ARTICLE 1. General Provisions [1569 - 1569.5]

1569.

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

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

1569.1.

The Legislature hereby finds and declares:
(a) The Legislature has taken steps in recent years to develop a continuum of long-term social and health support services for older persons in the community that provide a range of options for long-term care and residential care facilities for the elderly are central in that continuum.
(b) These efforts require a reevaluation of residential care for the elderly outside the constraints of the Community Care Facilities Act.
(c) The Community Care Facilities Act was enacted in 1973 with the primary purpose of ensuring that residents of state hospitals would have access to safe, alternative community-based housing.
(d) Since that time, due to shortages in affordable housing and a greater demand for residences for the elderly providing some care and supervision, a growing number of elderly persons with health and social care needs now reside in community care facilities that may or may not be designed to meet their needs.
(e) Progress in the field of gerontology has provided new insights and information as to the types of services required to allow older persons to remain as independent as possible while residing in a residential care facility for the elderly.
(f) The fluctuating health and social status of older persons demands a system of residential care that can respond to these needs by making available multilevels of service within the facility, thus reducing the need for residents with fluctuating conditions to move between medical and nonmedical facilities.
(g) Residential care facilities for the elderly which are not primarily medically oriented represent a humane approach to meeting the housing, social and service needs of older
persons, and can provide a homelike environment for older persons with a variety of care needs.

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

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

1569.2.

As used in this chapter:
(a) “Administrator” means the individual designated by the licensee to act on behalf of the licensee in the overall management of the facility. The licensee, if an individual, and the administrator may be one and the same person.
(b) “Care and supervision” means the facility assumes responsibility for, or provides or promises to provide in the future, ongoing assistance with activities of daily living without which the resident’s physical health, mental health, safety, or welfare would be endangered. Assistance includes assistance with taking medications, money management, or personal care.
(c) “Department” means the State Department of Social Services.
(d) “Director” means the Director of Social Services.
(e) “Health-related services” mean services that shall be directly provided by an appropriate skilled professional, including a registered nurse, licensed vocational nurse, physical therapist, or occupational therapist.
(f) “Instrumental activities of daily living” means any of the following: housework, meals, laundry, taking of medication, money management, appropriate transportation, correspondence, telephoning, and related tasks.
(g) “License” means a basic permit to operate a residential care facility for the elderly.
(h) “Personal activities of daily living” means any of the following: dressing, feeding, toileting, bathing, grooming, and mobility and associated tasks.
(i) “Personal care” means assistance with personal activities of daily living, to help provide for and maintain physical and psychosocial comfort.
(j) “Protective supervision” means observing and assisting confused residents, including persons with dementia, to safeguard them against injury.
(k) “Residential care facility for the elderly” means a housing arrangement chosen voluntarily by persons 60 years of age or over, or their authorized representative, where varying levels and intensities of care and supervision, protective supervision, or personal care are provided, based upon their varying needs, as determined in order to be admitted and to remain in the facility. Persons under 60 years of age with compatible needs may be
allowed to be admitted or retained in a residential care facility for the elderly as specified in Section 1569.316.

This subdivision shall be operative only until the enactment of legislation implementing the three levels of care in residential care facilities for the elderly pursuant to Section 1569.70. (l) “Residential care facility for the elderly” means a housing arrangement chosen voluntarily by persons 60 years of age or over, or their authorized representative, where varying levels and intensities of care and supervision, protective supervision, personal care, or health-related services are provided, based upon their varying needs, as determined in order to be admitted and to remain in the facility. Persons under 60 years of age with compatible needs may be allowed to be admitted or retained in a residential care facility for the elderly as specified in Section 1569.316.

This subdivision shall become operative upon the enactment of legislation implementing the three levels of care in residential care facilities for the elderly pursuant to Section 1569.70. (m) “Sundowning” means a condition in which persons with cognitive impairment experience recurring confusion, disorientation, and increasing levels of agitation that coincide with the onset of late afternoon and early evening.

(n) “Supportive services” means resources available to the resident in the community that help to maintain their functional ability and meet their needs as identified in the individual resident assessment. Supportive services may include any of the following: medical, dental, and other health care services; transportation; recreational and leisure activities; social services; and counseling services.

(Amended by Stats. 2003, Ch. 383, Sec. 2. Effective January 1, 2004.)

1569.3.

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

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

1569.5.

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

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

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

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. 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.

Any person desiring issuance of 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, which shall include, but not be limited to:

(a) 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.

(b) 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 members or shareholders thereof, and the person in charge of the residential care facility for the elderly which application for issuance of license or special permit is made.

(c) 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.

(d) Disclosure of the applicant’s prior or present service as an administrator, general partner, corporate officer or director of, or as a person who has held or holds a beneficial ownership of 10 percent or more in, any residential care facility for the elderly or 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).

