

AMENDED IN ASSEMBLY APRIL 14, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 2686

**Introduced by Assembly Member Mazzoni
(Principal coauthor: Assembly Member Washington)**

February 23, 1998

~~An act to amend Section 1569.145 of the Health and Safety Code. An act to amend Sections 1505, 1568.03, and 1569.145 of the Health and Safety Code, relating to community care.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2686, as amended, Mazzoni. ~~Residential~~ *Community care facilities: residential care facilities for persons with chronic life-threatening illnesses: residential care facilities for the elderly: exemptions.*

Existing law provides for the licensure of *community care facilities, residential care facilities for persons with chronic life-threatening illnesses, and residential care facilities for the elderly* by the State Department of Social Services and *exempts certain entities from those provisions.*

~~Existing law contains provisions specifying that the act does not apply to certain types of facilities.~~

This bill would ~~make technical nonsubstantive changes in this exemption provision~~ *also exempt from those provisions a housing arrangement where certain services are available on the premises to residents by outside persons or entities if the housing arrangement is financed or overseen by the federal Department of Housing and Urban Development.*

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

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

- 1 SECTION 1. *Section 1505 of the Health and Safety*
- 2 *Code is amended to read:*
- 3 1505. This chapter does not apply to any of the
- 4 following:
- 5 (a) Any health facility, as defined by Section 1250.
- 6 (b) Any clinic, as defined by Section 1202.
- 7 (c) Any juvenile placement facility approved by the
- 8 California Youth Authority or any juvenile hall operated
- 9 by a county.
- 10 (d) Any place in which a juvenile is judicially placed
- 11 pursuant to subdivision (a) of Section 727 of the Welfare
- 12 and Institutions Code.
- 13 (e) Any child day care facility, as defined in Section
- 14 1596.750.
- 15 (f) Any facility conducted by and for the adherents of
- 16 any well-recognized church or religious denomination
- 17 for the purpose of providing facilities for the care or
- 18 treatment of the sick who depend upon prayer or
- 19 spiritual means for healing in the practice of the religion
- 20 of the church or denomination.
- 21 (g) Any school dormitory or similar facility
- 22 determined by the department.
- 23 (h) Any house, institution, hotel, homeless shelter, or
- 24 other similar place that supplies board and room only, or
- 25 room only, or board only, provided that no resident
- 26 thereof requires any element of care as determined by
- 27 the director.
- 28 (i) Recovery houses or other similar facilities
- 29 providing group living arrangements for persons
- 30 recovering from alcoholism or drug addiction where the
- 31 facility provides no care or supervision.
- 32 (j) Any alcoholism or drug abuse recovery or
- 33 treatment facility as defined by Section 11834.11.
- 34 (k) Any arrangement for the receiving and care of
- 35 persons by a relative or any arrangement for the



1 receiving and care of persons from only one family by a
2 close friend of the parent, guardian, or conservator, if the
3 arrangement is not for financial profit and occurs only
4 occasionally and irregularly, as defined by regulations of
5 the state department. For purposes of this chapter,
6 arrangements for the receiving and care of persons by a
7 relative shall include relatives of the child or relatives of
8 the child's half sibling, for the purpose of keeping sibling
9 groups together.

10 (l) Any supported living arrangement for individuals
11 with developmental disabilities as defined in Section 4689
12 of the Welfare and Institutions Code.

13 (m) (1) Any family home agency or family home, as
14 defined in Section 4689.1 of the Welfare and Institutions
15 Code, that is vendored by the State Department of
16 Developmental Services and that does either of the
17 following:

18 (A) As a family home approved by a family home
19 agency, provides 24-hour care for one or two adults with
20 developmental disabilities in the residence of the family
21 home provider or providers and the family home
22 provider or providers' family, and the provider is not
23 licensed by the State Department of Social Services or the
24 State Department of Health Services or certified by a
25 licensee of the State Department of Social Services or the
26 State Department of Health Services.

27 (B) As a family home agency, engages in recruiting,
28 approving, and providing support to family homes.

29 (2) No part of this subdivision shall be construed as
30 establishing by implication either a family home agency
31 or family home licensing category.

32 (n) Any facility in which only Indian children who are
33 eligible under the federal Indian Child Welfare Act,
34 Chapter 21 (commencing with Section 1901) of Title 25
35 of the United States Code are placed and that is one of the
36 following:

37 (1) An extended family member of the Indian child, as
38 defined in Section 1903 of Title 25 of the United States
39 Code.

