

ACTION REQUIRED

Senate Bill 1153 (Leno), Chapter 706, Statutes of 2014

This law becomes effective January 1, 2015.

Affects: Residential Care Facilities for the Elderly

Subject: Suspension of new admissions

Summary: [Senate Bill \(SB\) 1153](#) adds Section 1569.545 to the Health and Safety Code.

OVERVIEW

In summary, SB 1153:

- Authorizes the Department to order a suspension of new admissions for a Residential Care Facility for the Elderly (RCFE) that has violated statute and/or regulation which presents a direct and immediate risk to the health, safety, or personal rights of a resident(s) of the facility and the violation is not immediately corrected. The suspension remains in effect until the Department determines that the licensee has corrected the violation.
- Authorizes the Department to order a suspension of new admissions for a licensee that has failed to pay a fine assessed by the Department after the licensee's appeal rights has been exhausted. The suspension remains in effect until the licensee pays the fine assessed by the Department.
- Authorizes the Department to make unannounced visits after a suspension of new admissions is lifted to ensure the licensee continues to maintain the correction of the violation. If the licensee has not maintained correction of the violation, the Department can order another suspension of new admissions or take other appropriate enforcement action if the licensee does not maintain correction of the violation.
- Allows a licensee to appeal the suspension of new admissions to the Director. The Department shall adopt regulations that specify the appeal process.
- States a suspension of new admissions ordered under this section shall not be stayed pending the licensee's appeal or request for review.

IMPLEMENTATION

Licensees

Licensees must comply with the provisions of this law in all aspects of facility operation, including, but not limited to, facility policies, procedures and practice.

Upon the Department's suspension of new admissions order for failure to immediately correct a violation that presents a direct and immediate risk to the health, safety, or personal rights of a resident(s), the licensee must cease the admittance of new residents until the Department notifies the licensee that the suspension on admissions order has been lifted.

Prior to the Department's suspension of new admissions order for failure to pay a fine (civil penalty), the licensee will have already been provided the opportunity to dispute the civil penalty assessment through the existing appeal process (Title 22, CCR 87763). Once the licensee exhausts their appeal rights and continues to have an unpaid civil penalty, the Department may issue a suspension of new admissions order. Upon issuance of such order, the licensee must cease the admittance of new residents until the licensee pays the civil penalty assessed by the Department and the Department notifies the licensee that the suspension on new admissions order has been lifted.

A licensee may appeal either type of suspension of new admissions order to the Director. The suspension of new admissions order shall not be stayed pending the licensee's appeal or request for review. Once the Department issues the suspension order, and the licensee submits an appeal, the order to suspend new admissions remains in effect. New residents can only be admitted once the Department lifts the suspension on new admissions.

Licensing Program Analysts

Violation presents a direct and immediate risk to the health, safety or personal rights of residents – The Licensing Program Analyst will continue to use existing processes when, during a facility or complaint visit of any type, the Licensing Program Analyst identifies violations presenting a direct and immediate risk to the health, safety or personal rights of resident(s). Some examples of violations that may rise to the level of issuing a suspension of new admissions order may include, but is not limited to:

- Any violation resulting in the injury or death of a resident
- Facility has no food, heat and/or water
- Inadequate level of supervision which could lead to the death, physical abuse or serious bodily injury to the resident

The suspension of new admissions order will be used for egregious violations. While Type A violations can present a direct or immediate risk to residents, not all Type A violations will rise to the level of warranting a suspension of new admissions.

The decision to issue a suspension will not be made by the Licensing Program Analyst, Licensing Program Manager or the Regional Manager. The decision to issue a suspension of new admission order for violations which present a direct and immediate risk to the health, safety or personal rights of residents will be made by the Director or Director's designee pursuant to:

Residential Care Facilities for the Elderly Act, Health and Safety Code section 1569.545(b)(1).

Upon enforcement of the suspension of new admissions order, the Licensing Program Analyst will provide such notice in writing to the licensee. The Licensing Program Analyst will receive direction from the Regional Manager to determine inspection frequency following a suspension of new admissions order until the suspension has been lifted. Each situation will be evaluated on a case-by-case basis.

The authority to lift the suspension of new admissions order will also be made by the Director or the Director's designee. The Licensing Program Analyst and Regional Manager will not make this determination. Upon notification that a suspension of new admission order will be lifted, the Licensing Program Analyst will provide such notice in writing to the licensee.

Failure to pay a civil penalty fee assessed by the department – The process used by Licensing Program Analysts and/or civil penalty coordinators to assess and collect civil penalty fees will remain the same. The Licensing Program Analyst and/or civil penalty coordinators will alert management to cases where licensees have failed to respond to the second collection letter.

The decision to issue a suspension of new admission order for failure to pay a civil penalty fee assessed by the department will be made by the Director or the Director's designee, pursuant to:

- *Residential Care Facilities for the Elderly Act*, Health and Safety Code section 1569.545(b)(2).

Upon enforcement of the suspension of new admissions order, the Licensing Program Analyst will provide such notice in writing to the licensee. The suspension of new admissions order will remain in place until the licensee pays the civil penalty assessed by the Department. Upon notification by the Director or Director's designee that the suspension of new admission order will be lifted, the Licensing Program Analyst will provide such notice in writing to the licensee.

Regulations, Evaluator Manual updates and forms will be developed regarding these suspensions and the appeal process when a suspension occurs.

For legislative information related to this law, see: [Bill Text - SB-1153 Residential care facilities for the elderly.](#)