(e) Disclosure of any revocation or other disciplinary action taken, or in the process of being taken, against a license held or previously held by the entities specified in subdivision (c).

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

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

(h) 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.

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

(j) 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.

(k) 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 licensee shall also be the administrator.

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

(m) 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.

(Amended by Stats. 2000, Ch. 434, Sec. 2. Effective January 1, 2001.)
(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. Effective January 1, 2015.)

1569.158.

(a) A residential care facility for the elderly shall not prohibit the formation of a family council. When requested by a member of the resident’s family or the resident representative, a family council shall be allowed to meet in a common meeting room of the facility during mutually agreed upon hours.
(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 government organizations or with facility personnel during nonworking hours.
(c) “Family council” for the purpose of this section means a meeting of family members, friends, representatives, or agents as defined in Section 14110.8 of the Welfare and Institutions Code of two or more residents to confer in private without facility staff.
(d) Family councils shall be provided adequate space on a prominent bulletin board or other posting area for the display of meeting notices, minutes, information, and newsletters.
(e) Facility personnel or visitors may attend a family council meeting only at the family council’s invitation.
(f) If a family council submits written concerns or recommendations, the facility shall respond in writing regarding any action or inaction taken in response to the concerns or recommendations within 14 calendar days.
(g) (1) If a facility has a family council, the facility shall include notice of the family council and its meetings to family members and resident representatives in routine mailings and shall inform family members and resident representatives of new and current residents who are identified on the admissions agreement during the admissions process or in the resident’s records, of the existence of the family council, the time and place of meetings of the family council, and the name of the family council representative. 
(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 or resident representative 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) 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. 
(i) A facility shall not willfully interfere with the formation, maintenance, or promotion of a family council, or its participation in the regulatory inspection process. For the 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 his or her participation in a family council, refusal to publicize family council meetings or provide appropriate space for meetings or postings as required under this section, or failure to respond to written requests by a family council in a timely manner. 
(j) 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.

(Additional text continues...)

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.  
(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. 1997, Ch. 617, Sec. 12. Effective January 1, 1998.)  

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 his or her 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 a minor traffic violation 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 a minor traffic violation, the application or presence shall be denied, unless the director grants an exemption pursuant to subdivision (f).

(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 a minor traffic violation, 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 a minor traffic violation, 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 an applicant meets all other conditions for licensure, except receipt of the Federal Bureau of Investigation’s criminal history information for the applicant and persons listed in subdivision (b), the department may issue a license if the applicant and each person described by subdivision (b) has signed and submitted a statement that he or she has never been convicted of a crime in the United States, other than a traffic infraction as defined in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. 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 his or her 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), 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 and shall sign a declaration under penalty of perjury regarding any prior criminal convictions. 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.

(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 a minor traffic violation, 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 his or her 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 his or her 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 his or her 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 in writing to the department, and shall include a copy of the person’s driver’s license or valid identification card issued by the Department of Motor Vehicles, or a valid photo identification issued by another state or the United States government if the person is not a California resident. Upon request of the licensee, who shall enclose a self-addressed stamped envelope for this purpose, 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 his or her 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 his or her written request. The department shall retain a copy of the individual’s written request and the response and date provided.

(Amended by Stats. 2014, Ch. 824, Sec. 3. Effective January 1, 2015.)

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):

<table>
<thead>
<tr>
<th>Capacity</th>
<th>Initial Application</th>
<th>Annual</th>
</tr>
</thead>
<tbody>
<tr>
<td>1–3</td>
<td>$495.60</td>
<td>$495.60</td>
</tr>
<tr>
<td>4–6</td>
<td>$990.00</td>
<td>$495.60</td>
</tr>
<tr>
<td>7–15</td>
<td>$1,486.80</td>
<td>$742.80</td>
</tr>
<tr>
<td>16–30</td>
<td>$1,980.00</td>
<td>$990.00</td>
</tr>
<tr>
<td>31–49</td>
<td>$2,476.80</td>
<td>$1,238.40</td>
</tr>
<tr>
<td>50–74</td>
<td>$2,972.40</td>
<td>$1,448.00</td>
</tr>
<tr>
<td>75–100</td>
<td>$3,469.20</td>
<td>$1,734.00</td>
</tr>
<tr>
<td>101–150</td>
<td>$3,964.80</td>
<td>$1,982.40</td>
</tr>
<tr>
<td>151–200</td>
<td>$4,622.40</td>
<td>$2,311.20</td>
</tr>
<tr>
<td>201–250</td>
<td>$5,280.00</td>
<td>$2,640.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>251–300</td>
<td>$5,940.00</td>
<td>$2,970.00</td>
</tr>
<tr>
<td>301–350</td>
<td>$6,600.00</td>
<td>$3,300.00</td>
</tr>
<tr>
<td>351–400</td>
<td>$7,260.00</td>
<td>$3,630.00</td>
</tr>
<tr>
<td>401–500</td>
<td>$8,580.00</td>
<td>$4,290.00</td>
</tr>
<tr>
<td>501–600</td>
<td>$9,900.00</td>
<td>$4,950.00</td>
</tr>
<tr>
<td>601–700</td>
<td>$11,220.00</td>
<td>$5,610.00</td>
</tr>
<tr>
<td>701+</td>
<td>$13,200.00</td>
<td>$6,600.00</td>
</tr>
</tbody>
</table>

(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. 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. 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. 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.

