issuance of a certificate of completion.

This bill would require that an administrator of a facility have a valid certificate as an administrator in accordance with the administrator certification program, unless otherwise exempted.

Existing law sets forth the requirements of an administrator certification program for administrators of residential care facilities for the elderly and requires the department to administer certification. As part of the program, the licensee of a facility is subject to having his or her license revoked where the administrator of the facility has not complied with the program. Under existing law a violation of the provisions governing licensure and regulation of residential care facilities for the elderly is punishable as a misdemeanor.

This bill would add additional requirements for the department's administration of the certification program, would require certificate holders to notify the state department of changes in employment status, would require a fee of \$50 for the reissuance of a lost certificate, and would require the licensee to notify the department within 30 days of any change in administrators. By adding additional requirements for licensees and certificate holders, this bill would change the definition of a crime, thereby imposing a state-mandated local program.

Under existing law there is in the State Treasury a Residential Care Facility for the Elderly Fund for expenditure by the department, upon appropriation of funds by the Legislature, for the purpose of administering the administrator certification program.

This bill would make the Residential Care Facility for the Elderly Fund a continuously appropriated fund to be funded exclusively by fees collected pursuant to the residential care facility for the elderly administrator and licensee certification programs, thereby making an appropriation. This bill would also delete other obsolete provisions of law.

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: yes. Fiscal committee: yes. State-mandated local program: yes.



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

1 SECTION 1. Section 1569.613 of the Health and
2 Safety Code is amended to read:

3 1569.613. Any person who becomes an administrator
4 of a residential care facility for the elderly on or after
5 January 1, 1992, shall, at a minimum, comply with all of the
6 following:

7 (a) Be at least 21 years of age.

8 (b) ~~Provide documentation of having successfully~~
9 ~~completed a certification program approved by the~~
10 ~~department~~ *Have a valid certificate as an administrator*
11 *of a residential care facility for the elderly as required by*
12 *Section 1569.616.*

13 (c) Have a high school diploma or pass a general
14 educational development test as described in Article 3
15 (commencing with Section 51420) of Chapter 3 of Part 28
16 of the Education Code.

17 (d) Obtain criminal record clearance as provided for
18 in Sections 1569.17 and 1569.171.

19 SEC. 2. Section 1569.615 of the Health and Safety
20 Code is repealed.

21 ~~1569.615. (a) Notwithstanding Section 1569.62, and~~
22 ~~until legislation is enacted establishing an administrator~~
23 ~~certification program, an administrator of a residential~~
24 ~~care facility, if other than the licensee, shall be required~~
25 ~~to successfully complete the certification program~~
26 ~~provided for pursuant to Section 1569.23. In those cases~~
27 ~~where the individual is both the licensee and the~~
28 ~~designated administrator of a facility, and the individual~~
29 ~~is exempt from the requirements of Section 1569.23 as a~~
30 ~~licensee, the individual shall comply with the~~
31 ~~requirements of this subdivision as the designated~~
32 ~~administrator unless he or she qualifies for the exemption~~
33 ~~provided for in subdivision (b).~~

34 (b) ~~An individual designated as the administrator of a~~
35 ~~residential care facility for the elderly who holds a valid~~
36 ~~license as a nursing home administrator issued in~~
37 ~~accordance with Chapter 8.5 (commencing with Section~~



1 ~~3901) of Division 2 of the Business and Professions Code~~
2 ~~shall be exempt from this section.~~

3 ~~(c) Individuals designated as the administrator of a~~
4 ~~residential care facility for the elderly on or after January~~
5 ~~1, 1991, shall comply with this section by July 1, 1991.~~
6 ~~Failure to comply with this section shall constitute cause~~
7 ~~for revocation of the license.~~

8 ~~(d) This section shall become operative on January 1,~~
9 ~~1991.~~

10 ~~(e) This section shall be operative only until~~
11 ~~regulations are adopted implementing the administrator~~
12 ~~certification program pursuant to Section 1569.616.~~

13 SEC. 3. Section 1569.616 of the Health and Safety
14 Code is amended to read:

15 1569.616. (a) (1) An administrator of a residential
16 care facility for the elderly shall be required to
17 successfully complete a department approved
18 certification program prior to employment.

19 (2) In those cases where the individual is both the
20 licensee and the administrator of a facility, or a licensed
21 nursing home administrator, the individual shall comply
22 with the requirements of this section unless he or she
23 qualifies for one of the exemptions provided for in
24 subdivision (b).

