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HEALTH AND SAFETY CODE - HSC

DIVISION 2. LICENSING PROVISIONS [1200 - 1796.70] (*Division 2 enacted by Stats. 1939, Ch. 60.*)

CHAPTER 3. California Community Care Facilities Act [1500 - 1567.94] (*Chapter 3 repealed and added by Stats. 1973, Ch. 1203.*)

ARTICLE 7. Local Regulation [1566 - 1566.8] (*Article 7 added by Stats. 1978, Ch. 891.*)

1566. The Legislature hereby declares that it is the policy of this state that each county and city shall permit and encourage the development of sufficient numbers and types of residential care facilities as are commensurate with local need.

The provisions of this article shall apply equally to any chartered city, general law city, county, city and county, district, and any other local public entity.

For the purposes of this article, "six or fewer persons" does not include the licensee or members of the licensee's family or persons employed as facility staff.

(*Added by Stats. 1978, Ch. 891.*)

1566.1. Any person licensed under the provisions of this chapter who operates, or proposes to operate a residential facility, the department or other public agency authorized to license such a facility, or any public or private agency which uses or may use the services of the facility to place its clients, may invoke the provisions of this article.

This section shall not be construed to prohibit any interested party from bringing suit to invoke the provisions of this article.

(*Added by Stats. 1978, Ch. 891.*)

1566.2. A residential facility, which serves six or fewer persons shall not be subject to any business taxes, local registration fees, use permit fees, or other fees to which other family dwellings of the same type in the same zone are not likewise subject. Nothing in this section shall be construed to forbid the imposition of local property taxes, fees for water service and garbage collection, fees for inspections not prohibited by Section 1566.3, local bond assessments, and other fees, charges, and assessments to which other family dwellings of the same type in the same zone are likewise subject. Neither the State Fire Marshal nor any local public entity shall charge any fee for enforcing fire inspection regulations pursuant to state law or regulation or local ordinance, with respect to residential facilities that serve six or fewer persons, except for fees authorized pursuant to Section 13235.

For purposes of this section, "family dwellings," includes, but is not limited to, single-family dwellings, units in multifamily dwellings, including units in duplexes and units in apartment dwellings, mobilehomes, including mobilehomes located in mobilehome parks, units in cooperatives, units in condominiums, units in townhouses, and units in planned unit developments.

(*Amended by Stats. 2009, 4th Ex. Sess., Ch. 12, Sec. 13. Effective July 28, 2009.*)

1566.25. If a county of residence agrees to pay a placement county the costs of providing services to a minor pursuant to subdivision (a) of Section 740 of the Welfare and Institutions Code, all of the following shall apply:

(a) The county of residence shall agree to pay the placement county the actual costs of providing services to a child placed in a community care facility outside his or her county of residence by a placement agency, as defined in Section 1536.1, that are incurred by the probation department, social services department, health department, or mental health department of the placement county for which the placement county is not otherwise reimbursed.

(b) Claims made by the county of placement to the county of residency pursuant to subdivision (a) shall include documentation and shall be paid within 30 days of submission of these claims.

(c) For the purposes of this section, the county from where the child was placed in the community care facility shall be considered the county of residency.

(*Added by Stats. 1992, Ch. 1153, Sec. 4. Effective January 1, 1993.*)

1566.3. (a) Whether or not unrelated persons are living together, a residential facility that serves six or fewer persons shall be considered a residential use of property for the purposes of this article. In addition, the residents and operators of such a facility shall be considered a family for the purposes of any law or zoning ordinance that relates to the residential use of property pursuant to this article.

(b) For the purpose of all local ordinances, a residential facility that serves six or fewer persons shall not be included within the definition of a boarding house, rooming house, institution or home for the care of minors, the aged, or persons with mental health disorders, foster care home, guest home, rest home, community residence, or other similar term that implies that the residential facility is a business run for profit or differs in any other way from a family dwelling.

(c) This section shall not be construed to prohibit a city, county, or other local public entity from placing restrictions on building heights, setback, lot dimensions, or placement of signs of a residential facility that serves six or fewer persons as long as those restrictions are identical to those applied to other family dwellings of the same type in the same zone.

