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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 3.2. Residential Care Facilities for the Elderly [1569 - 1569.889] (Heading of Chapter 3.2 renumbered from Chapter 3.3 (as added by Stats. 1985, Ch. 1127) by Stats. 1988, Ch. 160, Sec. 91.)

ARTICLE 1. General Provisions [1569 - 1569.5] (Article 1 added by Stats. 1985, Ch. 1127, Sec. 3.)

1569. This chapter shall be known and may be cited as the California Residential Care Facilities for the Elderly Act.

(Added by Stats. 1985, Ch. 1127, Sec. 3.)

1569.1. The Legislature hereby finds and declares:

(a) The Legislature has taken steps in recent years to develop a continuum of long-term social and health support services for older persons in the community that provide a range of options for long-term care and residential care facilities for the elderly are central in that continuum.

(b) These efforts require a reevaluation of residential care for the elderly outside the constraints of the Community Care Facilities Act.

(c) The Community Care Facilities Act was enacted in 1973 with the primary purpose of ensuring that residents of state hospitals would have access to safe, alternative community-based housing.

(d) Since that time, due to shortages in affordable housing and a greater demand for residences for the elderly providing some care and supervision, a growing number of elderly persons with health and social care needs now reside in community care facilities that may or may not be designed to meet their needs.

(e) Progress in the field of gerontology has provided new insights and information as to the types of services required to allow older persons to remain as independent as possible while residing in a residential care facility for the elderly.

(f) The fluctuating health and social status of older persons demands a system of residential care that can respond to these needs by making available multilevels of service within the facility, thus reducing the need for residents with fluctuating conditions to move between medical and nonmedical facilities.

(g) Residential care facilities for the elderly which are not primarily medically oriented represent a humane approach to meeting the housing, social and service needs of older persons, and can provide a homelike environment for older persons with a variety of care needs.

(h) It is, therefore, the intent of the Legislature to require that residential care facilities for the elderly be licensed as a separate category within the existing licensing structure of the State Department of Social Services.

(Added by Stats. 1985, Ch. 1127, Sec. 3.)

1569.2. As used in this chapter:

(a) "Administrator" means the individual designated by the licensee to act on behalf of the licensee in the overall management of the facility. The licensee, if an individual, and the administrator may be one and the same person.

(b) "Beneficial ownership interest" means an ownership interest through the possession of stock, equity in capital, or any interest in the profits of the applicant or licensee, or through the possession of such an interest in other entities that directly or indirectly hold an interest in the applicant or licensee. The percentage of beneficial ownership in the applicant or licensee that is held by any other entity is determined by multiplying the other entities' percentage of ownership interest at each level.

(c) "Care and supervision" means the facility assumes responsibility for, or provides or promises to provide in the future, ongoing assistance with activities of daily living without which the resident's physical health, mental health, safety, or welfare would be endangered. Assistance includes assistance with taking medications, money management, or personal care.

