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AMENDED IN SENATE AUGUST 18, 2003
AMENDED IN SENATE JULY 22, 2003
AMENDED IN SENATE JULY 1, 2003
AMENDED IN SENATE JUNE 12, 2003
AMENDED IN ASSEMBLY MAY 7, 2003
AMENDED IN ASSEMBLY APRIL 21, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1369

Introduced by Assembly Member Pavley
(Coauthors: Assembly Members Calderon, Hancock, Koretz,
Maze, Mullin, and Vargas)
(Coauthors: Senators Machado, Romero, and Soto)

February 21, 2003

An act to add ~~Section 1569.7 to~~ *and repeal Section 1569.7* of the Health and Safety Code, relating to residential care facilities for the elderly.

LEGISLATIVE COUNSEL'S DIGEST

AB 1369, as amended, Pavley. Residential care facilities for the elderly: automatic external defibrillators.

Existing law authorizes the Emergency Medical Services Authority to establish minimum standards for the training and use of automatic

external defibrillators by individuals not otherwise licensed or certified for the use of the device.

Under existing law, the State Department of Social Services licenses and regulates residential care facilities for the elderly.

A violation of provisions relating to residential care facilities for the elderly is a crime.

This bill ~~would~~, commencing July 1, 2005, *and until January 1, 2010, would* require every residential care facility for the elderly, where the facility's licensed bed capacity exceeds 60 persons, to acquire, ~~and~~ maintain, and train personnel in the use of, automatic external defibrillators, as provided in the bill and specified existing law. This bill would also provide that, except as prescribed, when an employee of a residential care facility for the elderly uses or attempts to use an automatic external defibrillator to render emergency care or treatment in a manner consistent with the bill, neither the employee, the facility, nor the board of directors of that facility is liable for civil damages resulting from any acts or omissions in rendering the emergency care or treatment.

This bill would ~~provide that each resident, whether or not he or she executes an advance health care directive, including, but not limited to, a request to forego resuscitative measures or a do not resuscitate order, shall indicate separately, in writing, if he or she does not want facility employees to use an automatic external defibrillator if he or she needs emergency care or treatment~~ *prohibit a facility employee with the responsibility to respond to emergencies from using an automatic external defibrillator on a facility resident who has filed a Request to Forego Resuscitative Measures or a Do Not Resuscitate (DNR) form.* The bill would also establish procedures to be used by residential care facilities for the elderly with respect to the ~~presentation and maintenance of these written statements, and would require facilities to provide residents with additional specified information~~ *dissemination of specified information regarding external automatic defibrillators and the maintenance of lists of those residents who have filed a Request to Forego Resuscitative Measures or a DNR form.*

This bill would require the Emergency Medical Services Authority to notify local EMS agencies of the ~~provision~~ *provisions* of the bill, and to encourage the local agencies to track the use of automatic external defibrillators in residential care facilities for the elderly.

This bill would provide that, notwithstanding a specified provision of existing law, violation of the bill shall not constitute a misdemeanor.



This bill would also apply *certain of* its provisions ~~relating to liability~~ to a residential care facility for the elderly with a licensed capacity of 60 or fewer beds that elects to acquire, ~~and~~ maintain, and train personnel in the use of, an automatic external defibrillator at the facility.

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

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

1 SECTION 1. Section 1569.7 is added to the Health and Safety
2 Code, to read:

3 1569.7. (a) Commencing July 1, 2005, every residential care
4 facility for the elderly as defined in Section 1569.2 with a licensed
5 bed capacity that exceeds 60 persons shall ~~acquire~~, *acquire and*
6 maintain, and train personnel in the use of, an automatic external
7 defibrillator, pursuant to ~~Section 1797.190, subdivision (e)~~
8 *subdivision (e), Section 1797.190*, and any relevant regulations.

9 (b) An employee of a residential care facility for the elderly
10 who uses, or attempts to use, an automatic external defibrillator
11 consistent with the terms of this section to render emergency care
12 or treatment is not liable for civil damages resulting from any acts
13 or omissions in rendering the emergency care or treatment, except
14 as provided in subdivision (f).

15 (c) When an employee uses, or attempts to use, an automatic
16 external defibrillator consistent with the requirements of this
17 section to render emergency care or treatment, the members of the
18 board of directors of the facility shall not be liable for civil
19 damages resulting from any act or omission in rendering the
20 emergency care or treatment, except as provided in subdivision (f).

