

**Introduced by Senator Corbett**January 13, 2014

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An act to amend Section 1569.525 of the Health and Safety Code, relating to residential care facilities for the elderly.

## LEGISLATIVE COUNSEL'S DIGEST

SB 894, as introduced, Corbett. Residential care facilities for the elderly: revocation of license.

Existing law, the California Residential Care Facilities for the Elderly Act, provides for the licensure and regulation of residential care facilities for the elderly. These provisions are administered by the State Department of Social Services. Violation of these provisions is a misdemeanor.

Existing law requires, if the Director of Social Services determines that it is necessary to temporarily suspend a license of a residential care facility for the elderly in order to protect the residents or clients of the facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety, the department to make every effort to minimize trauma for the residents. Existing law authorizes and requires the department, in the event of a temporary license suspension or revocation, to comply with specified procedures relating to the transfer of residents, including requiring the department to contact and work with any local agency that may have placement or advocacy responsibility for the residents of a residential care facility for the elderly, as specified, to locate alternative placement sites and contact responsible relatives. Existing law requires, upon an order to revoke a license, a licensee to provide a 60-day written notice of license revocation that may lead to closure to the resident and the resident's responsible person within 24 hours of receipt of the department's order

of revocation. Existing law requires a resident who transfers from the facility during that 60-day period to be entitled to a refund of preadmission fees in accordance with specified provisions.

This bill would require, if the Director of Social Services determines at any time during relocation of residents that it is necessary to protect the residents or clients of the facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety, the department to take any necessary action to minimize trauma for the residents, including, but not limited to, preparing the residents' records and medications for transfer and checking in on the status of all transferred residents within 24 hours of transfer. The bill would additionally require the department to contact the Office of the State Long-term Care Ombudsman to locate alternative placement sites for residents. The bill would also require, upon an order to suspend a license, a licensee to provide a 60-day written notice of license suspension to the resident or resident's responsible person within 24 hours of receipt of the departments order of suspension and would require the residents who transfer during the 60-day period to be entitled to a refund of preadmission fees.

This bill would prohibit, upon receipt of an order to suspend or revoke a license, a licensee from accepting new residents or entering into admission agreements for new residents. The bill would generally make a licensee who fails to comply with the requirements of these provisions liable for civil penalties in the amount of \$500 per violation per day for each day that the licensee is in violation of these provisions until the violation has been corrected. The bill would authorize a current or former resident of a residential care facility for the elderly covered under these provisions to bring a civil action against any person, firm, partnership, or corporation who owns, operates, establishes, manages, conducts, or maintains a residential care facility for the elderly who violates the specified rights of a resident.

By expanding the definition of a crime, this 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.

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

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

1 SECTION 1. Section 1569.525 of the Health and Safety Code  
2 is amended to read:

3 1569.525. (a) If the director determines that it is necessary to  
4 temporarily suspend or to revoke any license of a residential care  
5 facility for the elderly in order to protect the residents or clients  
6 of the facility from physical or mental abuse, abandonment, or any  
7 other substantial threat to health or safety pursuant to Section  
8 1569.50, the department shall make every effort to minimize  
9 trauma for the residents.

10 (b) The department shall contact *the Office of the State*  
11 *Long-Term Care Ombudsman and* any local agency that may have  
12 placement or advocacy responsibility for the residents of a  
13 residential care facility for the elderly after a decision is made to  
14 temporarily suspend or to revoke the license of the facility and  
15 prior to its implementation. The department shall work with these  
16 agencies, *and the licensee if the director determines it to be*  
17 *appropriate*, to locate alternative placement sites and to contact  
18 relatives responsible for the care of these residents.

19 (c) The department shall use physicians and surgeons and other  
20 medical personnel deemed appropriate by the department to provide  
21 onsite evaluation of the residents and assist in any transfers.

22 (d) The department ~~may~~ *shall* require the licensee to prepare  
23 and submit to the licensing agency a written plan for relocation  
24 and compliance with the terms and conditions of the approved  
25 plans, and to provide other information as necessary for the  
26 enforcement of this section.

27 (e) *Upon receipt of an order to suspend or revoke a license, the*  
28 *licensee shall be prohibited from accepting new residents or*  
29 *entering into admission agreements for new residents.*

30 (f) *Upon an order to suspend a license, the licensee shall provide*  
31 *a 60-day written notice of the license suspension to the resident*  
32 *or resident's responsible person within 24 hours of receipt of the*  
33 *department's order of suspension.*

34 (e)

35 (g) Upon an order to revoke a license, ~~except an order to revoke~~  
36 ~~a license following the temporary suspension of a license pursuant~~  
37 ~~to Section 1569.50~~, the following shall apply:

1 (1) The licensee shall provide a 60-day written notice of license  
2 revocation that may lead to closure to the resident and the resident’s  
3 responsible person within 24 hours of receipt of the department’s  
4 order of revocation.

