

**ASSEMBLY BILL**

**No. 762**

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**Introduced by Assembly Member Bonnie Lowenthal**

February 26, 2009

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An act to amend Section 1569.72 of the Health and Safety Code, relating to residential care facilities for the elderly.

LEGISLATIVE COUNSEL'S DIGEST

AB 762, as introduced, Bonnie Lowenthal. Residential care facilities for the elderly: admission.

Existing law, the California Residential Care Facilities for the Elderly Act, provides for the licensing and regulation of residential care facilities for the elderly by the State Department of Social Services. Under existing law, with certain exceptions, residential care facilities for the elderly are prohibited from admitting or retaining, other than for a maximum of 14 days for temporary illness or for recovery from surgery, a bedridden resident. A resident who is bedridden may be admitted to and remain in the facility if the facility secures and maintains fire clearance and obtains departmental approval. Existing law defines "bedridden" for this purpose as a resident who requires assistance in turning and repositioning in bed, or who is unable to independently transfer to and from bed, except in facilities with appropriate and sufficient care staff, mechanical devices if necessary, and safety precautions, as determined by the Director of Social Services in regulations.

This bill would redefine "bedridden" to mean a resident who requires assistance in turning and repositioning in bed.

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

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

SECTION 1. Section 1569.72 of the Health and Safety Code is amended to read:

1569.72. (a) Except as otherwise provided in subdivision (d), no resident shall be admitted or retained in a residential care facility for the elderly if any of the following apply:

(1) The resident requires 24-hour, skilled nursing or intermediate care.

(2) The resident is bedridden, other than for a temporary illness or for recovery from surgery.

(b) (1) For the purposes of this section, “bedridden” means ~~either requiring assistance in turning and repositioning in bed, or being unable to independently transfer to and from bed, except in facilities with appropriate and sufficient care staff, mechanical devices if necessary, and safety precautions, as determined by the director in regulations.~~

(2) The determination of the bedridden status of persons with developmental disabilities shall be made by the Director of Social Services or his or her designated representative, in consultation with the Director of Developmental Services or his or her designated representative, after consulting the resident’s individual safety plan. The determination of the bedridden status of all other persons with disabilities who are not developmentally disabled shall be made by the Director of Social Services, or his or her designated representative.

(c) Notwithstanding paragraph (2) of subdivision (a), bedridden persons may be admitted to, and remain in, residential care facilities for the elderly that secure and maintain an appropriate fire clearance. A fire clearance shall be issued to a facility in which a bedridden person resides if either of the following conditions are met:

(1) The fire safety requirements are met.

(2) Alternative methods of protection are approved.

(d) (1) For purposes of this section, “temporary illness” means any illness which persists for 14 days or less.

(e) A bedridden resident may be retained in a residential care facility for the elderly in excess of 14 days if all of the following requirements are satisfied:

1 (1) The facility notifies the department in writing regarding the  
2 temporary illness or recovery from surgery.

3 (2) The facility submits to the department, with the notification,  
4 a physician and surgeon's written statement to the effect that the  
5 resident's illness or recovery is of a temporary nature. The  
6 statement shall contain an estimated date upon which the illness  
7 or recovery will end or upon which the resident will no longer be  
8 confined to a bed.

9 (3) The department determines that the health and safety of the  
10 resident is adequately protected in that facility and that transfer to  
11 a higher level of care is not necessary.

12 (4) This section does not expand the scope of care and  
13 supervision of a residential care facility for the elderly.

14 (f) Notwithstanding the length of stay of a bedridden resident,  
15 every facility admitting or retaining a bedridden resident, as defined  
16 in this section, shall, within 48 hours of the resident's admission  
17 or retention in the facility, notify the local fire authority with  
18 jurisdiction in the bedridden resident's location of the estimated  
19 length of time the resident will retain his or her bedridden status  
20 in the facility.

21 (g) Nothing in this section shall be used for purposes of Section  
22 1569.70 to determine the appropriateness of residents being  
23 admitted or retained in a residential care facility for the elderly on  
24 the basis of health related conditions and the need for these services  
25 until the three levels of care set forth in Section 1569.70 are fully  
26 implemented. This section shall not prohibit the Community Care  
27 Licensing Division of the State Department of Social Services  
28 from continuing to implement the regulations of Article 8  
29 (commencing with Section 87700) of Chapter 8 of Division 6 of  
30 Title 22 of the California Code of Regulations, as promulgated  
31 and approved on February 13, 1990.

32 (h) (1) The department and the Office of the State Fire Marshal,  
33 in consultation with the State Department of Developmental  
34 Services, shall each promulgate regulations that meet all of the  
35 following conditions:

36 (A) Are consistent with subdivisions (a) to (f), inclusive.

37 (B) Are applicable to facilities regulated under this chapter,  
38 consistent with the regulatory requirements of the California  
39 Building Standards Code for fire and life safety for the respective

1 occupancy classifications into which the State Department of Social  
2 Services' community care licensing classifications fall.

3 (C) Permit residents to remain in home-like settings.

4 (2) At a minimum, these regulations shall do both of the  
5 following with regard to a residential care facility that provides  
6 care for six or fewer residents, at least one of whom is bedridden:

7 (A) Clarify the fire and life safety requirements for a fire  
8 clearance for the facility.

9 (B) (i) Identify procedures for requesting the approval of  
10 alternative means of providing equivalent levels of fire and life  
11 safety protection.

12 (ii) Either the facility, the resident or resident's representative,  
13 or local fire official may request from the Office of the State Fire  
14 Marshal a written opinion concerning the interpretation of the  
15 regulations promulgated by the State Fire Marshal pursuant to this  
16 section for a particular factual dispute. The State Fire Marshall  
17 shall issue the written opinion within 45 days following the request.

18 (i) For facilities that care for six or fewer clients, a local fire  
19 official may not impose fire safety requirements stricter than the  
20 fire safety regulations promulgated for the particular type of facility  
21 by the Office of the State Fire Marshal or the local fire safety  
22 requirements imposed on any other single family dwelling,  
23 whichever is more strict.

24 (j) This section and any regulations promulgated thereunder  
25 shall be interpreted in a manner that provides flexibility to allow  
26 bedridden persons to avoid institutionalization and be admitted to,  
27 and safely remain in, community-based residential care facilities.