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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 2. Licensing [1569.10 - 1569.24] (*Article 2 added by Stats. 1985, Ch. 1127, Sec. 3.*)

1569.10. No person, firm, partnership, association, or corporation within the state and no state or local public agency shall operate, establish, manage, conduct, or maintain a residential facility for the elderly in this state without a current valid license or current valid special permit therefor, as provided in this chapter.

(Amended by Stats. 1987, Ch. 1069, Sec. 4.)

1569.11. The department shall inspect and license residential care facilities for the elderly. A license is not transferable.

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

1569.12. The department may provide consulting services upon request to any residential care facility for the elderly to assist in the identification or correction of deficiencies and in the upgrading of the quality of care provided by the facility.

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

1569.13. (a) The department may contract for state, county, or other public agencies to assume specified licensing, approval, or consultation responsibilities. In exercising the authority so delegated, these agencies shall conform to the requirements of this chapter and to the rules, regulations, and standards of the department. The department shall reimburse agencies for services performed pursuant to this section, and the payments shall not exceed actual cost.

If any grants-in-aid are made by the federal government for the support of any inspection or consultation service approved by the department, the amount of the federal grant shall first be applied to defer the cost of the service before state reimbursement is made.

(b) The department may contract with any county for the purposes of having the county assume the responsibility within the county for the licensing and regulation of residential care facilities for the elderly serving six or fewer persons. Prior to the department contracting with any county for the licensing and regulation of residential care facilities for the elderly serving six or fewer persons, the department shall develop uniform standards which specify and delineate the responsibilities of contracting counties and the department. The department shall reimburse the county for the services performed, not to exceed the actual cost, out of the funds allocated to the department for the licensing and regulation of those facilities. The county shall conform to the requirements of this chapter and to the rules, regulations, and standards of the department.

(Amended by Stats. 1989, Ch. 488, Sec. 1.)

1569.14. No license issued pursuant to this chapter shall have any property value for sale or exchange purposes and no person, including any owner, agent, or broker, shall sell or exchange any license for any commercial purpose.

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

1569.145. This chapter shall not apply to any of the following:

(a) A health facility, as defined by Section 1250.

(b) A clinic, as defined by Section 1200.

(c) A facility conducted by and for the adherents of a well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of that church or denomination.

(d) A house, institution, hotel, congregate housing project for the elderly, or other similar place that is limited to providing one or more of the following: housing, meals, transportation, housekeeping, or recreational and social activities; or that have residents independently accessing supportive services, provided, however, that no resident thereof requires an element of care and supervision or protective supervision as determined by the director. This subdivision shall not include a home or residence that is described in subdivision (f).

(e) Recovery houses or other similar facilities providing group living arrangements for persons recovering from alcoholism or drug addiction where the facility provides no care or supervision.

(f) (1) An arrangement for the care and supervision of a person or persons by a family member.

(2) An arrangement for the care and supervision of a person or persons from only one family by a close friend, whose friendship preexisted the contact between the provider and the recipient, and both of the following are met:

(A) The care and supervision is provided in a home or residence chosen by the recipient.

(B) The arrangement is not of a business nature and occurs only as long as the needs of the recipient for care and supervision are adequately met.

(g) (1) (A) Any housing occupied by elderly or disabled persons, or both, that is approved and operated pursuant to Section 202 of Public Law 86-372 (12 U.S.C. Sec. 1701q), or Section 811 of Public Law 101-625 (42 U.S.C. Sec. 8013), or whose mortgage is insured pursuant to Section 236 of Public Law 90-448 (12 U.S.C. Sec. 1715z), or that receives mortgage assistance pursuant to Section 221d(3) of Public Law 87-70 (12 U.S.C. Sec. 1715l), where supportive services are made available to residents at their option, as long as the project owner or operator does not contract for or provide the supportive services.

(B) Any housing that qualifies for a low-income housing credit pursuant to Section 252 of Public Law 99-514 (26 U.S.C. Sec. 42) or that is subject to the requirements for rental dwellings for low-income families pursuant to Section 8 of Public Law 93-383 (42 U.S.C. Sec. 1437f), and that is occupied by elderly or disabled persons, or both, where supportive services are made available to residents at their option, as long as the project owner or operator does not contract for or provide the supportive services.

(2) The project owner or operator to which paragraph (1) applies may coordinate, or help residents gain access to, the supportive services, either directly, or through a service coordinator.

(h) A similar facility determined by the director.

(i) For purposes of this section, "family member" means a spouse, by marriage or otherwise, child or stepchild, by natural birth or by adoption, parent, brother, sister, half brother, half sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or a person denoted by the prefix "grand" or "great," or the spouse of one of these persons.

(j) A person shall not be exempted from this chapter's licensure requirements if he or she has been appointed as conservator of the person, estate of the person, or both, if the person is receiving care and supervision from the conservator as regulated by this chapter, unless the conservator is otherwise exempted under other provisions of this section.

(Amended by Stats. 2009, Ch. 82, Sec. 3. (AB 123) Effective January 1, 2010.)

1569.147. (a) Nothing in this chapter authorizes the imposition of rent regulations or controls for licensed residential care facilities for the elderly.

(b) Licensed residential care facilities for the elderly are not subject to controls on rent imposed by any state or local agency or other local government entity.

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

1569.149. A prospective applicant for licensure shall be notified at the time of the initial request for information regarding application for licensure that, prior to obtaining licensure, the facility shall secure and maintain a fire clearance approval from the local fire enforcing agency, as defined in Section 13244, or the State Fire Marshal, whichever has primary fire protection jurisdiction. The prospective applicant shall be notified of the provisions of Section 13235, relating to the fire safety clearance application. The prospective applicant for licensure shall be notified that the fire clearance shall be in accordance with state and local fire safety regulations.

(Added by Stats. 1989, Ch. 993, Sec. 3.)

1569.15. (a) Any person, entity, or agent signing on behalf of an entity, seeking a license for a residential care facility for the elderly under this chapter shall file with the department, pursuant to regulations, an application on forms furnished by the department, that shall include, but not be limited to, all of the following:

(1) Evidence satisfactory to the department of the ability of the applicant to comply with this chapter and of rules and regulations adopted under this chapter by the department.

(2) Evidence satisfactory to the department that the applicant is of reputable and responsible character. The evidence shall include, but not be limited to, a criminal record clearance pursuant to Section 1569.17, employment history, and character references. If the applicant is a firm, association, organization, partnership, business trust, corporation, or company, like evidence shall be submitted as to the individuals or entities holding a beneficial ownership interest of 10 percent or more, and the person who has operational control of the residential care facility for the elderly for which the application for issuance of license or special permit is made. The applicant shall provide or cause to be provided, at the department's request, any additional information related to consideration of the application regarding any entity that is an applicant or holds a beneficial ownership interest of 10 percent or more. Notwithstanding anything in this section, an applicant or licensee is not required to disclose the names of investors in a publicly traded company or investment fund if those investors are silent investors who do not have influence or control over operations of the company, fund, or facility.

(3) If applicable, the following information:

(A) Whether it is a for-profit or not-for-profit provider.

(B) The name, address, license number, and licensing agency name of other health, residential, or community care facilities owned, managed, or operated by the same applicant or by any parent organization of the applicant.

(C) The name and business address of any person or entity that controls, as defined in Section 1569.2, the applicant.

(D) If part of a chain, as defined in Section 1569.2, a diagram indicating the relationship between the applicant and the persons or entities that are part of the chain, including those that are controlled by the same parties, and in a separate list, the name, address, and license number, if applicable, for each person or entity in the diagram.

(E) The name and address of any persons, organizations, or entities that own the real property on which the facility seeking licensure and the licensed facilities described in subparagraph (B) are located.