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

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 be for a minimum of 40 hours of classroom instruction and include a uniform core of knowledge which shall include all of the following:
(1) Law, 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) Use, misuse, and interaction of drugs commonly used by the elderly.
(8) Resident admission, retention, and assessment procedures.
(c) Successful completion of the certification program shall be demonstrated by passing a written test and submitting a fee of one hundred dollars ($100) to the department for the issuance of a certificate of completion.
(d) 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.
(e) 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.
(f) 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.
(g) This section shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date.

(Amended by Stats. 2014, Ch. 698, Sec. 1. Effective January 1, 2015. Repealed as of January 1, 2016, by its own provisions. See later operative version added by Sec. 2 of Stats. 2014, Ch. 698.)

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. 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.)

ARTICLE 2.5. Resident’s Bill of Rights [1569.261 - 1569.269]

(Article 2.5 added by Stats. 2014, Ch. 702, Sec. 1.)

1569.261.

(a) It is the intent of the Legislature in enacting this article to adopt fundamental rights for all persons residing in a residential care facility for the elderly, as defined in Section 1569.2, and to ensure that facilities respect and promote these rights.
(b) In establishing this bill of rights, the Legislature intends that persons residing in residential care facilities for the elderly be treated with dignity, kindness, and respect, and that their civil liberties be fully honored.

(c) A central purpose of the bill of rights is to strengthen a resident’s right to make choices about his or her care, treatment, and daily life in the facility and to ensure that the resident’s choices are respected. The Legislature intends to enhance each resident’s autonomy and ability to make decisions concerning his or her life.

(d) The Legislature also intends that each residential care facility for the elderly provide a safe, comfortable, and homelike environment for its residents and that it protect residents from physical or mental abuse, neglect, exploitation, or endangerment.

(Added by Stats. 2014, Ch. 702, Sec. 1. Effective January 1, 2015.)

1569.265.

(a) Rights and liberties set forth in this article do not diminish a resident’s constitutional rights or any other rights set forth in other state or federal laws and regulations. Persons residing in residential care facilities for the elderly shall continue to enjoy all of their civil and legal rights.

(b) The provisions of this article apply only to privately operated residential care facilities for the elderly.

(Added by Stats. 2014, Ch. 702, Sec. 1. Effective January 1, 2015.)

1569.267.

(a) At admission, a facility staff person shall personally advise a resident and the resident’s representative of, and give a complete written copy of, the rights in this article and the personal rights in Section 87468 of Title 22 of the California Code of Regulations. The licensee shall have each resident and the resident’s representative sign and date a copy of the resident’s rights, and the licensee shall include the signed and dated copy in the resident’s record.

(b) Licensees shall prominently post, in areas accessible to the residents and their representatives, a copy of the residents’ rights.

(c) The rights posted pursuant to subdivision (b) shall be posted both in English and in any other language in a facility in which 5 percent or more of the residents can only read that other language.

(d) The licensee shall provide initial and ongoing training for all members of its staff to ensure that residents’ rights are fully respected and implemented.

(Added by Stats. 2014, Ch. 702, Sec. 1. Effective January 1, 2015.)
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 acknowledgement, 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 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.

(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 his or her 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 he or she is 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.

(Added by Stats. 2014, Ch. 702, Sec. 1. Effective January 1, 2015.)

ARTICLE 3. Regulations [1569.30 - 1569.39]

(Article 3 added by Stats. 1985, Ch. 1127, Sec. 3.)

1569.30.

(a) The department shall adopt, amend, or repeal, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, reasonable rules, regulations, and standards as may be necessary or proper to carry out the purposes and intent of this chapter and to enable the department to exercise the powers and perform the duties conferred upon it by this chapter, not inconsistent with any statute of this state.

(b) The regulations governing residential facilities for the elderly under the Community Care Facilities Act (Chapter 3 (commencing with Section 1500)) shall continue to govern residential care facilities for the elderly under this act until amended or repealed.

(Amended by Stats. 2004, Ch. 183, Sec. 190. Effective January 1, 2005.)

1569.31.

The regulations for a license shall prescribe standards of safety and sanitation for the physical plant and standards for basic care and supervision, personal care, and services to be provided.

The department’s regulations shall allow for the development of new and innovative community programs.