1 (2) A foster home that is licensed, approved, or
2 specified by the Indian child’s tribe pursuant to Section
3 1915 of Title 25 of the United States Code.

4 (o) Any housing arrangement where any of the
5 services described in Section 1569.2 are available on the
6 premises to residents, at their option, by any outside
7 person or entity, including, but not limited to, a provider
8 licensed under Chapter 3.3 (commencing with Section
9 1570) or Chapter 8 (commencing with Section 1725), if
10 the housing arrangement is financed or overseen by the
11 federal Department of Housing and Urban Development
12 pursuant to Section 202 of Public Law 86-372 (12 U.S.C.
13 Sec. 1701q), Section 236 of Public Law 90-448 (12 U.S.C.
14 Sec. 1715z), Section 221d (3) of Public Law 87-70 (12
15 U.S.C. Sec. 1715l), Section 811 of Public Law 101-625 (42
16 U.S.C. Sec. 8013), or any comparable federal statute
17 designated by the director. The exemption set forth in
18 this subdivision shall apply only to a housing provider that
19 assists residents in accessing the services furnished by the
20 outside person or entity and shall not apply to a housing
21 provider that provides or contracts for the services
22 furnished by the outside person or entity.

23 (p) Any similar facility determined by the director.

24

25 SEC. 2. Section 1568.03 of the Health and Safety Code
26 is amended to read:

27 1568.03. (a) No person, firm, partnership,
28 association, or corporation within the state and no state or
29 local public agency shall operate, establish, manage,
30 conduct, or maintain a residential care facility in this state
31 without first obtaining and maintaining a valid license
32 therefor, as provided in this chapter.

33 (b) A facility may accept or retain residents requiring
34 varying levels of care. However, a facility shall not accept
35 or retain residents who require a higher level of care than
36 the facility is authorized to provide. Persons who require
37 24-hour skilled nursing intervention shall not be
38 appropriate for a residential care facility.

39 (c) This chapter shall not apply to the following:

40 (1) Any health facility, as defined in Section 1250.



1 (2) Any clinic, as defined in Section 1200.

2 (3) Any arrangement for the receiving and care of
3 persons with chronic, life-threatening illness by a relative,
4 guardian or conservator, significant other, or close friend;
5 or any arrangement for the receiving and care of persons
6 with chronic, life-threatening illness from only one family
7 as respite for the relative, guardian or conservator,
8 significant other, or close friend, if the arrangement is not
9 for financial profit and occurs only occasionally and
10 irregularly, as defined by regulations of the department.

11 (4) (A) Any house, institution, hotel, foster home,
12 shared housing project, or other similar facility that is
13 limited to providing any of the following: housing, meals,
14 transportation, housekeeping, recreational and social
15 activities, the enforcement of house rules, counseling on
16 activities of daily living, and service referrals, as long as
17 both of the following conditions are met:

18 (i) After any referral, all residents thereof
19 independently obtain care and supervision and medical
20 services without the assistance of the facility or of any
21 person or entity with an organizational or financial
22 connection with that facility.

23 (ii) No resident thereof has an unmet need for care
24 and supervision or protective supervision. A
25 memorandum of understanding between the facility and
26 any service agency to which it refers residents does not
27 necessarily itself constitute an agreement for care and
28 supervision of the resident.

29 (B) In determining the applicability of this paragraph,
30 the department shall determine the residents' need for
31 care and supervision, if any, and shall identify the persons
32 or entities providing or assisting in the provision of care
33 and supervision. This paragraph shall apply only if the
34 department determines that the care and supervision
35 needs of all residents are being independently met.

36 (5) *Any housing arrangement where any of the*
37 *services described in Section 1569.2 are available on the*
38 *premises to residents, at their option, by any outside*
39 *person or entity, including, but not limited to, a provider*
40 *licensed under Chapter 3.3 (commencing with Section*



1 1570) or Chapter 8 (commencing with Section 1725), if
2 the housing arrangement is financed or overseen by the
3 federal Department of Housing and Urban Development
4 pursuant to Section 202 of Public Law 86-372 (12 U.S.C.
5 Sec. 1701q), Section 236 of Public Law 90-448 (12 U.S.C.
6 Sec. 1715z), Section 221d (3) of Public Law 87-70 (12
7 U.S.C. Sec. 1715l), Section 811 of Public Law 101-625 (42
8 U.S.C. Sec. 8013), or any comparable federal statute
9 designated by the director. The exemption set forth in
10 this subdivision shall apply only to a housing provider that
11 assists residents in accessing the services furnished by the
12 outside person or entity and shall not apply to a housing
13 provider that provides or contracts for the services
14 furnished by the outside person or entity.

