

Senate Bill No. 815

CHAPTER 706

An act to amend Sections 1524.5, 1550, 1551, and 1562.3 of, and to add Section 1562.4 to, the Health and Safety Code, relating to care facilities.

[Approved by Governor October 9, 1995. Filed
with Secretary of State October 10, 1995.]

LEGISLATIVE COUNSEL'S DIGEST

SB 815, Peace. Care facilities.

Existing law provides for the licensure and regulation of community care facilities, including residential facilities, foster family agencies, small family homes, community treatment facilities, and social rehabilitation facilities, as defined, by the State Department of Social Services.

Existing law requires a community care facility providing residential care for 6 or fewer persons to provide a procedure approved by the licensing agency for immediate response to incidents and complaints. Existing law requires the owner, or licensee of a facility, or a person designated by them, to meet with residents at an established weekly time to learn of problems in the facility or neighborhood. Existing law requires facilities to establish these procedures by July 1, 1995.

This bill would exempt family homes certified by foster family agencies, foster family homes, and small family homes from these requirements, and would change the required date of compliance for facilities to July 1, 1996.

Existing law requires the training program for the staff and operators of adult residential facilities to include prescribed criteria, and requires the department to issue a certificate upon the receipt of documentation including a certificate of completion of the administrator training. Existing law provides that these provisions become operative only upon adoption of regulations by the department to implement the administrator certification program.

This bill would instead provide that the provisions governing the administrator certification program would become operative only if the regulations are adopted on or before July 1, 1996. This bill would recast the program as a certification program instead of a training program and would revise several of the requirements, including increasing the number of required hours of classroom instruction for applicants and continuing education hours for renewal of certificates, changing the date of expiration of the certificates, imposing a fee of \$25 for reissuance of a lost certificate, and requiring a licensee of an

adult residential facility to notify the department within 30 days of any change in administrators. The bill would also require the certificate holder to inform the department of any change in his or her employment status within 30 days of the change, and would require the department to establish a registry for holders of certificates that includes information on their employment status and their criminal record.

The bill would authorize the department to deny approval to any agency or person providing certification training programs or continuing education courses based on certain prescribed criteria.

The bill would also revise the grounds for which the department may deny an application for, or suspend or revoke, an administrator certificate.

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

SECTION 1. Section 1524.5 of the Health and Safety Code is amended to read:

1524.5. (a) In addition to any other requirements of this chapter, any community care facility providing residential care for six or fewer persons, except family homes certified by foster family agencies, foster family homes, and small family homes, shall provide a procedure approved by the licensing agency for immediate response to incidents and complaints. This procedure shall include a method of assuring that the owner, licensee, or person designated by the owner or licensee is notified of the incident, that the owner, licensee, or person designated by the owner or licensee has personally investigated the matter, and that the person making the complaint or reporting the incident has received a written response of action taken or a reason why no action needs to be taken.

(b) In order to assure the opportunity for complaints to be made directly to the owner, licensee, or person designated by the owner or licensee, and to provide the opportunity for the owner, licensee, or person designated by the owner or licensee to meet residents and learn of problems in the neighborhood, any facility, except family homes certified by foster family agencies, foster family homes, and small family homes, shall establish a fixed time on a weekly basis when the owner, licensee, or person designated by the owner or licensee will be present.

(c) Facilities shall establish procedures to comply with the requirements of this section on or before July 1, 1996.

SEC. 2. Section 1550 of the Health and Safety Code is amended to read:

1550. The department may deny an application for, or suspend or revoke, any license, or any administrator certificate, issued under this chapter upon any of the following grounds and in the manner provided in this chapter:



(a) Violation by the licensee or holder of a special permit of this chapter or of the rules and regulations promulgated under this chapter.

(b) Aiding, abetting, or permitting the violation of this chapter or of the rules and regulations promulgated under this chapter.

(c) Conduct which 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 of California.

(d) The conviction of a licensee, or other person mentioned in Section 1522, at any time during licensure, of a crime as defined in Section 1522.

(e) The licensee of any facility or the person providing direct care or supervision knowingly allows any child to have illegal drugs or alcohol.

SEC. 3. Section 1551 of the Health and Safety Code is amended to read:

1551. (a) Proceedings for the suspension, revocation, or denial of a license, registration, special permit, or any administrator certificate under this chapter shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the state department shall have all the powers granted by those provisions. In the event of conflict between this chapter and the Government Code, the Government Code shall prevail.