In adopting regulations which implement this chapter, the department shall provide flexibility to allow facilities conducted by and exclusively for adherents of a well-recognized church or religious denomination who rely solely on prayer or spiritual means for healing to operate a licensed residential care facility for the elderly.

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

1569.311.
Every residential care facility for the elderly shall have one or more carbon monoxide detectors in the facility that meet the standards established in Chapter 8 (commencing with Section 13260) of Part 2 of Division 12. The department shall account for the presence of these detectors during inspections.

(Amended by Stats. 2014, Ch. 503, Sec. 3. Effective January 1, 2015.)

1569.312.

Every facility required to be licensed under this chapter shall provide at least the following basic services:
(a) Care and supervision as defined in Section 1569.2.
(b) Assistance with instrumental activities of daily living in the combinations which meet the needs of residents.
(c) Helping residents gain access to appropriate supportive services, as defined, in the community.
(d) Being aware of the resident’s general whereabouts, although the resident may travel independently in the community.
(e) Monitoring the activities of the residents while they are under the supervision of the facility to ensure their general health, safety, and well-being.
(f) Encouraging the residents to maintain and develop their maximum functional ability through participation in planned activities.

(Amended by Stats. 1986, Ch. 844, Sec. 4.)

1569.313.

Each residential care facility for the elderly shall state, on its client information form or admission agreement, and on its patient’s rights form, the facility’s policy concerning family visits and other communication with resident clients and shall promptly post notice of its visiting policy at a location in the facility that is accessible to residents and families. The facility’s policy concerning family visits and communication shall be designed to encourage regular family involvement with the resident client and shall provide ample opportunities for family participation in activities at the facility.

(Added by Stats. 1985, Ch. 954, Sec. 3.)

1569.314.
A residential care facility for the elderly shall not require residents to purchase medications, or rent or purchase medical supplies or equipment, from any particular pharmacy or other source.

This section shall not preclude a residential care facility for the elderly from requiring that residents who need assistance with the purchasing, storing, or taking of medications comply with the facility’s policies and procedures regarding storage of medications and methods of assisting residents with the taking of medications, if the policies and procedures are reasonably necessary and meet the intent of state or federal regulations.

(Amended by Stats. 1991, Ch. 888, Sec. 8.)

1569.315.

Each residential care facility for the elderly required to be licensed pursuant to this chapter shall keep a current record of clients in the facility, including the client’s name and ambulatory status, and the name, address, and telephone number of the client’s physician and of any person or agency responsible for the care of the client. The facility shall protect the privacy and confidentiality of this information.

(Added by Stats. 1985, Ch. 869, Sec. 4. See similar Section 1569.315 added by Stats. 1985, Ch. 1096.)

1569.315.

Each facility required to be licensed shall keep a current record of all of the following:
(a) Clients in the facility, including each client’s name and ambulatory status.
(b) The name and telephone number of each client’s physician.
(c) The name, address, and telephone number of any person or agency responsible for the care of a client.
The facility shall respect the privacy and confidentiality of this information.

(Added by Stats. 1985, Ch. 1096, Sec. 5.)

1569.316.

(a) The referring agency or facility, or its designee, shall provide to the administrator all information in its possession concerning any history of dangerous propensity of the client prior to the placement in the residential care facility for the elderly. However, no confidential client information shall be released pursuant to this section without the consent of the client or his or her authorized representative.
(b) In determining a person’s compatibility, the licensee shall consider criteria that includes, but is not limited to, both of the following:
(1) The extent to which the person’s personal and health care needs can be adequately met in the residential care facility for the elderly.
(2) The existence of a past history of violence or mental illness that would create a risk for the person or other residents of that facility.

(Added by Stats. 1996, Ch. 434, Sec. 2. Effective January 1, 1997.)

1569.317.

Every residential care facility for the elderly, as defined in Section 1569.2, shall, for the purpose of addressing issues that arise when a resident is missing from the facility, develop and comply with an absentee notification plan as part of the written record of the care the resident will receive in the facility, as described in Section 1569.80. The plan shall include and be limited to the following: a requirement that an administrator of the facility, or his or her designee, inform the resident’s authorized representative when that resident is missing from the facility and the circumstances in which an administrator of the facility, or his or her designee, shall notify local law enforcement when a resident is missing from the facility.

(Added by Stats. 2013, Ch. 674, Sec. 3. Effective January 1, 2014.)

1569.32.

Any duly authorized officer, employee, or agent of the department may, upon presentation of proper identification, enter and inspect any place providing personal care, supervision, and services at any time, with or without advance notice, to secure compliance with, or to prevent a violation of, this chapter.

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

1569.33.