(F) The name and address of any management company serving the facility and the same information required of applicants in subparagraphs (C) and (D) for the management company.

(4) Evidence satisfactory to the department that the applicant has sufficient financial resources to maintain the standards of service required by regulations adopted pursuant to this chapter.

(5) The name of the person with operational control of the applicant, such as the chief executive officer, general partner, owner, or like party, and state that person's prior or present service as an administrator, chief executive officer, general partner, director, like role of, or as a person who has held or holds a beneficial ownership interest of 10 percent or more in, any residential care facility for the elderly, in any facility licensed pursuant to Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), or Chapter 3 (commencing with Section 1500), or a similarly licensed facility in California or any other state within the past 10 years.

(6) The following information regarding the applicant and each individual or entity identified pursuant to paragraph (5):

(A) Any revocation, suspension, probation, exclusion order, or other similar administrative disciplinary action that was filed and sustained in California or any other state, or in the process of being adjudicated, against a facility associated with a person identified pursuant to paragraph (5) or by any authority responsible for the licensing of health, residential, or community care facilities within the past 10 years.

(B) Copies of final findings, orders, or both, issued by any health, residential, or community care licensing agency or any court relevant to the actions described in subparagraph (A).

(C) Any petition for bankruptcy relief filed within five years of the date of application involving operation or closure of a health, residential, or community care facility licensed in California or any other state, the court, date, and case number of the filing, and whether a discharge was granted. If a discharge was not granted, the applicant shall provide copies of any court findings supporting denial of discharge.

(7) Any other information as may be required by the department for the proper administration and enforcement of this chapter.

(8) Following the implementation of Article 7 (commencing with Section 1569.70), evidence satisfactory to the department of the applicant's ability to meet regulatory requirements for the level of care the facility intends to provide.

(9) Evidence satisfactory to the department of adequate knowledge of supportive services and other community supports that may be necessary to meet the needs of elderly residents.

(10) A signed statement that the person desiring issuance of a license has read and understood the residential care facility for the elderly statute and regulations.

(11) Designation by the applicant of the individual who shall be the administrator of the facility, including, if the applicant is an individual, whether or not the applicant shall also be the administrator.

(12) Evidence of the right of possession of the facility prior to the time the license is granted, which may be satisfied by the submission of a copy of the entire lease agreement or deed.

(13) Evidence of successfully completing a certified prelicensure education program pursuant to Section 1569.23.

(14) For any facility that promotes or advertises or plans to promote or advertise special care, special programming, or special environments for persons with dementia, disclosure to the department of the special features of the facility in its plan of operation.

(b) The department shall cross-check all applicant information disclosed pursuant to paragraph (5) of subdivision (a), if electronically available, with the State Department of Public Health to determine if the applicant has a prior history of operating, holding a position in, or having ownership in, any entity specified in paragraph (5) of subdivision (a).

(c) Failure of the applicant to cooperate with the licensing agency in the completion of the application may result in the denial of the application. Failure to cooperate means that the information described in this section and in the regulations of the department has not been provided, or has not been provided in the form requested by the licensing agency, or both.

(d) The information required by this section shall be provided to the department upon initial application for licensure, and any change in the information shall be provided to the department within 30 calendar days of that change unless a shorter timeframe is required by the department. A licensee of multiple facilities may provide a single notice of changes to the department on behalf of all licensed facilities within the chain. Information pertaining to facilities operated in other states may be updated on an annual basis, except for the following information:

(1) Information specified in paragraph (6) of subdivision (a) shall be updated within 30 calendar days of the change.

(2) Information specified in subparagraph (B) of paragraph (3) of subdivision (a) shall be updated within six months after the change.

(e) An applicant or licensee shall maintain an email address of record with the department. The applicant or licensee shall provide written notification to the department of the email address and of any change to the email address within 10 business days of the change.

(f) (1) The department may deny an application for licensure or may subsequently revoke a license under this chapter if the applicant knowingly withheld material information or made a false statement of material fact with regard to information that was required by the application for licensure.

(2) The department may deny an application for licensure or may subsequently revoke a license under this chapter if the applicant did not disclose administrative disciplinary actions on the application as required by paragraph (6) of subdivision (a).

(3) In addition to the remedies provided under this chapter, the department may, subsequent to licensure, assess a civil penalty of one thousand dollars (\$1,000) for a material violation of this section.

(Amended by Stats. 2019, Ch. 180, Sec. 1. (AB 737) Effective January 1, 2020.)

1569.150. (a) The department and the licensing agencies with which it contracts for licensing shall review and make a final determination within 60 days of an applicant's submission of a complete application on all applications for a license to operate a residential care facility for the elderly if the applicant possesses a current valid license to operate a residential care facility for the elderly at another site. Applicants shall note on the application, or in a cover letter to the application, that they possess a current valid license at another site, and the number of that license.

(b) The department shall request a fire safety clearance from the appropriate fire marshal within five days of receipt of an application described in subdivision (a). The applicant shall be responsible for requesting and obtaining the required criminal record clearances.

(c) If the department for any reason is unable to comply with subdivision (a), it shall, within 60 days of receipt of the application described in subdivision (a), grant a provisional license to the applicant to operate for a period not to exceed six months, except as provided in subdivision (d). While the provisional license is in effect, the department shall continue its investigation and make a final determination on the application before the provisional license expires. The provisional license shall be granted, provided the department knows of no life safety risks, the criminal records clearances, if applicable, are complete, and the fire safety clearance is complete. The director may extend the term of a provisional license for an additional six months at the time of the application, if the director determines that more than six months will be required to achieve full compliance with licensing standards due to circumstances beyond the control of the applicant, and if all other requirements for a license have been met.

(d) If the department does not issue a provisional license pursuant to subdivision (c), the department shall issue a notice to the applicant identifying whether the provisional license has not been issued due to the existence of a life safety risk, lack of a fire safety clearance, lack of a criminal records clearance, failure to complete the application, or any combination of these reasons. If a life safety risk is identified, the risk preventing the issuance of the provisional license shall be clearly explained. If a lack of the fire safety clearance is identified, the notice shall include the dates on which the department requested the clearance and the current status of that request, and the fire marshal's name and telephone number to whom a fire safety clearance request was sent. The department shall identify the names of individuals for whom criminal records clearances are lacking. If failure to complete the application is identified, the notice shall list all of the forms or attachments that are missing or incorrect. This notice shall be sent to the applicant no later than 60 days after the applicant filed the application. If the reasons identified in the notice are corrected, the department shall issue the provisional license within five days after the corrections are made.

(e) The department shall, immediately after January 1, 1993, develop expedited procedures necessary to implement subdivisions (a), (b), (c), and (d).

(f) The department shall, immediately after January 1, 1993, develop an appeal procedure for applicants under this section for both denial of licenses and delay in processing applications.

(Added by Stats. 1992, Ch. 570, Sec. 2. Effective January 1, 1993.)

1569.151. Upon receipt of an application to operate a residential care facility for the elderly from an applicant who is also applying or intends to apply for a permit to sell deposit subscriptions on life care contracts pursuant to Chapter 10 (commencing with Section 1770), the department shall review the application for licensure to determine the applicant's ability and intent to meet all statutory and regulatory requirements for a residential care facility for the elderly.

Upon determination that the applicant has provided satisfactory evidence of ability and intent, the department shall issue a preliminary approval for licensure, for purposes of the applicant obtaining a permit to sell deposit subscriptions for life care contracts. Preliminary approval does not guarantee that a license will be issued by the department.

(Added by Stats. 1986, Ch. 844, Sec. 2.5.)