(b) In all proceedings conducted in accordance with this section, the standard of proof to be applied shall be by the preponderance of the evidence.

(c) If the license is not temporarily suspended pursuant to Section 1550, the hearing shall be held within 90 calendar days after receipt of the notice of defense, unless a continuance of the hearing is granted by the department or the administrative law judge. When the matter has been set for hearing only the administrative law judge may grant a continuance of the hearing. The administrative law judge may, but need not, grant a continuance of the hearing only upon finding the existence of one or more of the following:

(1) The death or incapacitating illness of a party, a representative or attorney of a party, a witness to an essential fact, or of the parent, child, or member of the household of such person, when it is not feasible to substitute another representative, attorney, or witness because of the proximity of the hearing date.

(2) Lack of notice of hearing as provided in Section 11509 of the Government Code.

(3) A material change in the status of the case where a change in the parties or pleadings requires postponement, or an executed settlement or stipulated findings of fact obviate the need for hearing. A partial amendment of the pleadings shall not be good cause for



continuance to the extent that the unamended portion of the pleadings is ready to be heard.

(4) A stipulation for continuance signed by all parties or their authorized representatives, including, but not limited to, a representative, which is communicated with the request for continuance to the administrative law judge no later than 25 business days before the hearing.

(5) The substitution of the representative or attorney of a party upon showing that the substitution is required.

(6) The unavailability of a party, representative, or attorney of a party, or witness to an essential fact due to a conflicting and required appearance in a judicial matter if when the hearing date was set, the person did not know and could neither anticipate nor at any time avoid the conflict, and the conflict with request for continuance is immediately communicated to the administrative law judge.

(7) The unavailability of a party, a representative or attorney of a party, or a material witness due to an unavoidable emergency.

(8) Failure by a party to comply with a timely discovery request if the continuance request is made by the party who requested the discovery.

SEC. 4. Section 1562.3 of the Health and Safety Code is amended to read:

1562.3. (a) The State Director of Social Services, in consultation with the State Director of Mental Health and the State Director of Developmental Services, shall establish a training program to ensure that operators and staffs of adult residential facilities have appropriate training to provide the care and services for which a license or certificate is issued.

(b) (1) An administrator of an adult residential care facility shall be required to successfully complete a department approved certification program prior to employment.

(2) In those cases where the individual is both the licensee and the administrator of a facility, the individual shall comply with the requirements of this section.

(3) Failure to comply with this section shall constitute cause for revocation of the license of the facility.

(4) The licensee shall notify the department within 30 days of any change in administrators.

(c) (1) The administrator of the certification program shall require a minimum of 35 hours of classroom instruction that provides training on a uniform core of knowledge in each of the following areas:

(A) Laws, regulations, and policies and procedural standards that impact the operations of the type of facility for which the applicant will be an administrator.

(B) Business operations.

(C) Management and supervision of staff.



- (D) Psychosocial needs of the facility residents.
 - (E) Community and support services.
 - (F) Physical needs for facility residents.
 - (G) Use, misuse, and interaction of medication commonly used by facility residents.
 - (H) Resident admission, retention, and assessment procedures.
- (2) Unless an extension is granted to the applicant by the department, an applicant for an administrator's certificate shall, within 60 days of the applicant's completion of classroom instruction, pass the written test provided in this section.
- (d) The department shall issue a certificate upon receipt of all of the following:
- (1) A certificate of completion of the administrator training required pursuant to this chapter.
 - (2) The fee required for issuance of the certificate. A fee of one hundred dollars (\$100) shall be charged by the department to cover the costs for the issuance of a certificate.
 - (3) Documentation from the applicant that he or she has passed the written test.
 - (4) Submission of fingerprints. The department and the Department of Justice shall expedite the criminal record clearance for holders of certificates.
- (e) It shall be unlawful for any person not certified under this section to hold himself or herself out as a certified administrator of an adult residential facility. Any person willfully making any false representation as being a certified administrator is guilty of a misdemeanor.
- (f) (1) Certificates issued under this section shall be renewed every two years and renewal shall be conditional upon the certificate holder submitting documentation of completion of 40 hours of continuing education related to the core of knowledge specified in paragraph (1) of subdivision (c).
- (2) Every administrator of an adult residential facility is required to complete the continuing education requirements of this subdivision.
- (3) Certificates issued under this section shall expire two years from the anniversary date of when the certificate was initially issued. The department shall send a renewal notice to the certificate holder 90 days prior to the expiration date of the certificate. If the certificate is not renewed prior to its expiration date, reinstatement shall only be permitted after the certificate holder has paid a delinquency fee equal to three times the renewal fee and has provided evidence of completion of the continuing education required.
- (4) To renew a certificate, the certificate holder shall, on or before the certificate expiration date, request renewal by submitting to the department documentation of completion of the required continuing education courses and pay the renewal fee of one