15 (6) Any similar facility determined by the director.

16 (d) A holder of a residential care facility license may
17 hold or obtain an additional license or a child day care
18 facility license, as long as the services required by each
19 license are provided at separate locations or distinctly
20 separate sections of the building.

21 (e) The director may bring an action to enjoin the
22 violation or threatened violation of this section in the
23 superior court in and for the county in which the violation
24 occurred or is about to occur. Any proceeding under this
25 section shall conform to the requirements of Chapter 3
26 (commencing with Section 525) of Title 7 of Part 2 of the
27 Code of Civil Procedure, except that the director shall not
28 be required to allege facts necessary to show or tending
29 to show lack of adequate remedy at law or irreparable
30 damage or loss. The court shall, if it finds the allegations
31 to be true, issue its order enjoining continuance of the
32 violation.

33 SEC. 3. Section 1569.145 of the Health and Safety
34 Code is amended to read:

35 1569.145. This chapter shall not apply to any of the
36 following:

37 (a) Any health facility, as defined by Section 1250.

38 (b) Any clinic, as defined by Section 1202.

39 (c) Any facility conducted by and for the adherents of
40 any well-recognized church or religious denomination



1 for the purpose of providing facilities for the care or
2 treatment of the sick who depend upon prayer or
3 spiritual means for healing in the practice of the religion
4 of such church or denomination.

5 (d) Any house, institution, hotel, congregate housing
6 project for the elderly, or other similar place that is
7 limited to providing one or more of the following:
8 housing, meals, transportation, housekeeping, or
9 recreational and social activities; or that have residents
10 independently accessing supportive services; provided,
11 however, that no resident thereof requires any element
12 of care and supervision or protective supervision as
13 determined by the director. This subdivision shall not
14 include a home or residence that is described in
15 subdivision (f).

16 (e) Recovery houses or other similar facilities
17 providing group living arrangements for persons
18 recovering from alcoholism or drug addiction where the
19 facility provides no care or supervision.

20 (f) (1) Any arrangement for the care and supervision
21 of a person or persons by a family member.

22 (2) Any arrangement for the care and supervision of
23 a person or persons from only one family by a close friend,
24 whose friendship preexisted the contact between the
25 provider and the recipient, and both of the following are
26 met:

27 (A) The care and supervision is provided in a home or
28 residence chosen by the recipient.

29 (B) The arrangement is not of a business nature and
30 occurs only as long as the needs of the recipient for care
31 and supervision are adequately met.

32 (g) *Any housing arrangement where any of the*
33 *services described in Section 1569.2 are available on the*
34 *premises to residents, at their option, by any outside*
35 *person or entity, including, but not limited to, a provider*
36 *licensed under Chapter 3.3 (commencing with Section*
37 *1570) or Chapter 8 (commencing with Section 1725), if*
38 *the housing arrangement is financed or overseen by the*
39 *federal Department of Housing and Urban Development*
40 *pursuant to Section 202 of Public Law 86-372 (12 U.S.C.*



1 *Sec. 1701q), Section 236 of Public Law 90-448 (12 U.S.C.*
 2 *Sec. 1715z), Section 221d (3) of Public Law 87-70 (12*
 3 *U.S.C. Sec. 1715l), Section 811 of Public Law 101-625 (42*
 4 *U.S.C. Sec. 8013), or any comparable federal statute*
 5 *designated by the director. The exemption set forth in*
 6 *this subdivision shall apply only to a housing provider that*
 7 *assists residents in accessing the services furnished by the*
 8 *outside person or entity and shall not apply to a housing*
 9 *provider that provides or contracts for the services*
 10 *furnished by the outside person or entity.*

11 (h) Any similar facility determined by the director.

12 ~~(h)~~

13 (i) For purposes of this section, “family member”
 14 means any spouse, by marriage or otherwise, child or
 15 stepchild, by natural birth or by adoption, parent,
 16 brother, sister, half-brother, half-sister, parent-in-law,
 17 brother-in-law, sister-in-law, nephew, niece, aunt, uncle,
 18 first cousin, or any person denoted by the prefix “grand”
 19 or “great,” or the spouse of any of these persons.

20 ~~(i)~~

21 (j) A person shall not be exempted from this chapter’s
 22 licensure requirements if he or she has been appointed as
 23 conservator of the person, estate of the person, or both,
 24 if the person is receiving care and supervision from the
 25 conservator as regulated by this chapter, unless the
 26 conservator is otherwise exempted under other
 27 provisions of this section.