1569.1515. (a) A corporation that applies for licensure with the department shall list the facilities that any member of the board of directors, the executive director, or an officer has been licensed to operate, been employed in, or served as a member of the board of directors, the executive director, or an officer.

(b) The department shall not issue a provisional license or license to any corporate applicant that has a member of the board of directors, the executive director, or an officer who is not eligible for licensure pursuant to Sections 1569.16 and 1569.59.

(c) The department may revoke the license of any corporate licensee that has a member of the board of directors, the executive director, or an officer who is not eligible for licensure pursuant to Sections 1569.16 and 1569.59.

(d) Prior to instituting an administrative action pursuant to either subdivision (b) or (c), the department shall notify the applicant or licensee of the person's ineligibility to be a member of the board of directors, an executive director, or an officer of the applicant or licensee, and shall give the applicant or licensee 15 days to remove the person from that position.

(Added by Stats. 1998, Ch. 311, Sec. 36. Effective August 19, 1998.)

1569.152. (a) A residential care facility for the elderly, as defined in Section 1569.2, which fails to make reasonable efforts to safeguard resident property shall reimburse a resident for or replace stolen or lost resident property at its then current value. The facility shall be presumed to have made reasonable efforts to safeguard resident property if the facility has shown clear and convincing evidence of its efforts to meet each of the requirements specified in Section 1569.153. The presumption shall be a rebuttable presumption, and the resident or the resident's representative may pursue this matter in any court of competent jurisdiction.

(b) A civil penalty shall be levied if the residential care facility for the elderly has no program in place or if the facility has not shown clear and convincing evidence of its efforts to meet all of the requirements set forth in Section 1569.153. The State Department of Social Services shall issue a deficiency in the event that the manner in which the policies have been implemented is inadequate or the individual facility situation warrants additional theft and loss protections.

(c) The department shall not determine that a facility's program is inadequate based solely on the occasional occurrence of theft or loss in a facility.

(Added by Stats. 1988, Ch. 750, Sec. 2.)

1569.153. A theft and loss program shall be implemented by the residential care facilities for the elderly within 90 days after January 1, 1989. The program shall include all of the following:

(a) Establishment and posting of the facility's policy regarding theft and investigative procedures.

(b) Orientation to the policies and procedures for all employees within 90 days of employment.

(c) Documentation of lost and stolen resident property with a value of twenty-five dollars (\$25) or more within 72 hours of the discovery of the loss or theft and, upon request, the documented theft and loss record for the past 12 months shall be made available to the State Department of Social Services, law enforcement agencies and to the office of the State Long-Term Care Ombudsman in response to a specific complaint. The documentation shall include, but not be limited to, the following:

- (1) A description of the article.
- (2) Its estimated value.
- (3) The date and time the theft or loss was discovered.
- (4) If determinable, the date and time the loss or theft occurred.
- (5) The action taken.

(d) A written resident personal property inventory is established upon admission and retained during the resident's stay in the residential care facility for the elderly. Inventories shall be written in ink, witnessed by the facility and the resident or resident's representative, and dated. A copy of the written inventory shall be provided to the resident or the person acting on the resident's behalf. All additions to an inventory shall be made in ink, and shall be witnessed by the facility and the resident or resident's representative, and dated. Subsequent items brought into or removed from the facility shall be added to or deleted from the personal property inventory by the facility at the written request of the resident, the resident's family, a responsible party, or a person acting on behalf of a resident. The facility shall not be liable for items which have not been requested to be included in the inventory or for items which have been deleted from the inventory. A copy of a current inventory shall be made available upon request to the resident, responsible party, or other authorized representative. The resident, resident's family, or a responsible party may list those items which are not subject to addition or deletion from the inventory, such as personal clothing or laundry, which are subject to frequent removal from the facility.

(e) Inventory and surrender of the resident's personal effects and valuables upon discharge to the resident or authorized representative in exchange for a signed receipt.

(f) Inventory and surrender of personal effects and valuables following the death of a resident to the authorized representative in exchange for a signed receipt. Immediate written notice to the public administrator of the county upon the death of a resident whose heirs are unable or unwilling to claim the property as specified in Chapter 20 (commencing with Section 1140) of Division 3 of the Probate Code.

(g) Documentation, at least semiannually, of the facility's efforts to control theft and loss, including the review of theft and loss documentation and investigative procedures and results of the investigation by the administrator and, when feasible, the resident council.

(h) Establishment of a method of marking, to the extent feasible, personal property items for identification purposes upon admission and, as added to the property inventory list, including engraving of dentures and tagging of other prosthetic devices.

(i) Reports to the local law enforcement agency within 36 hours when the administrator of the facility has reason to believe resident property with a then current value of one hundred dollars (\$100) or more has been stolen. Copies of those reports for the preceding 12 months shall be made available to the State Department of Social Services and law enforcement agencies.

(j) Maintenance of a secured area for residents' property which is available for safekeeping of resident property upon the request of the resident or the resident's responsible party. Provide a lock for the resident's bedside drawer or cabinet upon request of and at the expense of the resident, the resident's family, or authorized representative. The facility administrator shall have access to the locked areas upon request.

(k) A copy of this section and Sections 1569.152 and 1569.154 is provided by a facility to all of the residents and their responsible parties, and, available upon request, to all of the facility's prospective residents and their responsible parties.

(l) Notification to all current residents and all new residents, upon admission, of the facility's policies and procedures relating to the facility's theft and loss prevention program.

(m) Only those residential units in which there are no unrelated residents and where the unit can be secured by the resident or residents are exempt from the requirements of this section.

(Added by Stats. 1988, Ch. 750, Sec. 3.)

1569.154. No provision of a contract of admission, which includes all documents which a resident or his or her representative is required to sign at the time of, or as a condition of, admission to a residential care facility for the elderly, shall require or imply a lesser standard of responsibility for the personal property of residents than is required by law.

(Added by Stats. 1988, Ch. 750, Sec. 4.)

1569.155. Upon initial licensure, residential care facilities for the elderly shall be provided a printed copy of all applicable regulations by the department, without charge. All licensees shall subscribe to the appropriate regulation subscription service and are responsible for keeping current on changes in regulatory requirements.

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

1569.156. (a) A residential care facility for the elderly shall do all of the following:

- (1) Not condition the provision of care or otherwise discriminate based on whether or not an individual has executed an advance directive, consistent with applicable laws and regulations.
- (2) Provide education to staff on issues concerning advance directives.
- (3) Provide written information, upon admission, about the right to make decisions concerning medical care, including the right to accept or refuse medical or surgical treatment and the right, under state law, to formulate advance directives.
- (4) Provide written information about policies of the facility regarding the implementation of the rights described in paragraph (3).

(b) For purposes of this section, "advance directive" means an "advance health care directive," as defined in Section 4605 of the Probate Code, or some other form of instruction recognized under state law specifically addressing the provision of health care.

(Amended by Stats. 1999, Ch. 658, Sec. 2. Effective January 1, 2000. Operative July 1, 2000, by Sec. 43 of Ch. 658.)

1569.157. (a) Every licensed residential care facility for the elderly, at the request of two or more residents, shall assist the residents in establishing and maintaining a single resident council at the facility. The resident council shall be composed of residents of the facility. Family members, resident representatives, advocates, long-term care ombudsman program representatives, facility staff, or others may participate in resident council meetings and activities at the invitation of the resident council.

(b) A resident council may, among other things, make recommendations to facility administrators to improve the quality of daily living and care in the facility and to promote and protect residents' rights.

(c) If a resident council submits written concerns or recommendations, the facility shall respond in writing regarding any action or inaction taken in response to those concerns or recommendations within 14 calendar days.

(d) Facility policies on resident councils shall not limit the right of residents to meet independently with outside persons or facility personnel.