(a) Every licensed residential care facility for the elderly shall be subject to unannounced visits by the department. The department shall visit these facilities as often as necessary to ensure the quality of care provided.
(b) The department shall conduct an annual unannounced visit of a facility under any of the following circumstances:
(1) When a license is on probation.
(2) When the terms of agreement in a facility compliance plan require an annual evaluation.
(3) When an accusation against a licensee is pending.
(4) When a facility requires an annual visit as a condition of receiving federal financial participation.
(5) In order to verify that a person who has been ordered out of the facility for the elderly by the department is no longer at the facility.

(c) (1) The department shall conduct annual unannounced visits to no less than 20 percent of facilities not subject to an evaluation under subdivision (b). These unannounced visits shall be conducted based on a random sampling methodology developed by the department.

(2) If the total citations issued by the department exceed the previous year’s total by 10 percent, the following year the department shall increase the random sample by 10 percent of the facilities not subject to an evaluation under subdivision (b). The department may request additional resources to increase the random sample by 10 percent.

(d) Under no circumstance shall the department visit a residential care facility for the elderly less often than once every five years.

(e) (1) The department shall notify the residential care facility for the elderly in writing of all deficiencies in its compliance with the provisions of this chapter and the rules and regulations adopted pursuant to this chapter.

(2) Unless otherwise specified in the plan of correction, the residential care facility for the elderly shall remedy the deficiencies within 10 days of the notification.

(f) (1) Reports on the results of each inspection, evaluation, or consultation shall be kept on file in the department, and all inspection reports, consultation reports, lists of deficiencies, and plans of correction shall be open to public inspection.

(2) (A) The department shall post on its Internet Web site information on how to obtain an inspection report.

(B) It is the intent of the Legislature that the department shall make inspection reports available on its Internet Web site by January 1, 2020.

(2) As a part of the department’s evaluation process, the department shall review the plan of operation, training logs, and marketing materials of any residential care facility for the elderly that advertises or promotes special care, special programming, or a special environment for persons with dementia to monitor compliance with Sections 1569.626 and 1569.627.

(h) (1) The department shall design, or cause to be designed, a poster that contains information on the appropriate reporting agency in case of a complaint or emergency.

(2) Each residential care facility for the elderly shall post this poster in the main entryway of its facility.

(Amended by Stats. 2014, Ch. 704, Sec. 1. Effective January 1, 2015.)

1569.331.

The Legislature hereby finds and declares that in order to protect the health and safety of elders in care at residential care facilities for the elderly, appropriate oversight and
regulation of residential care facilities for the elderly requires regular, periodic inspections of these facilities in addition to investigations in response to complaints. It is the intent of the Legislature to increase the frequency of unannounced inspections pursuant to Section 1569.33. In addition to the information that the State Department of Social Services is required to report during the 2015–16 legislative budget subcommittee hearings pursuant to Section 85 of Chapter 29 of the Statutes of 2014, the department shall also at that time report the projected costs of conducting annual inspections of residential care facilities for the elderly beginning January 1, 2018.

(Added by Stats. 2014, Ch. 704, Sec. 2. Effective January 1, 2015.)

1569.335.

(a) The department shall provide the Office of the State Long-Term Care Ombudsman, as defined in subdivision (c) of Section 9701 of the Welfare and Institutions Code, with a precautionary notification if the department begins to prepare to issue a temporary suspension or revocation of any license, so that the office may properly prepare to provide advocacy services if and when necessary.

(b) The department shall notify affected public placement agencies and the Office of the State Long-Term Care Ombudsman, whenever the department substantiates that a violation has occurred that poses a serious threat to the health and safety of any resident when the violation results in the assessment of any penalty or causes an accusation to be filed for the revocation of a license.

(c) (1) If the violation is appealed by the facility within 10 days, the department shall only notify placement agencies of the violation when the appeal has been exhausted.

(2) If the appeal process has not been completed within 60 days, the placement agency shall be notified with a notation that indicates that the case is still under appeal.

(3) The notice to each placement agency shall be updated monthly for the following 24-month period and shall include the name and location of the facility, the amount of the fine, the nature of the violation, the corrective action taken, the status of the revocation, and the resolution of the complaint.

(Amended by Stats. 2014, Ch. 704, Sec. 3. Effective January 1, 2015.)

1569.34.

The director shall have the authority to contract for personal services as required in order to perform inspections of, or consultation with, residential care facilities for the elderly. The department shall establish by December 1, 1986, within the department an interdisciplinary team of professionals to advise the department on implementation of this
chapter and to be available in crisis situations to assist local licensing evaluators on the needs of elderly residents in facilities. This team shall include at least a geriatric nurse practitioner or a public health nurse with geriatric experience and a social worker with related experience.

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

1569.345.

Upon request, the department shall provide the Office of the State Long-Term Care Ombudsman and any approved organizations of the office with copies of inspection reports for residential care facilities for the elderly.

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

1569.35.