25 (3) Failure to comply with this section shall constitute
26 cause for revocation of the license of the facility where
27 ~~the~~ *an* individual is functioning as the administrator. *The*
28 *licensee shall notify the department within 30 days of any*
29 *change in administrators.*

30 (b) Individuals seeking exemptions under paragraph
31 (2) of subdivision (a) shall meet the following criteria and
32 fulfill the required portions of the certification program,
33 as the case may be:

34 (1) An individual designated as the administrator of a
35 residential care facility for the elderly who holds a valid
36 license as a nursing home administrator issued in
37 accordance with Chapter 8.5 (commencing with Section
38 3901) of Division 2 of the Business and Professions Code
39 shall be required to complete the areas in the uniform
40 core of knowledge required by this section ~~which pertains~~



1 *that pertain* to the law, regulations, policies, and
2 procedural standards that impact the operations of
3 residential care facilities for the elderly, the use, misuse,
4 and interaction of medication commonly used by the
5 elderly in a residential setting, and resident admission,
6 retention, and assessment procedures, equal to 12 hours
7 of classroom instruction. An individual meeting the
8 requirements of this paragraph shall not be required to
9 take a written test.

10 (2) In those cases where the individual was both the
11 licensee and administrator on or before July 1, 1991, the
12 individual ~~will~~ *shall* be required to complete all the areas
13 specified for the certification program but shall not be
14 required to take the written test required by this section.
15 Those individuals exempted from the written test shall be
16 issued a conditional certification ~~which~~ *that* is valid only
17 ~~as being~~ *for* the administrator of the facility for which the
18 exemption was granted.

19 (A) As a condition to becoming an administrator of
20 another facility the individual shall be required to pass the
21 written test provided for in this section.

22 (B) As a condition to applying for a new facility
23 license, the individual shall be required to pass the
24 written test provided for in Section 1569.23.

25 (c) (1) The administrator certification program shall
26 require a minimum of 40 hours of classroom instruction
27 that provides training on a uniform core of knowledge in
28 each of the following areas:

29 (A) Laws, regulations, and policies and procedural
30 standards that impact the operations of residential care
31 facilities for the elderly.

32 (B) Business operations.

33 (C) Management and supervision of staff.

34 (D) Psychosocial needs of the elderly.

35 (E) Community and support services.

36 (F) Physical needs for elderly persons.

37 (G) Use, misuse, and interaction of medication
38 commonly used by the elderly.

39 (H) Resident admission, retention, and assessment
40 procedures.



1 (2) Successful completion of the administrator
2 certification program shall be demonstrated by passing a
3 written test administered by the department *within 60*
4 *days of the applicant having completed the 40 hours of*
5 *classroom instruction.*

6 (d) The department shall issue a certificate upon
7 receipt of all of the following:

8 (1) A certificate of completion of the administrator
9 training required pursuant to this chapter.

10 (2) The fee required for issuance of the certificate. A
11 fee of one hundred dollars (\$100) shall be charged by the
12 department to cover the costs for the issuance of a
13 certificate.

14 (3) Documentation of passing the written test *within*
15 *30 days of the applicant having successfully passed,* unless
16 *the applicant is exempt from the written test* pursuant to
17 subdivision (b).

18 (4) Submission of fingerprints. The department and
19 the Department of Justice shall expedite the criminal
20 record clearance for holders of certificates.

21 (e) It shall be unlawful for any person not certified
22 under this section to hold himself or herself out as a
23 certified administrator of a residential care facility for the
24 elderly. Any person willfully making any false
25 representation as being a certified administrator is guilty
26 of a misdemeanor.

27 (f) (1) Certificates issued under this section shall be
28 renewed every two years and renewal shall be
29 conditional upon the certificate holder submitting
30 documentation of completion of 40 hours of continuing
31 education related to the core of knowledge specified in
32 paragraph (1) of subdivision (c).

33 (2) Every administrator of a residential care facility for
34 the elderly is required to complete the continuing
35 education requirements of this subdivision whether he or
36 she is certified according to subdivision (a) or (b).

37 (3) Certificates issued under this section shall expire
38 on the certificate holder's birthday. The department may
39 send a renewal notice to the certificate holder 90 days
40 prior to the expiration date of the certificate. If the



1 certificate is not renewed prior to its expiration date,
2 reinstatement shall only be permitted after the
3 certificate holder has paid a delinquency fee equal to
4 three times the renewal fee and has provided evidence
5 of completion of the continuing education required.

6 (4) To renew a certificate, the certificate holder shall,
7 on or before the certificate expiration date, request
8 renewal by submitting to the department documentation
9 of completion of the required continuing education
10 courses and pay the renewal fee of one hundred dollars
11 (\$100), irrespective of receipt of the department's
12 notification of the renewal. A renewal request
13 postmarked on or before the expiration of the certificate
14 is proof of compliance with this paragraph.

15 (5) A suspended or revoked certificate is subject to
16 expiration as provided for in this section. If reinstatement
17 of the certificate is approved by the department, the
18 certificate holder, as a condition precedent to
19 reinstatement, shall pay a fee in an amount equal to the
20 renewal fee, plus the delinquency fee, if any, accrued at
21 the time of its revocation or suspension.

22 (6) A certificate ~~which~~ *that* is not renewed within four
23 years after its expiration shall not be renewed, restored,
24 reissued, or reinstated except upon completion of a
25 certification program, passing any test that may be
26 required of an applicant for a new certificate at that time,
27 and paying the appropriate fees provided for in this
28 section.