(e) Each resident council member shall be informed by the facility of his or her right to be interviewed as part of the regulatory inspection process.

(f) Facilities shall promote resident councils as follows:

- (1) If a facility has a resident council, the facility shall inform new residents of the existence of the resident council. The facility shall also provide information on the time, place, and dates of resident council meetings and the resident representative to contact regarding involvement in the resident council.
- (2) If a facility has a resident council and a licensed capacity of 16 or more, the facility shall appoint a designated staff liaison to assist the resident council, make a room available for resident council meetings, and post meeting information in a central location readily accessible to residents, relatives, and resident representatives.
- (3) If a facility does not have a resident council, upon admission, the facility shall provide written information on the resident's right to form a resident council to the resident and the resident representative, as indicated in the admissions agreement.
- (4) Upon request, and with the permission of the resident council, the facility shall share the name and contact information of the designated representative of the resident council with the long-term care ombudsman program.

(g) A facility shall not willfully interfere with the formation, maintenance, or promotion of a resident council, or its participation in the regulatory inspection process. For the purposes of this subdivision, willful interference shall include, but not be limited to, discrimination or retaliation in any way against an individual as a result of his or her participation in a resident council, refusal to publicize resident council meetings or provide appropriate space for either meetings or a bulletin board, or failure to respond to written requests by the resident council in a timely manner.

(h) The text of this section with the heading "Rights of Resident Councils" shall be posted in a prominent place at the facility accessible to residents, family members, and resident representatives.

(i) A violation of this section shall not be subject to the provisions of Section 1569.40. A violation of this section shall constitute a violation of resident rights. A facility that violates this section shall be subject to a daily civil penalty of two hundred fifty dollars (\$250) until the violation is corrected. A violation shall be deemed to have been corrected on the date the facility submits documentation of the correction to the department if the correction is verified by the department.

(Amended by Stats. 2014, Ch. 177, Sec. 1. (AB 1572) Effective January 1, 2015.)

1569.158. (a) A residential care facility for the elderly shall not prohibit the formation of a family council. If requested by a member of the resident's family or the resident representative, the family council shall be allowed to meet in a common meeting room of the facility during mutually agreed-upon hours. A family council shall also be allowed to meet virtually or at an offsite location at its discretion.

(b) Facility policies on family councils shall in no way limit the right of residents and participants in a family council to meet independently with outside persons, including members of nonprofit or governmental organizations or with facility personnel during nonworking hours.

(c) For purposes of this section, "family council" means a meeting of family members, friends, or representatives of two or more residents to confer in private without facility staff.

(d) A family council shall be provided with adequate space on a prominent bulletin board or other posting area for the display of meeting notices, minutes, information, and newsletters.

(e) A person other than a family member, friend, or resident representative, including facility staff, may attend a family council meeting, but only at the invitation of the family council.

(f) If a family council submits written requests, concerns, or recommendations, the facility shall respond in writing regarding any action or inaction taken in response to the requests, concerns, or recommendations within 14 calendar days and shall detail its rationale for that response.

(g) (1) If a facility has a family council, the facility shall inform the resident and the resident's representatives, family members, or other individuals designated by the resident or identified during the admission process of the existence of the family council. The facility shall provide the resident and those family members, friends, and resident representatives with the name and contact information of the family council representative, as designated by the family council, in writing, prior to or within five business days after the resident's admission or the resident's representative, family member, or other individual is designated or identified. When family council meeting information is provided by the family council, the facility shall include notice of family council meetings in routine mailings to those family members, friends, and resident representatives. The notice shall include the time, place, and date of meetings, and the name and contact information of the family council representative, as designated by the family council.

(2) If a facility does not have a family council, the facility shall provide, upon admission of a new resident, written information to the resident's family members, friends, or resident representatives identified during the admission process of their right to form a family council.

(3) Upon request, and with the permission of the family council, the facility shall share the name and contact information of the designated representative of the family council with the long-term care ombudsman program.

(h) (1) A facility shall provide the family council with the names, email addresses, and other contact information for each resident's representatives, family members, or other individuals designated by the resident if the person has provided written consent specifying the contact information that may be shared with the family council.

(2) The facility must inform the identified family members, friends, and representatives of their right to have their contact information shared with the family council and their right to consent or withhold consent to have their contact information shared with the family council pursuant to paragraph (1).

(i) If a facility has a family council and a licensed capacity of 16 or more, the facility shall appoint a designated staff liaison who shall be responsible for providing assistance to the family council and responding to written requests that result from family council meetings. A facility shall provide an alternate staff liaison as needed.

(j) A facility shall not willfully interfere with the formation, maintenance, or promotion of a family council, or with a family council's participation in governmental surveys or inspection activities performed by any applicable departments or other governmental entities. For purposes of this subdivision, willful interference shall include, but shall not be limited to, discrimination or retaliation in any way against an individual as a result of their participation in a family council, refusal to publicize family council meetings or provide appropriate space for meetings or postings as required under this section, failure to respond to written requests, concerns, or recommendations by a family council as required under this section.

(k) (1) A violation of this section shall not be subject to Section 1569.40.

(2) A violation of this section shall constitute a violation of resident rights.

(3) A facility that violates this section shall be subject to a daily civil penalty of two hundred fifty dollars (\$250) until the violation is corrected. A violation shall be deemed to have been corrected on the date the facility submits documentation of the correction to the department if the correction is verified by the department.

(Repealed and added by Stats. 2023, Ch. 821, Sec. 5. (AB 979) Effective January 1, 2024.)

1569.159. The State Department of Social Services shall provide to residential care facilities for the elderly a form, which the residential care facility for the elderly shall attach to each resident admission agreement, notifying the resident that he or she is entitled to obtain services and equipment from the telephone company. The form shall include the following information:

“Any hearing or speech impaired, or otherwise disabled resident of any residential care facility for the elderly is entitled to equipment and service by the telephone company, pursuant to Section 2881 of the Public Utilities Code, to improve the quality of their telecommunications. Any resident who has a declaration from a licensed professional, or a state or federal agency pursuant to Section 2881 of the Public Utilities Code, that he or she is hearing or speech impaired, or otherwise disabled should contact the local telephone company and ask for assistance in obtaining this equipment and service.”

This section shall not be construed to require, in any way, the licensee to provide a separate telephone line for any resident.

(Added by Stats. 1996, Ch. 448, Sec. 2. Effective January 1, 1997.)

1569.16. (a) (1) If an application for a license indicates, or the department determines during the application review process, that the applicant previously was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3 (commencing with Section 1500), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) and the prior license was revoked within the preceding two years, the department shall cease any further review of the application until two years have elapsed from the date of the revocation. All residential care facilities for the elderly are exempt from the health planning requirements contained in Part 2 (commencing with Section 127125) of Division 107.

(2) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant previously was issued a certificate of approval by a foster family agency that was revoked by the department pursuant to subdivision (b) of Section 1534 within the preceding two years, the department shall cease any further review of the application until two years shall have elapsed from the date of the revocation.

(3) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant was excluded from a facility licensed by the department pursuant to Section 1558, 1568.092, 1569.58, or 1596.8897, the department shall cease any further review of the application unless the excluded individual has been reinstated pursuant to Section 11522 of the Government Code by the department.

(b) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant had previously applied for a license under any of the chapters listed in paragraph (1) of subdivision (a) and the application was denied within the last year, the department shall, except as provided in Section 1569.22, cease further review of the application until one year has elapsed from the date of the denial letter. In those circumstances where denials are appealed and upheld at an administrative hearing, review of the application shall cease for one year from the date of the decision and order being rendered by the department. The cessation of review shall not constitute a denial of the application. If there are coapplicants and the department denies a license due to concerns pertaining solely to one of the coapplicants, any other coapplicant may withdraw its application, and with the department's written consent pursuant to Section 1569.52, shall not be deemed to have a license application denied.