(a) Any person may request an inspection of any residential care facility for the elderly in accordance with this chapter by transmitting to the department notice of an alleged violation of applicable requirements prescribed by statutes or regulations of this state, including, but not limited to, a denial of access of any person authorized to enter the facility pursuant to Section 9722 of the Welfare and Institutions Code. A complaint may be made either orally or in writing.

(b) The substance of the complaint shall be provided to the licensee no earlier than at the time of the inspection. Unless the complainant specifically requests otherwise, neither the substance of the complaint provided the licensee nor any copy of the complaint or any record published, released, or otherwise made available to the licensee shall disclose the name of any person mentioned in the complaint except the name of any duly authorized officer, employee, or agent of the department conducting the investigation or inspection pursuant to this chapter.

(c) Upon receipt of a complaint, other than a complaint alleging denial of a statutory right of access to a residential care facility for the elderly, the department shall make a preliminary review and, unless the department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, it shall make an onsite inspection within 10 days after receiving the complaint except where the visit would adversely affect the licensing investigation or the investigation of other agencies, including, but not limited to, law enforcement agencies. In either event, the complainant shall be promptly informed of the department’s proposed course of action.
(d) Upon receipt of a complaint alleging denial of a statutory right of access to a residential facility for the elderly, the department shall review the complaint. The complainant shall be notified promptly of the department’s proposed course of action.

(Amended by Stats. 1986, Ch. 844, Sec. 5.)

1569.351.

(a) The department shall ensure that the licensee’s plan of correction is verifiable and measurable. The plan of correction shall specify what evidence is acceptable to establish that a deficiency has been corrected. This evidence shall be included in the department’s facility file.
(b) The department shall specify in its licensing report all violations that, if not corrected, will have a direct and immediate risk to the health, safety, or personal rights of residents in care.
(c) The department shall complete all complaint investigations and place a note of final conclusion in the department’s facility file, regardless of whether the licensee voluntarily surrendered the license.

(Added by Stats. 2008, Ch. 291, Sec. 14. Effective September 25, 2008.)

1569.355.

The director shall establish an automated license information system on licensees and former licensees of licensed residential care facilities for the elderly. The system shall maintain a record of any information that may be pertinent, as determined by the director, for licensure under this chapter. This information may include, but is not limited to, the licensees’ addresses, telephone numbers, violations of any laws related to the care of clients in a residential care facility for the elderly, licenses, revocation of any licenses and, to the extent permitted by federal law, social security numbers.

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

1569.36.

(a) Not less than 30 days prior to the expiration date of any residential care facility for the elderly license, the department shall transmit a copy to the state ombudsman in the Department of Aging as well as the local ombudsman, if one exists, of all notices sent to the facility by the department during the term of the current license as a result of a substantiated complaint regarding a violation of any of the provisions of this chapter relating to resident abuse and neglect, food, sanitation, incidental medical care, and
residential supervision. During that one-year period the copy of the notices transmitted and the proof of the transmittal shall be open for public inspection.

(b) The department shall provide the names and addresses of the state ombudsman in the Department of Aging and, where applicable, the local ombudsman, to each residential care facility for the elderly.

(Amended by Stats. 1989, Ch. 1115, Sec. 13.)

1569.37.

No licensee, or officer or employee of the licensee, shall discriminate or retaliate in any manner, including, but not limited to, eviction or threat of eviction, against any person receiving the services of the licensee’s residential care facility for the elderly, or against any employee of the licensee’s facility, on the basis, or for the reason that, the person or employee or any other person has initiated or participated in the filing of a complaint, grievance, or a request for inspection with the department pursuant to this chapter, or has initiated or participated in the filing of a complaint, grievance, or request for investigation with the appropriate local ombudsman, or with the state ombudsman recognized pursuant to Chapter 11 (commencing with Section 9700) of Division 8.5 of the Welfare and Institutions Code.

(Amended by Stats. 2013, Ch. 295, Sec. 3. Effective January 1, 2014.)

1569.371.

(a) No licensee, or officer or employee of the licensee, shall discriminate or retaliate in any manner against any person receiving the services of the licensee’s residential care facility for the elderly, or against any employee of the licensee’s facility, on the basis, or for the reason that, the person, employee, or any other person dialed or called 911.

(b) A violation of this section is subject to civil penalty pursuant to Section 1569.49.

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

(Added by Stats. 2014, Ch. 705, Sec. 1. Effective January 1, 2015.)

1569.38.

(a) Each residential care facility for the elderly shall place in a conspicuous place copies of all licensing reports issued by the department within the preceding 12 months, and all licensing reports issued by the department resulting from the most recent annual visit of the department to the facility. This subdivision shall not apply to any portion of a licensing report referring to a complaint that was found by the department to be unfounded or
unsubstantiated. The facility, during the admission process, shall inform the resident and the resident’s responsible person in writing that licensing reports are available for review at the facility, and that copies of licensing reports and other documents pertaining to the facility are available from the appropriate district office of the department. The facility shall provide the telephone number and address of the appropriate district office.