29 (7) *A fee of fifty dollars (\$50) shall be charged for the*
30 *reissuance of a lost certificate.*

31 (8) *A certificate holder shall inform the department of*
32 *his or her employment status within 30 days of any*
33 *change.*

34 (g) (1) The department may revoke a certificate
35 issued under this section for any of the following:

36 (A) Procuring a certificate by fraud or
37 misrepresentation.

38 (B) Knowingly making or giving any false statement
39 or information in conjunction with the application for
40 issuance of a certificate.



1 (C) Criminal conviction unless an exemption is
2 granted pursuant to Section 1569.17.

3 (h) The certificate shall be considered forfeited under
4 the following conditions:

5 (1) The administrator has had a license revoked,
6 suspended, or denied as authorized under Section
7 1569.50.

8 (2) The administrator has been denied employment,
9 residence, or presence in a facility based on action
10 resulting from an administrative hearing pursuant to
11 Section 1569.58.

12 (i) (1) The department shall establish, by regulation,
13 the program content, the testing instrument, the process
14 for approving certification programs, and criteria to be
15 used in authorizing individuals, organizations, or
16 educational institutions to conduct certification programs
17 and continuing education courses. These regulations shall
18 be developed in consultation with provider
19 organizations, and shall be made available at least six
20 months prior to the deadline required for certification.

21 (2) The department shall prepare and maintain an
22 updated list of approved training vendors.

23 (3) The department may inspect training programs
24 and continuing education courses to determine if content
25 and teaching methods comply with regulations. If the
26 department determines that any vendor is not complying
27 with the intent of this section, the department shall take
28 appropriate action to bring the program into compliance,
29 which may include removing the vendor from the
30 approved list.

31 (4) The department shall establish reasonable
32 procedures and timeframes not to exceed 30 days for the
33 approval of vendor training programs.

34 (5) The department may charge a reasonable fee, not
35 to exceed one hundred fifty dollars (\$150) every two
36 years to certification program vendors for review and
37 approval of the initial 40-hour training program pursuant
38 to subdivision (c). The department may also charge the
39 vendor a fee not to exceed one hundred dollars (\$100)
40 every two years for the review and approval of the



1 continuing education courses needed for recertification
2 pursuant to this subdivision.

3 (j) This section shall be operative upon regulations
4 being adopted by the department to implement the
5 administrator certification program as provided for in
6 this section.

7 (k) *The department shall establish a registry for
8 holders of certificates that shall include, at a minimum,
9 information on employment status and criminal record
10 clearance.*

11 SEC. 4. Section 1569.617 of the Health and Safety
12 Code is amended to read:

13 1569.617. (a) There is hereby created in the State
14 Treasury, the Residential Care Facility for the Elderly
15 Fund from which moneys, ~~upon appropriation of the~~
16 ~~Legislature,~~ shall be expended by the department for the
17 purpose of administering ~~this article, including the~~
18 ~~administrator certification program. The sum of one~~
19 ~~hundred fifty thousand dollars (\$150,000) is hereby~~
20 ~~transferred from the General Fund to this fund and is~~
21 ~~hereby appropriated from the fund for expenditure in the~~
22 *1991-92 fiscal year the residential care facility for the*
23 *elderly certification programs for administrators and*
24 *licensees.*

25 (b) The fund shall consist of ~~specific appropriations~~
26 ~~that the Legislature sets aside for use by the fund and all~~
27 ~~fees, penalties, and fines collected pursuant to this article~~
28 *subdivision (c) of Section 1569.23 and Section 1569.616.*
29 *Notwithstanding Section 13340 of the Government Code,*
30 *the Residential Care Facility for the Elderly Fund is*
31 *hereby continuously appropriated to the department,*
32 *without regard to fiscal year, for the purpose of*
33 *administering the residential care facility for the elderly*
34 *certification programs for administrators and licensees.*

35 (c) ~~From the fund, over a three-year period, the~~
36 ~~department shall repay to the General Fund one hundred~~
37 ~~fifty thousand dollars (\$150,000) plus interest earned on~~
38 ~~this amount at the rate earned by the Pooled Money~~
39 ~~Investment Account. Repayments made pursuant to this~~
40 ~~section shall be made from those fees paid pursuant to~~



1 ~~Section 1569.616 in the implementation of the~~
2 ~~administrator certification program.~~

3 SEC. 5. No reimbursement is required by this act
4 pursuant to Section 6 of Article XIII B of the California
5 Constitution because the only costs that may be incurred
6 by a local agency or school district will be incurred
7 because this act creates a new crime or infraction,
8 eliminates a crime or infraction, or changes the penalty
9 for a crime or infraction, within the meaning of Section
10 17556 of the Government Code, or changes the definition
11 of a crime within the meaning of Section 6 of Article
12 XIII B of the California Constitution.

13 Notwithstanding Section 17580 of the Government
14 Code, unless otherwise specified, the provisions of this act
15 shall become operative on the same date that the act
16 takes effect pursuant to the California Constitution.

