

Assembly Bill No. 2155

Passed the Assembly August 18, 1998

Chief Clerk of the Assembly

Passed the Senate August 6, 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 Article 7.5 (commencing with Section 1569.80) to Chapter 3.2 of Division 2 of the Health and Safety Code, relating to residential care facilities for the elderly.

LEGISLATIVE COUNSEL'S DIGEST

AB 2155, Keeley. Residential care facilities for the elderly: home health care: resident participation in decisionmaking.

Existing law provides for the licensure and regulation of residential care facilities for the elderly, administered by the State Department of Social Services. Existing law also provides for the licensure and regulation of home health agencies. Existing law defines a "home health agency" as an organization that provides or arranges for the provision of skilled nursing services to persons in their temporary or permanent place of residence. Violation of the provisions regulating residential care facilities for the elderly, or willful or repeated violation of any related rule or regulation is a misdemeanor.

This bill would require, prior to, or within 2 weeks after a resident's admission to a residential care facility for the elderly, that the resident and the resident's representative, if any, meet with an appropriate member or members of the facility's staff, if the resident is receiving home health services in the facility, a representative of the home health agency involved, and any other appropriate parties, to prepare a written record of the care the resident will receive in the facility, and the resident's preferences regarding the services provided at the facility. The bill would also require the written record of care to be reviewed, and revised, if necessary, at least every 12 months. The bill would provide that it shall not preclude a residential care facility for the elderly or home health agency from satisfying other state or federal obligations at a meeting required by the bill. Because the



bill would change the definition of a crime, it 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) The Legislature finds and declares all of the following:

(1) Residential care facilities for the elderly provide a continuum of long-term care services that support the fluctuating social and personal care needs of elderly residents.

(2) Health-related services, including home health care, when utilized appropriately and coordinated and managed effectively, can enhance the quality of care for residents of a residential care facility for the elderly.

(3) Flexibility is the hallmark of residential care facilities for the elderly. However, in order for that flexibility to benefit a resident, it is necessary that the resident, and his or her representative, if any, be able to participate in decisionmaking regarding the care and services to be provided to the resident.

(4) Under existing law, neither a resident nor his or her representative has the right to participate in the decisionmaking regarding the care and services the resident will receive at a residential care facility for the elderly. A resident or resident's representative has the right to be involved only in the development of an appraisal, which determines whether it is appropriate to admit the resident to, or retain the resident at, a residential care facility for the elderly. A plan of action is required only if the appraisal identifies a need that cannot be met by the facility's general program. The plan of action shall be developed by the licensee and a



professional consultant, without the participation of the resident or resident's representative.

(b) It is therefore the intent of the Legislature to require that a resident's care at a residential care facility for the elderly be discussed and planned, at a meeting attended by the resident, the resident's representative, if any, a member or members of the facility's staff, and, if applicable pursuant to Section 1569.725, a representative of the home health agency, to determine the care and services to be provided to the resident.

(c) It is also the intent of the Legislature that a residential care facility for the elderly or a home health agency shall not be precluded from meeting other state or federal obligations at a meeting required by this act.

SEC. 2. Article 9 (commencing with Section 1569.80) is added to Chapter 3.2 of Division 2 of the Health and Safety Code, to read:

Article 7.5. Resident Participation in Decisionmaking

1569.80. (a) A resident of a residential care facility for the elderly, or the resident's representative, or both, shall have the right to participate in decisionmaking regarding the care and services to be provided to the resident. Accordingly, prior to, or within two weeks after, the resident's admission, the facility shall coordinate a meeting with the resident and the resident's representative, if any, an appropriate member or members of the facility's staff, if the resident is receiving home health services in the facility, a representative of the home health agency involved, and any other appropriate parties. The facility shall ensure that participants in the meeting prepare a written record of the care the resident will receive in the facility, and the resident's preferences regarding the services provided at the facility.

(b) Once prepared, the written record described in subdivision (a) shall be used by the facility, and, if applicable pursuant to Section 1569.725, the home health agency, to determine the care and services provided to



the resident. If the resident has a regular physician, the written record shall be sent by the facility to that physician.

(c) The written record described in subdivision (a) shall be reviewed, and, if necessary, revised, at least once every 12 months, or upon a significant change in the resident's condition, as defined by regulations, whichever occurs first. The review shall take place at a meeting coordinated by the facility, and attended by the resident, the resident's representative, if any, an appropriate member or members of the facility's staff, and, if the resident is receiving home health services in the facility, a representative from the home health agency involved.

(d) This section shall not preclude a residential care facility for the elderly or home health agency from satisfying other state or federal obligations at a meeting required by subdivision (a) or (c).

(e) If the residential care facility for the elderly is a continuing care retirement community, as defined in paragraph (10) of subdivision (c) of Section 1771, this section shall apply only to residents who require care and supervision, as defined in subdivision (b) of Section 1569.2.

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