(c) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant had previously applied for a certificate of approval with a foster family agency and the department ordered the foster family agency to deny the application pursuant to subdivision (b) of Section 1534, the department shall cease further review of the application as follows:

(1) In cases where the applicant petitioned for a hearing, the department shall cease further review of the application until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall cease further review of the application until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(3) The department may continue to review the application if it has determined that the reasons for the denial of the application were due to circumstances and conditions that either have been corrected or are no longer in existence.

(d) The cessation of review shall not constitute a denial of the application for purposes of Section 1526 or any other law.

(Amended by Stats. 2015, Ch. 628, Sec. 3. (AB 601) Effective January 1, 2016.)

1569.17. The Legislature recognizes the need to generate timely and accurate positive fingerprint identification of applicants as a condition of issuing licenses, permits, or certificates of approval for persons to operate or provide direct care services in a residential care facility for the elderly. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with clients of residential care facilities for the elderly may pose a risk to the clients' health and safety. An individual shall be required to obtain either a criminal record clearance or a criminal record exemption from the State Department of Social Services before their initial presence in a residential care facility for the elderly.

(a) (1) Before and, as applicable, subsequent to issuing a license to any person or persons to operate or manage a residential care facility for the elderly, the department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than an infraction or arrested for any crime specified in subdivision (c) of Section 290 of the Penal Code, or for violating Section 245, 273ab, or 273.5, subdivision (b) of Section 273a, or, prior to January 1, 1994, paragraph (2) of Section 273a, of the Penal Code, or for any crime for which the department is prohibited from granting a criminal record exemption pursuant to subdivision (f).

(2) The criminal history information shall include the full criminal record, if any, of those persons, and subsequent arrest information pursuant to Section 11105.2 of the Penal Code.

(3) The following shall apply to the criminal record information:

(A) If the State Department of Social Services finds that the applicant or any other person specified in subdivision (b) has been convicted of a crime, other than an infraction, the application or presence shall be denied, unless the director grants an exemption pursuant to subdivision (f) of this section or Section 1522.7.

(B) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b), is awaiting trial for a crime other than an infraction, the State Department of Social Services may cease processing the criminal record information until the conclusion of the trial.

(C) If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the State Department of Social Services with a statement of that fact.

(D) If the State Department of Social Services finds after licensure that the licensee, or any other person specified in paragraph (2) of subdivision (b), has been convicted of a crime other than an infraction, the license may be revoked, unless the director grants an exemption pursuant to subdivision (f).

(E) An applicant and any other person specified in subdivision (b) shall submit fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, for a state and federal level criminal offender record information search, in addition to the search required by subdivision (a). If, after licensure, the department determines that the licensee or person specified in subdivision (b) has a criminal record, the license may be revoked pursuant to Section 1569.50. The department may also suspend the license pending an administrative hearing pursuant to Sections 1569.50 and 1569.51.

(b) In addition to the applicant, the provisions of this section shall apply to criminal record clearances and exemptions for the following persons:

(1) (A) Adults responsible for administration or direct supervision of staff.

(B) Any person, other than a client, residing in the facility. Residents of unlicensed independent senior housing facilities that are located in contiguous buildings on the same property as a residential care facility for the elderly shall be exempt from these requirements.

(C) Any person who provides client assistance in dressing, grooming, bathing, or personal hygiene. Any nurse assistant or home health aide meeting the requirements of Section 1338.5 or 1736.6, respectively, who is not employed, retained, or contracted by the licensee, and who has been certified or recertified on or after July 1, 1998, shall be deemed to meet the criminal record clearance requirements of this section. A certified nurse assistant and certified home health aide who will be providing client assistance and who falls under this exemption shall provide one copy of their current certification, prior to providing care, to the residential care facility for the elderly. The facility shall maintain the copy of the certification on file as long as the care is being provided by the certified nurse assistant or certified home health aide at the facility. Nothing in this

paragraph restricts the right of the department to exclude a certified nurse assistant or certified home health aide from a licensed residential care facility for the elderly pursuant to Section 1569.58.

(D) Any staff person, volunteer, or employee who has contact with the clients.

(E) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in a similar capacity.

(F) Additional officers of the governing body of the applicant or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(2) The following persons are exempt from requirements applicable under paragraph (1):

(A) A spouse, relative, significant other, or close friend of a client shall be exempt if this person is visiting the client or provides direct care and supervision to that client only.

(B) A volunteer to whom all of the following apply:

(i) The volunteer is at the facility during normal waking hours.

(ii) The volunteer is directly supervised by the licensee or a facility employee with a criminal record clearance or exemption.

(iii) The volunteer spends no more than 16 hours per week at the facility.

(iv) The volunteer does not provide clients with assistance in dressing, grooming, bathing, or personal hygiene.

(v) The volunteer is not left alone with clients in care.

(C) A third-party contractor retained by the facility if the contractor is not left alone with clients in care.

(D) A third-party contractor or other business professional retained by a client and at the facility at the request or by permission of that client. These individuals shall not be left alone with other clients.

(E) Licensed or certified medical professionals are exempt from fingerprint and criminal background check requirements imposed by community care licensing. This exemption does not apply to a person who is a community care facility licensee or an employee of the facility.

(F) Employees of licensed home health agencies and members of licensed hospice interdisciplinary teams who have contact with a resident of a residential care facility at the request of the resident or resident's legal decisionmaker are exempt from fingerprint and criminal background check requirements imposed by community care licensing. This exemption does not apply to a person who is a community care facility licensee or an employee of the facility.

(G) Clergy and other spiritual caregivers who are performing services in common areas of the residential care facility, or who are advising an individual resident at the request of, or with permission of, the resident, are exempt from fingerprint and criminal background check requirements imposed by community care licensing. This exemption does not apply to a person who is a community care facility licensee or an employee of the facility.

(H) Any person similar to those described in this subdivision, as defined by the department in regulations.

(I) Nothing in this paragraph shall prevent a licensee from requiring a criminal record clearance of any individual exempt from the requirements of this section, provided that the individual has client contact.

(c) (1) (A) Subsequent to initial licensure, a person specified in subdivision (b) who is not exempted from fingerprinting shall obtain either a criminal record clearance or an exemption, pursuant to subdivision (f) of this section or Section 1522.7, from the State Department of Social Services prior to employment, residence, or initial presence in a facility. A person specified in subdivision (b) who is not exempt from fingerprinting shall be fingerprinted. The licensee shall submit these fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, for a state and federal level criminal offender record information search, or to comply with paragraph (1) of subdivision (g) prior to the person's employment, residence, or initial presence in the residential care facility for the elderly. The department shall not require the person to disclose their criminal history information prior to receipt of live scan results.

(B) These fingerprint images and related information shall be electronically transmitted in a manner approved by the State Department of Social Services and the Department of Justice. A licensee's failure to submit fingerprint images and related information to the Department of Justice, or to comply with paragraph (1) of subdivision (g), as required in this section, shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars

(\$100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars (\$100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1569.50. The State Department of Social Services may assess civil penalties for continued violations as permitted by Section 1569.49. The licensee shall then submit these fingerprint images to the State Department of Social Services for processing. Documentation of the individual's clearance or exemption shall be maintained by the licensee and be available for inspection. The Department of Justice shall notify the department, as required by Section 1522.04, and notify the licensee by mail within 14 days of electronic transmission of the fingerprints to the Department of Justice, if the person has no criminal record. A violation of the regulations adopted pursuant to Section 1522.04 shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars (\$100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars (\$100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1569.50. The department may assess civil penalties for continued violations as permitted by Section 1569.49.

