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**SB-1406 Residential care facilities for the elderly: resident services.** (2023-2024)

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**Senate Bill No. 1406**

**CHAPTER 340**

An act to amend Sections 1569.269 and 1569.655 of the Health and Safety Code, relating to residential care facilities.

[ Approved by Governor September 21, 2024. Filed with Secretary of State September 21, 2024. ]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1406, Allen. Residential care facilities for the elderly: resident services.

Existing law, the California Residential Care Facilities for the Elderly Act (act), requires the State Department of Social Services to license, inspect, and regulate residential care facilities for the elderly, as defined, and imposes criminal penalties on a person who violates the act or who willfully or repeatedly violates any rule or regulation adopted under the act. Existing law gives residents of those facilities specified rights, including, but not limited to, the right to be accorded dignity in their personal relationships with staff, residents, and other persons, and the right to reasonable accommodation of individual needs and preferences in all aspects of life in the facility, except when the health or safety of the individual or other residents would be endangered.

This bill would add to those rights the right to request, refuse, or discontinue a service.

Existing law requires a licensee of a residential care facility for the elderly that increases the rates of fees for residents or makes increases in any of its rate structures for services to provide at least 60 days' prior written notice to the residents or the residents' representatives of the amount of the increase, the reason for the increase, and a general description of the additional costs, except with respect to an increase in the rate due to a change in the level of care of the resident.

This bill would extend the required written notice period to 90 days and would require the licensee to provide the reason or reasons for the increase in the written notice.

Because a violation of the bill's requirements by a residential care facility for the elderly would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

**SECTION 1.** Section 1569.269 of the Health and Safety Code is amended to read:

**1569.269.** (a) Residents of residential care facilities for the elderly shall have all of the following rights:

- (1) To be accorded dignity in their personal relationships with staff, residents, and other persons.
- (2) To be granted a reasonable level of personal privacy in accommodations, medical treatment, personal care and assistance, visits, communications, telephone conversations, use of the internet, and meetings of resident and family groups.
- (3) To confidential treatment of their records and personal information and to approve their release, except as authorized by law.
- (4) To be encouraged and assisted in exercising their rights as citizens and as residents of the facility. Residents shall be free from interference, coercion, discrimination, and retaliation in exercising their rights.
- (5) To be accorded safe, healthful, and comfortable accommodations, furnishings, and equipment.
- (6) To care, supervision, and services that meet their individual needs and are delivered by staff that are sufficient in numbers, qualifications, and competency to meet their needs.
- (7) To be served food of the quality and in the quantity necessary to meet their nutritional needs.
- (8) To make choices concerning their daily life in the facility.
- (9) To fully participate in planning their care, including the right to attend and participate in meetings or communications regarding the care and services to be provided in accordance with Section 1569.80, and to involve persons of their choice in the planning process. The licensee shall provide necessary information and support to ensure that residents direct the process to the maximum extent possible, and are enabled to make informed decisions and choices.
- (10) To be free from neglect, financial exploitation, involuntary seclusion, punishment, humiliation, intimidation, and verbal, mental, physical, or sexual abuse.
- (11) To present grievances and recommend changes in policies, procedures, and services to the staff of the facility, the facility's management and governing authority, and to any other person without restraint, coercion, discrimination, reprisal, or other retaliatory actions. The licensee shall take prompt actions to respond to residents' grievances.
- (12) To contact the State Department of Social Services, the long-term care ombudsman, or both, regarding grievances against the licensee. The licensee shall post the telephone numbers and addresses for the local offices of the State Department of Social Services and ombudsman program, in accordance with Section 9718 of the Welfare and Institutions Code, conspicuously in the facility foyer, lobby, residents' activity room, or other location easily accessible to residents.
- (13) To be fully informed, as evidenced by the resident's written acknowledgment prior to or at the time of admission, of all rules governing residents' conduct and responsibilities. In accordance with Section 1569.885, all rules established by a licensee shall be reasonable and shall not violate any rights set forth in this chapter or in other applicable laws or regulations.
- (14) To receive in the admission agreement a comprehensive description of the method for evaluating residents' service needs and the fee schedule for the items and services provided, and to receive written notice of any rate increases pursuant to Sections 1569.655 and 1569.884.
- (15) To be informed in writing at or before the time of admission of any resident retention limitations set by the state or licensee, including any limitations or restrictions on the licensee's ability to meet residents' needs.
- (16) To reasonable accommodation of individual needs and preferences in all aspects of life in the facility, except when the health or safety of the individual or other residents would be endangered.
- (17) To reasonable accommodation of resident preferences concerning room and roommate choices.
- (18) To written notice of any room changes at least 30 days in advance unless the request for a change is agreed to by the resident, required to fill a vacant bed, or necessary due to an emergency.
- (19) To share a room with the resident's spouse, domestic partner, or a person of the resident's choice when both spouses, partners, or residents live in the same facility and consent to the arrangement.
- (20) To select their own physicians, pharmacies, privately paid personal assistants, hospice agency, and health care providers, in a manner that is consistent with the resident's contract of admission or other rules of the facility, and in accordance with this act.