hundred dollars (\$100), irrespective of receipt of the department's notification of the renewal. A renewal request postmarked on or before the expiration of the certificate is proof of compliance with this paragraph.

(5) A suspended or revoked certificate is subject to expiration as provided for in this section. If reinstatement of the certificate is approved by the department, the certificate holder, as a condition precedent to reinstatement, shall submit proof of compliance with paragraphs (1) and (2) of subdivision (f) and shall pay a fee in an amount equal to the renewal fee, plus the delinquency fee, if any, accrued at the time of its revocation or suspension. Delinquency fees, if any, accrued subsequent to the time of its revocation or suspension and prior to an order for reinstatement, shall be waived for one year to allow the individual sufficient time to complete the required continuing education units and to submit the required documentation. Individuals whose certificates will expire within 90 days after the order for reinstatement may be granted a three-month extension to renew their certificates during which time the delinquency fees shall not accrue.

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

(7) A fee of twenty-five dollars (\$25) shall be charged for the reissuance of a lost certificate.

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

(g) The certificate shall be considered forfeited under the following conditions:

(1) The administrator has had a license revoked, suspended, or denied as authorized under Section 1552.

(2) The administrator has been denied employment, residence, or presence in a facility based on action resulting from an administrative hearing pursuant to Section 1552.5.

(h) (1) The department, in consultation with the Department of Mental Health and the Department of Developmental Services, shall establish, by regulation, the program content, the testing instrument, the process for approving certification training programs, and criteria to be used in authorizing individuals, organizations, or educational institutions to conduct certification training programs and continuing education courses. These regulations shall be developed in consultation with provider organizations, and shall be made available at least six months prior to the deadline required for certification. The department may deny vendor approval to any agency or person in any of the following circumstances:



(A) The applicant has not provided the department with evidence satisfactory to the department of the ability of the applicant to satisfy the requirements of vendorization set out in the regulations adopted by the department pursuant to subdivision (i).

(B) The applicant person or agency has a conflict of interest in that the person or agency places its clients in adult residential facilities.

(C) The applicant public or private agency has a conflict of interest in that the agency is mandated to place clients in adult residential facilities and to pay directly for the services. The department may deny vendorization to this type of agency only as long as there are other vendor programs available to conduct the certification training programs and conduct education courses.

(D) The department may authorize vendors to conduct the administrator's certification training program pursuant to provisions set forth in this section. The department shall conduct the written test pursuant to regulations adopted by the department.

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

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

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

(5) The department may charge a reasonable fee, not to exceed one hundred fifty dollars (\$150) every two years to certification program vendors for review and approval of the initial 35-hour training program pursuant to subdivision (c). The department may also charge the vendor a fee not to exceed one hundred dollars (\$100) every two years for the review and approval of the continuing education courses needed for recertification pursuant to this subdivision.

(i) This section shall be operative upon regulations being adopted by the department, no later than July 1, 1996, to implement the administrator certification program as provided for in this section. If regulations are not adopted by the department, or are adopted after July 1, 1996, this section shall not become operative.

(j) The department shall establish a registry for holders of certificates that shall include, at a minimum, information on employment status and criminal record clearance.

SEC. 5. Section 1562.4 is added to the Health and Safety Code, to read:



1562.4. Any person who becomes an administrator of an adult residential facility on or after July 1, 1996, shall, at a minimum, fulfill all of the following requirements:

- (a) Be at least 21 years of age.
- (b) Provide documentation of having successfully completed a certification program approved by the department and successfully passing the state examination.
- (c) Have a high school diploma or pass a general educational development test as described in Article 3 (commencing with Section 51420) of Chapter 3 of Part 28 of the Education Code.
- (d) Obtain a criminal record clearance as provided for in Sections 1522 and 1522.03.