(d) This section shall not be construed to prohibit the application to a residential care facility of any local ordinance that deals with health and safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local public entity if the ordinance does not distinguish residential care facilities that serve six or fewer persons from other family dwellings of the same type in the same zone and if the ordinance does not distinguish residents of the residential care facilities from persons who reside in other family dwellings of the same type in the same zone. Nothing in this section shall be construed to limit the ability of a local public entity to fully enforce a local ordinance, including, but not limited to, the imposition of fines and other penalties associated with violations of local ordinances covered by this section.

(e) No conditional use permit, zoning variance, or other zoning clearance shall be required of a residential facility that serves six or fewer persons that is not required of a family dwelling of the same type in the same zone.

(f) Use of a family dwelling for purposes of a residential facility serving six or fewer persons shall not constitute a change of occupancy for purposes of Part 1. 5 (commencing with Section 17910) of Division 13 or local building codes. However, nothing in this section is intended to supersede Section 13143 or 13143.6, to the extent such sections are applicable to residential facilities providing care for six or fewer residents.

(g) For the purposes of this section, "family dwelling," includes, but is not limited to, single-family dwellings, units in multifamily dwellings, including units in duplexes and units in apartment dwellings, mobilehomes, including mobilehomes located in mobilehome parks, units in cooperatives, units in condominiums, units in townhouses, and units in planned unit developments.

(Amended by Stats. 2014, Ch. 144, Sec. 32. (AB 1847) Effective January 1, 2015.)

1566.4. No fire inspection clearance or other permit, license, clearance, or similar authorization shall be denied to a residential facility because of a failure to comply with local ordinances from which such facilities are exempt under Section 1566.3, provided that the applicant otherwise qualifies for such fire clearance, license, permit, or similar authorization.

(Added by Stats. 1978, Ch. 891.)

1566.45. (a) (1) For purposes of this section, "bedridden" means requiring assistance in turning and repositioning in bed or being unable to independently transfer to and from bed, except in a facility with appropriate and sufficient care staff, mechanical devices, if necessary, and safety precautions, as determined by the director in regulations.

(2) In developing the regulations for child residential facilities, the department shall take into consideration the size and weight of the child.

(3) For purposes of this section, the status of being bedridden shall not include a temporary illness or recovery from surgery that persists for 14 days or less.

(4) The determination of the bedridden status of persons with developmental disabilities shall be made by the Director of Social Services or their designated representative, in consultation with the Director of Developmental Services or their 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 their designated representative.

(b) A client shall not be admitted to or retained in a residential facility if the client requires 24-hour skilled nursing care, except for a facility licensed as an Adult Residential Facility for Persons with Special Health Care Needs or a Group Home for Children with Special Health Care Needs pursuant to Article 9 (commencing with Section 1567.50).

(c) A bedridden person may be admitted to, and remain in, a residential facility that secures and maintains an appropriate fire clearance. A fire clearance shall be issued to a facility in which one or more bedridden persons reside if either of the following conditions are met:

(1) The fire safety requirements are met. Clients who are unable to independently transfer to and from bed, but who do not need assistance to turn or reposition in bed, shall be considered nonambulatory for purposes of this paragraph.

(2) Alternative methods of protection are approved.

(d) Notwithstanding paragraph (3) of subdivision (a), a bedridden client may be retained in a residential facility in excess of 14 days if all of the following requirements are satisfied:

(1) The facility notifies the department in writing that the person is recovering from a temporary illness or surgery.

(2) The facility submits to the department, with the notification required in paragraph (1), a physician and surgeon's written statement to the effect that the client's illness or recovery is of a temporary nature. The statement shall contain an estimated date upon which the illness or recovery is expected to end or upon which the client is expected to no longer be confined to bed.

(3) The department determines that the client's health and safety is adequately protected in the facility and that transfer to a higher level of care is not necessary.

(4) This subdivision does not expand the scope of care and supervision of a residential facility.

