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AB-737 Residential care facilities for the elderly: licensing and regulation. (2019-2020)

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Assembly Bill No. 737

CHAPTER 180

An act to amend Section 1569.15 of the Health and Safety Code, relating to health facilities.

[Approved by Governor August 30, 2019. Filed with Secretary of State August 30, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 737, Eggman. Residential care facilities for the elderly: licensing and regulation.

The California Residential Care Facilities for the Elderly Act provides for the licensure of residential care facilities for the elderly by the State Department of Social Services. The act requires any person seeking a license for a residential care facility for the elderly to file an application with the department, as specified. The act requires an application to include specific information, including the name of any person who holds a beneficial ownership interest of 10% or more in a facility, and generally any other information the department requires for the proper administration and enforcement of the act.

This bill would clarify that the application requirements described above apply to entities and agents signing on behalf of entities and that an applicant is required to 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% or more.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1569.15 of the Health and Safety Code is amended to read:

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.