(2) Within 14 calendar days of the receipt of the fingerprint images, the Department of Justice shall notify the State Department of Social Services of the criminal record information, as provided for in this subdivision. If no criminal record information has been recorded, the Department of Justice shall provide the licensee and the State Department of Social Services with a statement of that fact within 14 calendar days of receipt of the fingerprint images. If new fingerprint images are required for processing, the Department of Justice shall, within 14 calendar days from the date of receipt of the fingerprint images, notify the licensee that the fingerprint images were illegible.

(3) Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If the State Department of Social Services determines, on the basis of the fingerprint images submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, an offense specified in Section 243.4, 273a, 273ab, 273d, 273g, or 368 of the Penal Code, or a felony, the State Department of Social Services shall notify the licensee in writing within 15 calendar days of the receipt of the notification from the Department of Justice to act immediately to terminate the person's employment, remove the person from the residential care facility for the elderly, or bar the person from entering the residential care facility for the elderly. The State Department of Social Services may subsequently grant an exemption pursuant to subdivision (f). If the conviction was for another crime, except an infraction, the licensee shall, upon notification by the State Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the residential care facility for the elderly, or bar the person from entering the residential care facility for the elderly or (2) seek an exemption pursuant to subdivision (f). The department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered by the department. A licensee's failure to comply with the department's prohibition of employment, contact with clients, or presence in the facility as required by this paragraph shall result in a citation of deficiency and an immediate assessment of civil penalties by the department against the licensee, in the amount of one hundred dollars (\$100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars (\$100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1569.50.

(4) The department may issue an exemption on its own motion pursuant to subdivision (f) if the person's criminal history indicates that the person is of good character based on the age, seriousness, and frequency of the conviction or convictions. The department, in consultation with interested parties, shall develop regulations to establish the criteria to grant an exemption pursuant to this paragraph.

(5) Concurrently with notifying the licensee pursuant to paragraph (4), the department shall notify the affected individual of the right to seek an exemption pursuant to subdivision (f). The individual may seek an exemption only if the licensee terminates the person's employment or removes the person from the facility after receiving notice from the department pursuant to paragraph (4).

(d) (1) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that the department is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, when the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of the sentence, notwithstanding a subsequent order pursuant to the provisions of Sections 1203.4 and 1203.4a of the Penal Code permitting a person to withdraw their plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this section or any other provision of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction. For purposes of this section or any other provision of this chapter, the arrest disposition report certified by the Department of Justice or documents admissible in a criminal action pursuant to Section 969b of the Penal Code shall be prima facie evidence of the conviction, notwithstanding any other law prohibiting the admission of these documents in a civil or administrative action.

(2) For purposes of this section or any other provision of this chapter, the department shall consider criminal convictions from another state or federal court as if the criminal offense was committed in this state.

(e) (1) The State Department of Social Services shall not use a record of arrest to deny, revoke, or terminate any application, license, employment, or residence unless the department investigates the incident and secures evidence, whether or not related to the incident of arrest, that is admissible in an administrative hearing to establish conduct by the person that may pose a risk to the health and safety of any person who is or may become a client.

(2) The department shall not issue a criminal record clearance to a person who has been arrested for any crime specified in Section 290 of the Penal Code, or for violating Section 245, 273ab, or 273.5, or subdivision (b) of Section 273a of the Penal Code, or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department is prohibited from granting a record exemption pursuant to subdivision (f), prior to the department's completion of an investigation pursuant to paragraph (1).

(3) The State Department of Social Services is authorized to obtain any arrest or conviction records or reports from any law enforcement agency as necessary to the performance of its duties to inspect, license, and investigate community care facilities and individuals associated with a community care facility.

(f) (1) After review of the record, the director may grant an exemption from disqualification for a license as specified in paragraphs (1) and (4) of subdivision (a), or for employment, residence, or presence in a residential care facility for the elderly as specified in paragraphs (4), (5), and (6) of subdivision (c) if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). However, an exemption shall not be granted pursuant to this subdivision if the conviction was for any of the following offenses:

(A) An offense specified in Section 220, 243.4, or 264.1, subdivision (a) of Section 273a, or, prior to January 1, 1994, paragraph (1) of Section 273a, Section 273ab, 273d, 288, or 289, subdivision (c) of Section 290, or Section 368, of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(B) A felony offense specified in Section 729 of the Business and Professions Code or Section 206 or 215, subdivision (a) of Section 347, subdivision (b) of Section 417, or subdivision (a) of Section 451 of the Penal Code.

(2) The director shall notify in writing the licensee or the applicant of their decision within 60 days of receipt of all information from the applicant and other sources determined necessary by the director for the rendering of a decision pursuant to this subdivision.

(3) The department shall not prohibit a person from being employed or having contact with clients in a facility on the basis of a denied criminal record exemption request or arrest information unless the department complies with the requirements of Section 1569.58.

(g) (1) For purposes of compliance with this section, the department may permit an individual to transfer a current criminal record clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another facility licensed by a state licensing district office. The request shall be submitted to the department on a form provided by the department or submitted via the department's secure online portal. Upon request of the licensee, who shall verify the individual's identity, the department shall verify whether the individual has a clearance that can be transferred.

(2) The State Department of Social Services shall hold criminal record clearances in its active files for a minimum of two years after an employee is no longer employed at a licensed facility in order for the criminal record clearances to be transferred under this section.

(h) If a licensee or facility is required by law to deny employment or to terminate employment of any employee based on written notification from the department that the employee has a prior criminal conviction or is determined unsuitable for employment under Section 1569.58, the licensee or facility shall not incur civil liability or unemployment insurance liability as a result of that denial or termination.

(i) Notwithstanding any other law, the department may provide an individual with a copy of their state or federal level criminal offender record information search response as provided to that department by the Department of Justice if the department has denied a criminal background clearance based on this information and the individual makes a written request to the department for a copy specifying an address to which it is to be sent. The state or federal level criminal offender record information search response shall not be modified or altered from its form or content as provided by the Department of Justice and shall be provided to the address specified by the individual in their written request. The department shall retain a copy of the individual's written request and the response and date provided.

1569.171. Prior to issuance to any person of a certificate of completion of the administrator certification program pursuant to Section 1569.616, the department shall secure from an appropriate law enforcement agency a criminal record to determine if the person has been convicted of a crime other than a minor traffic violation. Based upon the criminal record information received, the department shall take appropriate action as provided for in Section 1569.17.

(Added by Stats. 1991, Ch. 848, Sec. 1.)

1569.172. The Department of Justice may charge a fee sufficient to cover its cost in providing services in accordance with Section 1569.17 to comply with the 14-day requirement for provision to the department of the criminal record information, as contained in subdivision (c) of Section 1569.17.

(Amended by Stats. 1998, Ch. 311, Sec. 38. Effective August 19, 1998.)

1569.175. (a) In addition to any other requirements of this chapter, any residential care facility for the elderly providing residential care for six or fewer persons at which the owner does not reside shall provide a procedure approved by the licensing agency for immediate response to incidents and complaints. This procedure shall include a method of assuring that the owner, licensee, or person designated by the owner or licensee is notified of the incident, that the owner, licensee, or person designated by the owner or licensee has personally investigated the matter, and that the person making the complaint or reporting the incident has received a response of action taken or a reason why no action needs to be taken.

(b) In order to assure the opportunity for complaints to be made directly to the owner, licensee, or person designated by the owner or licensee, and to provide the opportunity for the owner, licensee, or person designated by the owner or licensee to meet residents and learn of problems in the neighborhood, any facility with a nonresident owner shall establish a fixed time on a weekly basis when the owner, licensee, or person designated by the owner or licensee will be present.