5 (2) The department shall permit the licensee to secure the  
6 services of a person who is not an immediate family member of  
7 the licensee or an entity that is not owned by the licensee to manage  
8 the day-to-day operations of the residential care facility for the  
9 elderly for a period of at least 60 days, provided that all of the  
10 following conditions are met:

11 (A) A proposal is submitted to the department within 72 hours  
12 of the licensee’s receipt of the department’s order of revocation  
13 that includes both of the following:

14 (i) A completed “Application for a Community Care Facility  
15 or Residential Care Facility for the Elderly License” form (LIC  
16 200), or similar form as determined by the department, signed and  
17 dated by both the licensee and the person or entity described in  
18 paragraph (2).

19 (ii) A copy of the executed agreement between the licensee and  
20 the person or entity described in paragraph (2) that delineates the  
21 roles and responsibilities of each party and specifies that the person  
22 or entity described in paragraph (2) shall have the full authority  
23 necessary to operate the facility, in compliance with all applicable  
24 laws and regulations, and without interference from the licensee.

25 (B) The person or entity described in paragraph (2) shall be  
26 currently licensed and in substantial compliance to operate a  
27 residential care facility for the elderly that is of comparable size  
28 or greater and has comparable programming to the facility. For  
29 purposes of this subparagraph, the following definitions apply:

30 (i) “Comparable programming” includes, but is not limited to,  
31 dementia care, hospice care, and care for residents with exempted  
32 prohibited health care conditions.

33 (ii) “Comparable size” means a facility capacity of 1 to 15  
34 residents, 16 to 49 residents, or 50 or more residents.

35 (C) The person or entity described in paragraph (2) shall not be  
36 subject to the application fee specified in Section 1569.185.

37 (D) If the department denies a proposal to secure the services  
38 of a person or entity pursuant to paragraph (2), this denial shall  
39 not be deemed a denial of a license application subject to the right

1 to a hearing under Section 1569.22 and other procedural rights  
2 under Section 1569.51.

3 (3) (A) Notwithstanding Section 1569.651 or any other  
4 provision of law, for paid preadmission fees ~~in excess of five~~  
5 ~~hundred dollars (\$500)~~, a resident who transfers from the facility  
6 during the 60-day period ~~described in paragraph (1) of subdivision~~  
7 ~~(e) after the issuance of an order to suspend or revoke the license~~  
8 is entitled to a refund in accordance with all of the following:

9 (i) A 100-percent refund if preadmission fees were paid within  
10 six months of the notice of closure required by paragraph (1) *or*  
11 *subdivision (f)*.

12 (ii) A 75-percent refund if preadmission fees were paid more  
13 than six months, but not more than 12 months, before the notice  
14 of closure required by paragraph (1) *or subdivision (f)*.

15 (iii) A 50-percent refund if preadmission fees were paid more  
16 than 12 months, but not more than 18 months, before the notice  
17 of closure required by paragraph (1) *or subdivision (f)*.

18 (iv) A 25-percent refund if preadmission fees were paid more  
19 than 18 months, but not more than 25 months, before the notice  
20 of closure required by paragraph (1) *or subdivision (f)*.

21 (B) No preadmission fee refund is required if preadmission fees  
22 were paid 25 months or more before the notice of closure required  
23 by paragraph (1) *or subdivision (f)*.

24 (C) The preadmission fee refund required by this paragraph  
25 shall be paid within 15 days of issuing the notice of closure  
26 required by paragraph (1) *or subdivision (f)*. In lieu of the refund,  
27 the resident may request that the licensee provide a credit toward  
28 the resident's monthly fee obligation in an amount equal to the  
29 preadmission fee refund due.

30 (4) If a resident transfers from the facility during the 60-day  
31 period ~~described in paragraph (1) of subdivision (e) after the~~  
32 ~~issuance of an order to suspend or revoke the license~~, and the  
33 resident gives notice at least five days before leaving the facility,  
34 the licensee shall refund to the resident or his or her legal  
35 representative a proportional per diem amount of any prepaid  
36 monthly fees at the time the resident leaves the facility and the  
37 unit is vacated. Otherwise the licensee shall pay the refund within  
38 seven days from the date that the resident leaves the facility and  
39 the unit is vacated.