(e) Notwithstanding the length of stay of a bedridden client, every residential facility admitting or retaining a bedridden client shall, within 48 hours of the client's admission or retention in the facility, notify the fire authority having jurisdiction over the bedridden client's location of the estimated length of time the client will retain their bedridden status in the facility.

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

(A) Are consistent with this section.

(B) Are applicable to facilities regulated under this chapter, consistent with the regulatory requirements of the California Building Standards Code for fire and life safety for the respective occupancy classifications into which the State Department of Social Services' community care licensing classifications fall.

(C) Permit clients to remain in homelike settings.

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

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

(B) Identify procedures for requesting the approval of alternative means of providing equivalent levels of fire and life safety protection. Either the facility, the client or client's representative, or local fire official may request from the Office of the State Fire Marshal a written opinion concerning the interpretation of the regulations promulgated by the State Fire Marshal pursuant to this section for a particular factual dispute. The State Fire Marshal shall issue the written opinion within 45 days following the request.

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

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

(Amended by Stats. 2021, Ch. 76, Sec. 11. (AB 136) Effective July 16, 2021.)

1566.5. For the purposes of any contract, deed, or covenant for the transfer of real property executed on or after January 1, 1979, a residential facility which serves six or fewer persons shall be considered a residential use of property and a use of property by a single family, notwithstanding any disclaimers to the contrary.

(Added by Stats. 1978, Ch. 891.)

1566.6. The department shall annually prepare, with a quarterly update commencing July 1, 1979, specifying newly licensed facilities, a list or lists of all licensed community care facilities in the state, other than foster family homes, which shall include the information required by Section 1536 and shall additionally specify as to each such facility the licensed capacity of the facility and whether it is licensed by the state department or by another public agency pursuant to Section 1511. Compliance with this section shall also constitute compliance with Section 1536.

(Amended by Stats. 1984, Ch. 1615, Sec. 7.)

1566.7. The department shall notify affected placement agencies and the Office of the State Long-Term Care Ombudsman, as defined in subdivision (c) of Section 9701 of the Welfare and Institutions Code, whenever the department substantiates that a violation has occurred, which poses a serious threat to the health and safety of any resident when the violation results in the assessment of any penalty or causes an accusation to be filed for the revocation of a license. If the violation is appealed by the facility within 15 business days, the department shall only notify placement agencies of the violation when the appeal has been exhausted. If the appeal process has not been completed within 60 days, the placement agency shall be notified with a notation which indicates that the case is still under appeal. The notice to each placement agency shall be updated monthly for the following 24-month period and shall include the name and location of the facility, the amount of the fine, the nature of the violation, the corrective action taken, the status of the revocation, and the resolution of the complaint. At any time during which a facility is found to have one or more of the following serious deficiencies, the director shall provide an immediate notice of not to exceed five working days to the placement agency:

- (a) Discovery that an employee of the facility has a criminal record which would affect the facility's compliance with Section 1522.
- (b) Discovery that a serious incident that resulted in physical or emotional trauma of a resident has occurred in a facility.

(Amended by Stats. 2016, Ch. 823, Sec. 3. (AB 2231) Effective January 1, 2017.)

1566.75. (a) By January 1, 2006, the department's Community Care Licensing Division shall enter into memoranda of understanding with up to 10 local mental health departments that volunteer to participate. Each memorandum of understanding shall outline a formal protocol to address shared responsibilities, monitoring responsibilities, facility closures, training, and a process for mediation of disputes between the local mental health authority and the department's local licensing office relating to adult residential facilities and social rehabilitation facilities.

- (b) On or before January 31, 2006, the department shall transmit a copy of each memorandum of understanding that has been signed to the Legislature.

(Added by Stats. 2004, Ch. 660, Sec. 1. Effective January 1, 2005.)

1566.8. Notwithstanding any other provision of law, if according to the rules and regulations of a mobilehome park, the park is designated as a family park or a section of a mixed mobilehome park is designated as a family section, no rule, regulation, rental agreement, or any other provision in existence on the effective date of this section shall, directly or indirectly, prohibit a person from operating in any mobilehome in a family park or designated family section, a licensed foster family home.

(Added by Stats. 1987, Ch. 1092, Sec. 3. Effective September 24, 1987.)