(21) To have prompt access to review all of their records and to purchase photocopies. Photocopied records shall be promptly provided, not to exceed two business days, at a cost not to exceed the community standard for photocopies.

(22) To be protected from involuntary transfers, discharges, and evictions in violation of state laws and regulations. Facilities shall not involuntarily transfer or evict residents for grounds other than those specifically enumerated under state law or regulations, and shall comply with enumerated eviction and relocation protections for residents. For purposes of this paragraph, "involuntary" means a transfer, discharge, or eviction that is initiated by the licensee, not by the resident.

(23) To move from a facility.

(24) To consent to have relatives and other individuals of the resident's choosing visit during reasonable hours, privately and without prior notice.

(25) To receive written information on the right to establish an advanced health care directive and, pursuant to Section 1569.156, the licensee's written policies on honoring those directives.

(26) To be encouraged to maintain and develop their fullest potential for independent living through participation in activities that are designed and implemented for this purpose, in accordance with Section 87219 of Title 22 of the California Code of Regulations.

(27) To organize and participate in a resident council that is established pursuant to Section 1569.157.

(28) To protection of their property from theft or loss in accordance with Sections 1569.152, 1569.153, and 1569.154.

(29) To manage their financial affairs. A licensee shall not require residents to deposit their personal funds with the licensee. Except as provided in approved continuing care agreements, a licensee, or a spouse, domestic partner, relative, or employee of a licensee, shall not do any of the following:

(A) Accept appointment as a guardian or conservator of the person or estate of a resident.

(B) Become or act as a representative payee for any payments made to a resident, without the written and documented consent of the resident or the resident's representative.

(C) Serve as an agent for a resident under any general or special power of attorney.

(D) Become or act as a joint tenant on any account with a resident.

(E) Enter into a loan or promissory agreement or otherwise borrow money from a resident without a notarized written agreement outlining the terms of the repayment being given to the resident.

(30) To keep, have access to, and use their own personal possessions, including toilet articles, and to keep and be allowed to spend their own money, unless limited by statute or regulation.

(31) To request, refuse, or discontinue a service.

(b) A licensed residential care facility for the elderly shall not discriminate against a person seeking admission or a resident based on sex, race, color, religion, national origin, marital status, registered domestic partner status, ancestry, actual or perceived sexual orientation, or actual or perceived gender identity.

(c) No provision of a contract of admission, including all documents that a resident or the resident's representative is required to sign as part of the contract for, or as a condition of, admission to a residential care facility for the elderly, shall require that a resident waive benefits or rights to which they are entitled under this chapter or provided by federal or other state law or regulation.

(d) Residents' family members, friends, and representatives have the right to organize and participate in a family council that is established pursuant to Section 1569.158.

(e) The rights specified in this section shall be in addition to any other rights provided by law.

(f) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

**SEC. 2.** Section 1569.655 of the Health and Safety Code is amended to read:

**1569.655.** (a) If a licensee of a residential care facility for the elderly increases the rates of fees for residents or makes increases in any of its rate structures for services, the licensee shall provide no less than 90 days' prior written notice to the residents or the

residents' representatives setting forth the amount of the increase and the reason or reasons for the increase, including a description of the additional costs, except for an increase in the rate due to a change in the level of care of the resident.

(b) A licensee shall not charge nonrecurring lump-sum assessments. The notification requirements contained in subdivision (a) shall apply to increases specified in this subdivision. For purposes of this subdivision, "nonrecurring lump-sum assessments" mean rate increases due to unavoidable and unexpected costs that financially obligate the licensee. In lieu of the lump-sum payment, all increases in rates shall be to the monthly rate amortized over a 12-month period. The prohibition against a lump-sum assessment shall not apply to charges for specific goods or services provided to an individual resident.

(c) If a licensee increases rates for a recipient under the State Supplementary Program for the Aged, Blind and Disabled, described in Article 5 (commencing with Section 12200) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code, the licensee shall meet the requirements for SSI/SSP rate increases, as prescribed by law.

(d) This section shall not apply to licensees of residential care facilities for the elderly that have obtained a certificate of authority to offer continuing care contracts, as defined in paragraph (5) of subdivision (c) of Section 1771.

**SEC. 3.** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.