

Assembly Bill No. 1338

Passed the Assembly August 25, 1998

Chief Clerk of the Assembly

Passed the Senate July 30, 1998

Secretary of the Senate

This bill was received by the Governor this ____ day
of _____, 1998, at ____ o'clock __M.

Private Secretary of the Governor

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CHAPTER _____

An act to add Section 1569.156 to the Health and Safety Code, relating to care facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1338, Alquist. Residential care facilities for the elderly: advance directives.

Existing law provides for the licensure and regulation of residential care facilities for the elderly. Violation of the law regulating residential care facilities for the elderly is a crime.

This bill would require a residential care facility for the elderly to comply with various provisions relating to advance directives. The bill would define advance directive as instructions relating to the provision of health care when individuals are unable to communicate their wishes regarding medical treatment. By changing the definition of a crime, the bill would impose a state-mandated local program.

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.

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

SECTION 1. (a) It is the intent of the Legislature that individuals in California be informed about their right to make decisions concerning their medical care and ability to formulate advance directives.

(b) The Legislature finds and declares that residents of residential care facilities for the elderly will benefit from being informed about advance directives.

SEC. 2. Section 1569.156 is added to the Health and Safety Code, to read:



1569.156. (a) A residential care facility for the elderly shall do all of the following:

(1) Not condition the provision of care or otherwise discriminate based on whether or not an individual has executed an advance directive, consistent with applicable laws and regulations.

(2) Provide education to staff on issues concerning advance directives.

(3) Provide written information, upon admission, about the right to make decisions concerning medical care, including the right to accept or refuse medical or surgical treatment and the right, under state law, to formulate advance directives.

(4) Provide written information about policies of the facility regarding the implementation of the rights described in paragraph (3).

(b) For purposes of this section, “advance directive” means instructions relating to the provision of health care when individuals are unable to communicate their wishes regarding medical treatment. The “advance directive” may be a written document authorizing an agent or surrogate to make decisions on an individual’s behalf, including a durable power of attorney for health care, as defined in Section 4700 of the Probate Code, a written statement such as a declaration, as defined in Section 7186.5, or some other form of instruction recognized under state law specifically addressing the provision of health care.

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

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act



shall become operative on the same date that the act takes effect pursuant to the California Constitution.



Approved _____, 1998

Governor