(c) Facilities with nonresident owners shall establish procedures to comply with the requirements of this section on or before July 1, 1987.

(Added by Stats. 1986, Ch. 822, Sec. 2.)

1569.185. (a) (1) An application fee adjusted by facility and capacity shall be charged by the department for the issuance of a license to operate a residential care facility for the elderly. After initial licensure, a fee shall be charged by the department annually on each anniversary of the effective date of the license.

The fees are for the purpose of financing activities specified in this chapter. Fees shall be assessed as follows, subject to paragraph (2):

Fee Schedule		
Capacity	Initial Application	Annual
1-3	\$495.60	\$495.60
4-6	\$990.00	\$495.60
7-15	\$1,486.80	\$742.80
16-30	\$1,980.00	\$990.00
31-49	\$2,476.80	\$1,238.40
50-74	\$2,972.40	\$1,448.00
75-100	\$3,469.20	\$1,734.00
101-150	\$3,964.80	\$1,982.40
151-200	\$4,622.40	\$2,311.20

201–250	\$5,280.00	\$2,640.00
251–300	\$5,940.00	\$2,970.00
301–350	\$6,600.00	\$3,300.00
351–400	\$7,260.00	\$3,630.00
401–500	\$8,580.00	\$4,290.00
501–600	\$9,900.00	\$4,950.00
601–700	\$11,220.00	\$5,610.00
701+	\$13,200.00	\$6,600.00

(2) (A) The Legislature finds that all revenues generated by fees for licenses computed under this section and used for the purposes for which they were imposed are not subject to Article XIII B of the California Constitution.

(B) The department, at least every five years, shall analyze initial application fees and annual fees issued by it to ensure the appropriate fee amounts are charged. The department shall recommend to the Legislature that fees established by the Legislature be adjusted as necessary to ensure that the amounts are appropriate.

(b) (1) In addition to fees set forth in subdivision (a), the department shall charge all of the following fees:

(A) A fee that represents 50 percent of an established application fee when an existing licensee moves the facility to a new physical address.

(B) A fee that represents 50 percent of the established application fee when a corporate licensee changes who has the authority to select a majority of the board of directors.

(C) A fee of twenty-five dollars (\$25) when an existing licensee seeks to either increase or decrease the licensed capacity of the facility.

(D) An orientation fee of fifty dollars (\$50) for attendance by an individual at a department-sponsored orientation session.

(E) A probation monitoring fee equal to the current annual fee, in addition to the current annual fee for that category and capacity for each year a license has been placed on probation as a result of a stipulation or decision and order pursuant to the administrative adjudication procedures of the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

(F) A late fee that represents an additional 50 percent of the established current annual fee when a licensee fails to pay the current annual licensing fee on or before the due date as indicated by postmark on the payment.

(G) A fee to cover any costs incurred by the department for processing payments including, but not limited to, bounced check charges, charges for credit and debit transactions, and postage due charges.

(H) A plan of correction fee of two hundred dollars (\$200) when a licensee does not implement a plan of correction on or prior to the date specified in the plan.

(2) A local jurisdiction shall not impose a business license, fee, or tax for the privilege of operating a facility licensed under this chapter that serves six or fewer persons.

(c) (1) The revenues collected from licensing fees pursuant to this section shall be utilized by the department for the purpose of ensuring the health and safety of all individuals provided care or supervision by licensees and to support the activities of the licensing programs, including, but not limited to, monitoring facilities for compliance with licensing laws and regulations pursuant to this chapter, and other administrative activities in support of the licensing program, when appropriated for these purposes. The revenues collected shall be used in addition to any other funds appropriated in the annual Budget Act in support of the licensing program. The department shall adjust the fees collected pursuant to this section to ensure that they do not exceed the costs described in this paragraph.

(2) The department shall not utilize any portion of these revenues sooner than 30 days after notification in writing of the purpose and use, as approved by the Department of Finance, to the Chairperson of the Joint Legislative Budget Committee, and the chairpersons of the committee in each house that considers appropriations for each fiscal year. The department shall submit a budget change proposal to justify any positions or any other related support costs on an ongoing basis.

(d) A residential care facility for the elderly may use a bona fide business check to pay the license fee required under this section.

(e) The failure of an applicant for licensure or a licensee to pay all applicable and accrued fees and civil penalties shall constitute grounds for denial or forfeiture of a license.

(Amended by Stats. 2014, Ch. 707, Sec. 2. (SB 1382) Effective January 1, 2015.)

1569.19. A license shall be forfeited by operation of law prior to its expiration date when one of the following occurs:

(a) The licensee sells or otherwise transfers the facility or facility property, except when change of ownership applies to transferring of stock when the facility is owned by a corporation and when the transfer of stock does not constitute a majority change in ownership. The sale of a facility shall be subject to the requirements of this chapter.

(b) The licensee surrenders the license to the department.

(c) The licensee moves a facility from one location to another. The department shall develop regulations to ensure that the facilities are not charged a full licensing fee and do not have to complete the entire application process when applying for a license for the new location.

(d) The licensee is convicted of an offense specified in Section 220, 243.4, or 264.1, or paragraph (1) of Section 273a, Section 273d, 288, or 289 of the Penal Code, or is convicted of another crime specified in subdivision (c) of Section 667.5 of the Penal Code.

(e) The licensee dies. When a licensee dies, the continued operation shall be subject to the requirements of Section 1569.193.

(f) The licensee abandons the facility. A licensee who abandons the facility and the residents in care resulting in an immediate and substantial threat to the health and safety of the abandoned residents, in addition to forfeiture of the license pursuant to this section, shall be excluded from licensure in facilities licensed by the department without the right to petition for reinstatement.

(Amended by Stats. 2014, Ch. 700, Sec. 1. (AB 1899) Effective January 1, 2015.)

1569.191. (a) Notwithstanding Section 1569.19, in the event of a sale of a licensed facility where the sale will result in a new license being issued, the sale and transfer of property and business shall be subject to both of the following:

(1) The licensee shall provide written notice to the department and to each resident or his or her legal representative of the licensee's intent to sell the facility at least 30 days prior to the transfer of the property or business, or at the time that a bona fide offer is made, whichever period is longer.

(2) The licensee shall, prior to entering into an admission agreement, inform all residents, or their legal representatives, admitted to the facility after notification to the department, of the licensee's intent to sell the property or business.

(b) Except as provided in subdivision (e), the property and business shall not be transferred until the buyer qualifies for a license or provisional license within the appropriate provisions of this chapter.

(1) The seller shall notify, in writing, a prospective buyer of the necessity to obtain a license, as required by this chapter, if the buyer's intent is to continue operating the facility as a residential care facility for the elderly. The seller shall send a copy of this written notice to the licensing agency.

(2) The prospective buyer shall submit an application for a license, as specified in Section 1569.15, within five days of the acceptance of the offer by the seller.

(c) No sale of the facility shall be permitted until 30 days have elapsed from the date upon which notice has been provided pursuant to paragraphs (1) and (2) of subdivision (a).

(d) The department shall give priority to applications for licensure that are submitted pursuant to this section in order to ensure timely transfer of the property and business. The department shall make a decision within 60 days after a complete application is submitted on whether to issue a license pursuant to Section 1569.15.

(e) If the parties involved in the transfer of the property and business fully comply with this section, then the transfer may be completed and the buyer shall not be considered to be operating an unlicensed facility while the department makes a final determination on the application for licensure.

(f) Facilities that are subject to Chapter 10 (commencing with Section 1770) of Division 2, including Section 1789.4, shall not be subject to paragraph (1) of subdivision (a), and subdivisions (c) and (d).