(b) A licensed residential care facility for the elderly shall provide written notice to a resident, the resident’s responsible party, if any, and the local long-term care ombudsman, within 10 days from the occurrence of either of the following events:

(1) The department commences proceedings to suspend or revoke the license of the facility pursuant to Section 1569.50.

(2) A criminal action that relates to the health or safety of the residents is brought against the licensed residential care facility.

(c) The notice provided to a resident and the resident’s responsible party, if any, shall include the name and contact information for the local long-term care ombudsman and for the Community Care Licensing Division of the department with a statement that directs the resident or the resident’s responsible party to contact the division for information on the license status of the facility.

(d) The notice, described in subdivision (b), provided to a resident and the resident’s responsible party, if any, shall include the reason given for the commencement of proceedings to suspend or revoke the license of the facility, or the reason given for criminal action brought against the licensed residential care facility.

(e) Upon providing the notice described in subdivision (b), the licensed residential care facility shall also post a written notice, in at least 14-point type, in a conspicuous location in the facility, that may include where the mail boxes are located, where the facility license is posted, or any other easily accessible location in the facility. The posting shall include all of the following information:

(1) The date of the notice.

(2) The name of the residential care facility for the elderly.

(3) A statement that a copy of the most recent licensing report prepared by the department, and any additional reports of facility evaluation visits, within the preceding 12 months, may be obtained at the facility.

(4) The name and telephone number of the contact person designated by the Community Care Licensing Division of the department to provide information on the license status of the facility.

(f) The notice required to be posted pursuant to subdivision (e) shall remain posted until the deficiencies that gave rise to the notice are resolved.

(g) A licensee who fails to comply with the requirements of subdivision (b) or (c) shall be liable for civil penalties in the amount of one hundred dollars ($100) for each day of the failure to provide notification as required in this section. The total civil penalty for each day
shall not exceed one hundred dollars ($100) regardless of the number of notices that the licensee fails to send that day. The total civil penalty for a continuous violation of subdivision (b) or (c) shall not exceed five thousand dollars ($5,000).

(h) For purposes of this section, “responsible party” means an individual, including the patient’s relative, health care surrogate decisionmaker, or a placement agency, who assists the resident in placement or assumes varying degrees of responsibility for the well-being of the resident, as designated by the resident in writing.

(Amended by Stats. 2011, Ch. 365, Sec. 1. Effective January 1, 2012.)

1569.39.

(a) A residential care facility for the elderly that accepts or retains residents with prohibited health conditions, as defined by the department, in Section 87615 of Title 22 of the California Code of Regulations, shall assist residents with accessing home health or hospice services, as indicated in the resident’s current appraisal, to ensure that residents receive medical care as prescribed by the resident’s physician and contained in the resident’s service plan.

(b) A residential care facility for the elderly that accepts or retains residents with restricted health conditions, as defined by the department, shall ensure that residents receive medical care as prescribed by the resident’s physician and contained in the resident’s service plan by appropriately skilled professionals acting within their scope of practice. An appropriately skilled professional may not be required when the resident is providing self-care, as defined by the department, and there is documentation in the resident’s service plan that the resident is capable of providing self-care.

(c) An “appropriately skilled professional” means, for purposes of this section, an individual who has training and is licensed to perform the necessary medical procedures prescribed by a physician. This includes, but is not limited to, a registered nurse, licensed vocational nurse, physical therapist, occupational therapist, or respiratory therapist. These professionals may include, but are not limited to, those persons employed by a home health agency, the resident, or a facility, and who are currently licensed in this state.

(d) Failure to meet or arrange to meet the needs of those residents who require health-related services as specified in the resident’s written record of care, defined pursuant to Section 1569.80, or failure to notify the physician of a resident’s illness or injury that poses a danger of death or serious bodily harm is a licensing violation and subject to civil penalty pursuant to Section 1569.49.

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

(Added by Stats. 2014, Ch. 705, Sec. 2. Effective January 1, 2015.)
ARTICLE 4. Offenses [1569.40 - 1569.495]
( Article 4 added by Stats. 1985, Ch. 1127, Sec. 3. )

1569.40.

(a) Any person who violates this chapter, or who willfully or repeatedly violates any rule or regulation adopted under this chapter, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars ($1,000), by imprisonment in the county jail for a period not to exceed one year, or by both the fine and imprisonment.
(b) Operation of a residential care facility for the elderly without a license shall be subject to a summons to appear in court. Unlicensed operation, establishment, management, conducting, or maintaining of a facility as prohibited by Section 1569.10 is a separate and distinct offense of this section and is punishable as a misdemeanor.
(c) A misdemeanor may be prosecuted regardless of any concurrent enforcement of civil penalties or administrative remedies available to the department.
(d) Notwithstanding any other provision of this chapter, any person, firm, partnership, association, or corporation who owns, operates, establishes, manages, conducts, or maintains a residential care facility for the elderly, as defined in subdivisions (k) and (l) of Section 1569.2 which is an unlicensed residential care facility for the elderly as defined in subdivision (a) of Section 1569.44 is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding two thousand five hundred dollars ($2,500), by imprisonment in the county jail for a period not to exceed one year, or by both the fine and imprisonment.
(Amended by Stats. 1989, Ch. 1115, Sec. 14.)