21 (d) Except as provided in subdivision (f), when an employee
22 uses, or attempts to use an automatic external defibrillator in
23 accordance with this section to render emergency care or
24 treatment, the facility shall not be liable for civil damages resulting
25 from any act or omission in the course of rendering that emergency
26 care or treatment, provided that the facility fully complies with
27 subdivision (e).

28 (e) In order to ensure public safety, a residential care facility for
29 the elderly shall do all of the following:



- 1 (1) Comply with all regulations governing the placement of an
2 automatic external defibrillator.
- 3 (2) Ensure all of the following:
 - 4 (A) The automatic external defibrillator is maintained and
5 regularly tested according to the operation and maintenance
6 guidelines set forth by the manufacturer, the American Heart
7 Association, and the American Red Cross, and according to any
8 applicable rules and regulations set forth by the governmental
9 authority under the federal Food and Drug Administration and any
10 other applicable state and federal authority.
 - 11 (B) The automatic external defibrillator is checked for
12 readiness after each use and at least once every 30 days if the
13 automatic external defibrillator has not been used in the preceding
14 30 days. Records of these checks shall be maintained.
 - 15 (C) Any person who renders emergency care or treatment on a
16 person in cardiac arrest by using an automatic external
17 defibrillator activates the emergency medical services system as
18 soon as possible, and reports any use of the automatic external
19 defibrillator to the licensed physician and to the local EMS agency.
 - 20 (D) For every automatic external defibrillator unit acquired, up
21 to five units, no less than one employee per automatic external
22 defibrillator unit shall complete a training course in
23 cardiopulmonary resuscitation and automatic external
24 defibrillator use that complies with the regulations adopted by the
25 Emergency Medical Service Authority and the standards of the
26 American Heart Association or the American Red Cross. After the
27 first five automatic external defibrillator units are acquired, for
28 each additional five automatic external defibrillator units
29 acquired, one employee shall be trained beginning with the first
30 automatic external defibrillator unit acquired. Acquirers of
31 automatic external defibrillator units shall have trained employees
32 available to respond to an emergency that may involve the use of
33 an automatic external defibrillator unit during normal operating
34 hours.
 - 35 (E) There is a written plan that exists that describes the
36 procedures to be followed in the event of an emergency that may
37 involve the use of an automatic external defibrillator, to ensure
38 compliance with the requirements of this section. The written plan
39 shall include, but not be limited to, immediate notification of 911



1 and trained office personnel at the start of automatic external
2 defibrillator procedures.

3 (f) Subdivisions (b), (c), and (d) do not apply in the case of
4 personal injury or wrongful death that results from gross
5 negligence or willful or wanton misconduct on the part of the
6 person who uses an automatic external defibrillator to render
7 emergency care or treatment.

8 ~~(g) Each resident, whether or not he or she has executed an
9 advance health care directive, including, but not limited to, a
10 request to forego resuscitative measures or a do-not-resuscitate
11 order, shall indicate separately, in writing, if he or she does not
12 want facility employees to use an automatic external defibrillator.
13 If a resident has indicated in writing that he or she does not want
14 facility employees to use an automatic external defibrillator if he
15 or she needs emergency care or treatment, facility employees shall
16 withhold the use of an automatic external defibrillator.~~

17 ~~(h) (1) In order to implement this section, residential care
18 facilities for the elderly shall establish policies or procedures, or
19 appropriately amend their current policies and procedures, to
20 address the presentation, processing, maintenance, revision, and
21 information dissemination of statements indicating that a resident
22 does not want facility employees to use an automatic external
23 defibrillator if the resident needs emergency care or treatment, and
24 to the extent possible, make these processes consistent with current
25 systems for advance health care directives pursuant to Section
26 1569.156.~~

27 ~~(2) Lists of those residents who have indicated in writing that
28 they do not want facility employees to use an automatic external
29 defibrillator shall be made available to employees trained in the
30 use of the automatic external defibrillator in the facility, and a copy
31 of the list shall be maintained with each automatic external
32 defibrillator unit maintained in the facility. Statements indicating
33 that a resident does not want facility employees to use an automatic
34 external defibrillator shall be maintained in the resident file, with
35 copies in other locations where advance health care directives are
36 also stored and maintained in the facility.~~

37 ~~(3) Prior to July 1, 2005, the facility shall inform current
38 residents or their responsible parties about automatic external
39 defibrillators and the resident's option to state in writing that he or
40 she does not want facility employees to use an automatic external~~



1 defibrillator if the resident needs emergency care or treatment.
2 New residents or their responsible parties shall be informed upon
3 admission about automatic external defibrillators and the
4 resident's option to state in writing that he or she does not want
5 facility employees to use an automatic external defibrillator if the
6 resident needs emergency care or treatment.