1 (5) Within ~~10 days~~ 24 hours after all residents who are  
2 transferring pursuant to these provisions have left the facility, the  
3 licensee that had his or her license revoked shall, based on  
4 information provided by the resident or the resident's legal  
5 representative, submit a final list of names and new locations of  
6 all residents to the department and the local ombudsman program.

7 *(h) If at any point during the relocation process the director*  
8 *determines that it is necessary to protect the residents of a facility*  
9 *from physical or mental abuse, abandonment, or any other*  
10 *substantial threat to health or safety, the department shall take*  
11 *any necessary action to minimize trauma for the residents. The*  
12 *department is responsible for the health and safety of all residents*  
13 *until all residents have been appropriately placed. These*  
14 *responsibilities shall include, but not be limited to, all of the*  
15 *following:*

16 *(1) Contact any local agency that may have placement or*  
17 *advocacy responsibility for the residents, and work with those*  
18 *agencies to locate alternative placement sites.*

19 *(2) Contact the residents' relatives, legal representatives,*  
20 *authorized agents in a health care directive, or responsible parties.*

21 *(3) Assist in the transfer of residents, and, if necessary, arrange*  
22 *or provide transportation.*

23 *(4) Provide onsite evaluation of the residents and use any*  
24 *medical personnel deemed appropriate by the department to*  
25 *provide onsite evaluation of the residents and assist in any*  
26 *transfers.*

27 *(5) Arrange for or provide care and supervision.*

28 *(6) Distribute medications.*

29 *(7) Arrange for the preparation and service of meals and snacks.*

30 *(8) Prepare the residents' records and medications for transfer*  
31 *of each resident.*

32 *(9) Assist in any way necessary to facilitate a safe transfer of*  
33 *all residents.*

34 *(10) Check on the status of all transferred residents within 24*  
35 *hours of transfer.*

36 *(i) The participation of the department and local agencies in*  
37 *the relocation of residents from a residential care facility for the*  
38 *elderly shall not relieve the licensee of any responsibility under*  
39 *this section. A licensee that fails to comply with the requirements*  
40 *of this section shall be required to reimburse the department and*

1 local agencies for the cost of providing these services. If the  
2 licensee fails to provide the services required in this section, the  
3 department shall request that the Attorney General's office, the  
4 city attorney's office, or the local district attorney's office seek  
5 injunctive relief and damages.

6 (j) Notwithstanding Section 1569.49, a licensee who fails to  
7 comply with requirements of this section shall be liable for civil  
8 penalties in the amount of five hundred dollars (\$500) per violation  
9 per day for each day that the licensee is in violation of this section,  
10 until the violation has been corrected. The civil penalties shall be  
11 issued immediately following the written notice of violation.  
12 However, if the violation does not present an immediate or  
13 substantial threat to the health and safety of residents and the  
14 licensee corrects the violation within three calendar days after  
15 receiving the notice of the violation, the licensee shall not be liable  
16 for payment of any civil penalties pursuant to this subdivision  
17 related to the corrected violation.

18 (k) A current or former resident of a residential care facility  
19 for the elderly covered under this section, may bring a civil action  
20 against any person, firm, partnership, or corporation who owns,  
21 operates, establishes, manages, conducts, or maintains a  
22 residential care facility for the elderly who violates the rights of  
23 a resident, as set forth in this section. Any person, firm,  
24 partnership, or corporation who owns, operates, establishes,  
25 manages, conducts, or maintains a residential care facility for the  
26 elderly who violates this section shall be responsible for the acts  
27 of the facilities employees and shall be liable for costs and  
28 attorney's fees. The residential care facility for the elderly may  
29 also be enjoined from permitting the violation to continue. The  
30 remedies specified in this section shall be in addition to any other  
31 remedy provided by law.

32 ~~(f) Nothing in this~~

33 (l) This section shall not preclude the department from amending  
34 the effective date in the order of the suspension or revocation of  
35 a license and closing the facility prior to the end of the 60-day  
36 notice period provided for in subdivision (e), or from pursuing any  
37 other available remedies if necessary to protect the health and  
38 safety of the residents in care.

39 SEC. 2. No reimbursement is required by this act pursuant to  
40 Section 6 of Article XIII B of the California Constitution because

1 the only costs that may be incurred by a local agency or school  
2 district will be incurred because this act creates a new crime or  
3 infraction, eliminates a crime or infraction, or changes the penalty  
4 for a crime or infraction, within the meaning of Section 17556 of  
5 the Government Code, or changes the definition of a crime within  
6 the meaning of Section 6 of Article XIII B of the California  
7 Constitution.

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