(Amended by Stats. 1993, Ch. 526, Sec. 2. Effective January 1, 1994.)

1569.193. (a) When a licensee dies, an adult relative, or other nonrelated adult, who has control of the property may be designated as the responsible party to continue operation of the facility if the following conditions are met:

(1) The licensee has filed a notarized written statement with the department designating the responsible party in the event of death, and the licensee has submitted the following information to the department:

(A) A notarized statement, signed by the designee acknowledging acceptance of designation as responsible party.

(B) A declaration signed by the designee under penalty of perjury regarding any prior criminal convictions.

(2) The designee files an application for licensure pursuant to Section 1569.15 within 20 working days of the date of death, shows evidence satisfactory to the department that he or she has the ability to operate the facility, and provides evidence of the licensee's death.

(b) A designee under this section shall notify the department of the licensee's death by the close of business on the department's next business day following the licensee's death.

(c) (1) If the designee decides not to apply for licensure, he or she shall notify the department of that decision within five working days of the licensee's death. If the designee decides not to apply, the department shall assist the designee in the development and implementation of a relocation plan.

(2) If the designee decides to apply for licensure, the department shall decide within 60 days after the application is submitted whether to issue a provisional license pursuant to Section 1569.21. A provisional license shall be granted only if the department is satisfied that the conditions specified in subdivision (a) have been met and that the health and safety of the residents of the facility will not be jeopardized.

(d) If the designee complies with this section, he or she shall not be considered to be operating an unlicensed facility while the department decides whether to grant the provisional license.

(Amended by Stats. 1998, Ch. 179, Sec. 1. Effective January 1, 1999.)

1569.194. (a) Every residential care facility for the elderly that is licensed or has a valid special permit therefor pursuant to Section 1569.10 shall provide a copy of the disaster and mass casualty plan required pursuant to Section 87223 of Title 22 of the California Code of Regulations to any fire department, law enforcement agency, or civil defense or other disaster authority in the area or community in which the facility is located, upon request by the fire department, law enforcement agency, or civil defense or other disaster authority. Section 1569.40 shall not apply to this section.

(b) The department is not required to monitor compliance with this section as part of its regulatory monitoring functions.

(Added by Stats. 2007, Ch. 18, Sec. 2. Effective January 1, 2008.)

1569.20. Upon the filing of the application for issuance of an initial license, the department shall, within five working days of the filing, make a determination regarding the completeness of the application. If the application is complete, the department shall immediately request a fire clearance and notify the applicant to arrange a time for the department to conduct a prelicensure inspection. If the department determines that an application is for licensure of a currently licensed facility for which there is no material change to the management or operations of the facility, the prelicensure inspection is optional at the discretion of the department. If the application is incomplete, the department shall notify the applicant and request the necessary information. Within 60 days of making a determination that the file is complete, the department shall make a determination whether the application is in compliance with this chapter and the rules and regulations of the department and shall either immediately issue the license or notify the applicant of the deficiencies. The notice shall specify whether the deficiencies constitute denial of the application or whether further corrections for compliance will likely result in approval of the application.

(Amended by Stats. 2014, Ch. 29, Sec. 22. (SB 855) Effective June 20, 2014.)

1569.21. The director may issue provisional licenses to operate residential care facilities for the elderly for the facilities which the director determines are in substantial compliance with this chapter and the rules and regulations adopted pursuant thereto; provided, that no life safety risks are involved, as determined by the director. In determining whether any life safety risks are involved, the director shall require completion of all applicable fire clearances and criminal record clearances as otherwise required by the department's rules and regulations. This provisional license shall expire six months from the date of issuance, or at such earlier time as the director may determine, and may not be renewed. However, the director may extend the term of a provisional license for an additional six months at time of application, if it is determined that more than six months will be required to achieve full compliance with licensing standards due to circumstances beyond the control of the applicant; provided, that all other requirements for a license have been met.

1569.22. Immediately upon the denial of any application for a license, the department shall notify the applicant in writing. Within 15 days after the department mails the notice, the applicant may present his or her written petition for a hearing to the department. Upon receipt by the department of the petition in proper form, the petition shall be set for hearing. The proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department has all the powers granted therein.

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

1569.23. (a) As a requirement for licensure, the applicant shall demonstrate that he or she has successfully completed a certification program approved by the department.

(b) The certification program shall consist of both of the following:

(1) Eighty hours of coursework, at least 60 hours of which shall be attended in person.

(2) A state-administered examination consisting of no less than 100 questions. The examination shall reflect the uniform core of knowledge required pursuant to subdivision (c).

(c) The certification program shall include a uniform core of knowledge which shall include all of the following:

(1) Law, including regulations, policies, and procedural standards that impact the operations of residential care facilities for the elderly.

(2) Business operations.

(3) Management and supervision of staff.

(4) Psychosocial need of the elderly residents.

(5) Physical needs for elderly residents.

(6) Community and support services.

(7) Medication management, including use, misuse, and interaction of drugs commonly used by the elderly, including antipsychotics, and the adverse effects of psychotropic drugs for use in controlling the behavior of persons with dementia.

(8) Resident admission, retention, and assessment procedures.

(9) Managing Alzheimer's disease and related dementias, including nonpharmacologic, person-centered approaches to dementia care.

(10) Managing the physical environment, including maintenance and housekeeping.

(11) Residents' rights, and the importance of initial and ongoing training for all staff to ensure residents' rights are fully respected and implemented.

(12) Cultural competency and sensitivity in issues relating to the underserved, aging, lesbian, gay, bisexual, and transgender community.

(13) Postural supports, restricted health conditions, and hospice care.

(d) Successful completion of the certification program shall be demonstrated by passing the state-administered examination and submitting a fee of one hundred dollars (\$100) to the department for the issuance of a certificate of completion.

(e) (1) The department shall establish by regulation the program content, the testing instrument, process for approving certification programs, and criteria to be used for authorizing individuals or organizations to conduct certification programs. These regulations shall be developed with the participation of provider organizations.

(2) The department shall ensure that the examination consists of at least 100 questions and allows an applicant to have access to the California Residential Care Facility for the Elderly Act and related regulations during the examination. The department, no later than July 1 of every other year, shall review and revise the examination in order to ensure the rigor and quality of the examination.

Each year, the department shall ensure by January 1 that the exam is not in conflict with current law. The department may convene a stakeholder group to assist in developing and reviewing test questions.

(f) This section shall apply to all applications for licensure unless the applicant provides evidence that he or she has a current license for another residential care facility for the elderly which was initially licensed prior to July 1, 1989, or has successfully completed an approved certification program within the prior five years.

(g) If the applicant is a firm, partnership, association, or corporation, the chief executive officer, or other person serving in a like capacity, or the designated administrator of the facility, shall provide evidence of successfully completing an approved certification program.

(h) This section shall become operative on January 1, 2016.

(Repealed (in Sec. 1) and added by Stats. 2014, Ch. 698, Sec. 2. (AB 1570) Effective January 1, 2015. Section operative January 1, 2016, by its own provisions.)

1569.235. As a requirement for licensure, the applicant shall attend an orientation given by the department which outlines the applicable rules and regulations, and the scope and responsibility for operation of a residential care facility for the elderly.

(Added by Stats. 1991, Ch. 848, Sec. 3.)

1569.24. Within 90 days after a facility accepts its first resident for placement following its initial licensure, the department shall inspect the facility to evaluate compliance with rules and regulations and to assess the facility's continuing ability to meet regulatory requirements. The licensee shall notify the department, within five business days after accepting its first resident for placement, that the facility has commenced operating.

The department may take appropriate remedial action as provided for in this chapter.

(Amended by Stats. 2006, Ch. 902, Sec. 11. Effective January 1, 2007.)