7 (4) Information about automatic external defibrillators
8 provided to residents shall include information consistent with that
9 published and distributed by the American Heart Association and
10 the American Red Cross on automatic external defibrillators.

11 (5) The facilities shall provide information, when possible and
12 appropriate, to residents or their responsible parties about
13 automatic external defibrillators and shall ask if a statement
14 indicating that the resident does not want facility employees to use
15 an automatic external defibrillator should be readdressed,
16 changed, or initiated, at the wishes and discretion of the resident
17 or their responsible parties. This shall be done at a minimum of
18 once every two years.

19 (6) If a resident of a residential care facility for the elderly
20 begins receiving hospice services from a licensed hospice, as
21 defined in Section 1339.31, the residential care facility for the
22 elderly shall provide information to that resident or their
23 responsible party about automatic external defibrillators and ask
24 if a statement indicating that the resident does not want facility
25 employees to use an automatic external defibrillator should be
26 readdressed, changed, or initiated at the wishes and discretion of
27 the resident or their responsible parties.

28 (g) Notwithstanding any other provision of law and for the sole
29 purpose of implementing this section, a facility employee having
30 the responsibility to respond to emergencies as provided in
31 subparagraph (D) of paragraph (2) of subdivision (e) shall
32 observe any Request to Forego Resuscitative Measures or any Do
33 Not Resuscitate (DNR) form filed by a facility resident, by not
34 using an automatic external defibrillator in an emergency case
35 involving that resident.

36 (h) (1) In order to implement this section, residential care
37 facilities for the elderly shall establish policies and procedures, or
38 appropriately amend their current policies and procedures, to
39 provide for the dissemination of information regarding the
40 installation of an automatic external defibrillator in the facility



1 *and its potential uses to current and prospective residents, or their*
2 *responsible parties. Information provided about automatic*
3 *external defibrillators shall include information consistent with*
4 *that published and distributed by the American Heart Association*
5 *and the American Red Cross on automatic external defibrillators.*

6 (2) *The facility shall maintain lists of those residents who have*
7 *filed a Request to Forego Resuscitative Measures or a DNR form.*
8 *A copy of the list shall be made available to employees trained in*
9 *the use of the automatic external defibrillator in the facility. A copy*
10 *of the list shall also be maintained with each automatic external*
11 *defibrillator maintained in the facility.*

12 (i) The department may adopt emergency regulations to
13 implement this section in accordance with the rulemaking
14 provisions of the Administrative Procedure Act (Chapter 3.5
15 (commencing with Section 11340) of Part 1 of Division 3 of Title
16 2 of the Government Code). The initial adoption of emergency
17 regulations and one readoption of the initial regulations shall be
18 deemed to be an emergency and necessary for the immediate
19 preservation of the public peace, health and safety, or general
20 welfare. Initial emergency regulations and the first readoption of
21 those regulations shall be exempt from review by the Office of
22 Administrative Law. The initial emergency regulations and the
23 first readoption of those regulations authorized by this subdivision
24 shall be submitted to the Office of Administrative Law for filing
25 with the Secretary of State and publication in the California Code
26 of Regulations and each shall remain in effect for no more than 180
27 days.

28 (j) The Emergency Medical Service Authority shall notify
29 local EMS agencies of this section and shall encourage the local
30 EMS agencies to track the number of times automatic external
31 defibrillators are employed on residents at residential care
32 facilities for the elderly.

33 (k) Notwithstanding Section 1569.40, violation of this section
34 shall not constitute a misdemeanor.

35 (l) Subdivisions (b), (c), ~~and (d)~~ (d), (g), and (h) shall also
36 apply to a residential care facility for the elderly with a licensed
37 bed capacity of 60 or fewer persons that elects to ~~acquire~~, *acquire*
38 *and* maintain, and train personnel in the use of, an automatic
39 external defibrillator at the facility.



1 *(m) This section shall remain in effect only until January 1,*
2 *2010, and as of that date is repealed, unless a later enacted statute*
3 *that is enacted before January 1, 2010, deletes or extends that date.*

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