- (d) "Chain" means a group of two or more licensees that are controlled, as defined in this section, by the same persons or entities.
- (e) "Control" means the ability to direct the operation or management of the applicant or licensee and includes the ability to exercise control through intermediary or subsidiary entities.
- (f) "Department" means the State Department of Social Services.
- (g) "Director" means the Director of Social Services.
- (h) "Health-related services" mean services that shall be directly provided by an appropriate skilled professional, including a registered nurse, licensed vocational nurse, physical therapist, or occupational therapist.
- (i) "Instrumental activities of daily living" means any of the following: housework, meals, laundry, taking of medication, money management, appropriate transportation, correspondence, telephoning, and related tasks.
- (j) "License" means a basic permit to operate a residential care facility for the elderly.
- (k) "Parent organization" means an organization in control of another organization either directly or through one or more intermediaries.
- (l) "Personal activities of daily living" means any of the following: dressing, feeding, toileting, bathing, grooming, and mobility and associated tasks.
- (m) "Personal care" means assistance with personal activities of daily living, to help provide for and maintain physical and psychosocial comfort.
- (n) "Protective supervision" means observing and assisting confused residents, including persons with dementia, to safeguard them against injury.
- (o) (1) "Residential care facility for the elderly" means a housing arrangement chosen voluntarily by persons 60 years of age or over, or their authorized representative, where varying levels and intensities of care and supervision, protective supervision, or personal care are provided, based upon their varying needs, as determined in order to be admitted and to remain in the facility. Persons under 60 years of age with compatible needs may be allowed to be admitted or retained in a residential care facility for the elderly as specified in Section 1569.316.
- (2) This subdivision shall be operative only until the enactment of legislation implementing the three levels of care in residential care facilities for the elderly pursuant to Section 1569.70.
- (p) (1) "Residential care facility for the elderly" means a housing arrangement chosen voluntarily by persons 60 years of age or over, or their authorized representative, where varying levels and intensities of care and supervision, protective supervision, personal care, or health-related services are provided, based upon their varying needs, as determined in order to be admitted and to remain in the facility. Persons under 60 years of age with compatible needs may be allowed to be admitted or retained in a residential care facility for the elderly as specified in Section 1569.316.
- (2) This subdivision shall become operative upon the enactment of legislation implementing the three levels of care in residential care facilities for the elderly pursuant to Section 1569.70.
- (q) "Sundowning" means a condition in which persons with cognitive impairment experience recurring confusion, disorientation, and increasing levels of agitation that coincide with the onset of late afternoon and early evening.
- (r) "Supportive services" means resources available to the resident in the community that help to maintain their functional ability and meet their needs as identified in the individual resident assessment. Supportive services may include any of the following: medical, dental, and other health care services; transportation; recreational and leisure activities; social services; and counseling services.

(Amended by Stats. 2016, Ch. 86, Sec. 179. (SB 1171) Effective January 1, 2017.)

1569.3. The license of any facility licensed as a residential facility for the elderly under the California Community Care Facilities Act provided for in Chapter 3 (commencing with Section 1500) on January 1, 1986, shall automatically be transferred for the unexpired term of the license to licensure as a residential care facility for the elderly under this chapter.

(Amended by Stats. 2005, Ch. 423, Sec. 3. Effective January 1, 2006.)

1569.4. (a) Beginning May 1, 2021, and annually thereafter, the department shall collect information and send a report to each county's department of mental health or behavioral health of all licensed residential care facilities for the elderly in the county that accept the federal supplemental security rate and accept residents with a serious mental disorder, as defined in Section 5600.3 of the Welfare and Institutions Code, and the number of licensed beds at each facility.

(b) Beginning May 1, 2021, and quarterly thereafter, the department shall send to each county's department of mental health or behavioral health the report of licensed residential care facilities for the elderly that closed permanently in the prior quarter, by county, and shall include the number of licensed beds of each facility and the reason for closing. The report shall include cumulative data and closure trends for each county and be based on facilities identified in subdivision (a).

(c) Upon receiving notice that a licensed residential care facility for the elderly intends to close permanently, the department shall notify the county mental or behavioral health department within three business days.

(Added by Stats. 2020, Ch. 139, Sec. 3. (AB 1766) Effective January 1, 2021.)

1569.5. (a) The director shall adopt regulations authorizing residential care facilities for the elderly, as defined in Section 1569.2, to fill unused capacity on a short-term, time-limited basis to provide temporary respite care for persons who are frail and elderly, adults who have functional impairments, or persons with mental health disorders who need 24-hour supervision and who are being cared for by a caretaker or caretakers. The regulations shall address provisions for liability coverage and the level of facility responsibility for routine medical care and medication management, and may require screening of persons to determine the level of care required, a physical history completed by the person's personal physician, and other alternative admission criteria to protect the health and safety of persons applying for respite care. The regulations shall permit these facilities to charge a fee for the services provided, which shall include, but not be limited to, supervision, room, leisure activities, and meals.

(b) No facility shall accept persons in need of care beyond the level of care for which that facility is licensed.

(Amended by Stats. 2014, Ch. 144, Sec. 34. (AB 1847) Effective January 1, 2015.)