1569.405.

Upon a finding by the licensing authority that a facility is in operation without a license, a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, may enforce Section 1569.10 by utilizing the procedures set forth in Chapter 5 (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code. A facility violating Section 1569.10 is guilty of an infraction punishable by a fine of two hundred dollars ($200) for each day of violation. Upon a determination that a residential care facility for the elderly is in violation of Section 1569.10, and after a citation has been issued, the peace officer shall immediately notify the licensing authority in the department.
(Added by Stats. 1987, Ch. 856, Sec. 2.)
1569.406.

Any person who, without lawful authorization from a duly authorized officer, employee, or agent of the department, informs an owner, operator, employee, agent, or resident of a residential care facility for the elderly of an impending and unannounced site visit to that facility by personnel of the department, except for a site visit prior to licensing the facility, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars ($1,000), by imprisonment in the county jail for a period not to exceed 180 days, or by both a fine and imprisonment.

(Amended by Stats. 1991, Ch. 888, Sec. 9.)

1569.41.

The director may bring an action to enjoin the violation or threatened violation of Section 1569.10 or 1569.44, or both, in the superior court in and for the county in which the violation occurred or is about to occur. Any proceeding under this section shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the director shall not be required to allege facts necessary to show or tending to show lack of adequate remedy at law or irreparable damage or loss. Upon a finding by the director that the violations threaten the health or safety of persons in, or served by, a residential care facility for the elderly, the agency contracted with pursuant to Section 1569.13 may bring an action to enjoin the violation, threatened violation, or continued violation by any residential care facility for the elderly which is located in an area for which it is responsible pursuant to the terms of the contract. With respect to any and all actions brought pursuant to this section alleging actual violation of Section 1569.10 or 1569.44, or both, the court shall, if it finds the allegations to be true, issue its order enjoining the residential care facility for the elderly from continuance of the violation.

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

1569.42.

Any action brought by the director against a residential care facility for the elderly shall not abate by reason of a sale or other transfer of ownership of the residential care facility for the elderly which is a party to the action except with express written consent of the director.

(Added by Stats. 1985, Ch. 1127, Sec. 3.)
1569.43.

Notwithstanding any other provisions of this chapter, the district attorney of every county, and city attorneys in those cities which have city attorneys which prosecute misdemeanors pursuant to Section 72193 of the Government Code, shall, upon their own initiative or upon application by the state department or its authorized representative, institute and conduct the prosecution of any action for violation of this chapter within his or her jurisdiction.

(Amended by Stats. 2002, Ch. 784, Sec. 515. Effective January 1, 2003.)

1569.44.

(a) A facility shall be deemed to be an “unlicensed residential care facility for the elderly” and “maintained and operated to provide residential care” if it is unlicensed and not exempt from licensure, and any one of the following conditions is satisfied:

(1) The facility is providing care and supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.
(2) The facility is held out as, or represented as, providing care and supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.
(3) The facility accepts or retains residents who demonstrate the need for care and supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.
(4) The facility represents itself as a licensed residential facility for the elderly.

(b) No unlicensed residential facility for the elderly, as defined in subdivision (a), shall operate in this state.

(c) Upon discovery of an unlicensed residential care facility for the elderly, the department shall refer residents to the appropriate placement or adult protective services agency or the appropriate local or state long-term care ombudsman, if either of the following conditions exist:

(1) There is an immediate threat to the clients’ health and safety.
(2) The facility will not cooperate with the licensing agency to apply for a license, meet licensing standards, and obtain a valid license.

(Amended by Stats. 1989, Ch. 1115, Sec. 16.)

1569.45.

A facility shall be licensed as a residential care facility for the elderly if it offers care and supervision, as defined, to its residents. Every residential care facility for the elderly in this state shall be licensed under this chapter.

(Added by Stats. 1985, Ch. 1127, Sec. 3.)
1569.46.

Operation of an unlicensed facility shall be an act of unfair competition and an unfair business practice within the meaning of Chapter 5 (commencing with Section 17200) of the Business and Professions Code.

(Added by Stats. 1989, Ch. 1115, Sec. 17.)

1569.47.

(a) “Placement agency” means any county welfare department, county social service department, county mental health department, county public guardian, general acute care hospital discharge planner or coordinator, state-funded program or private agency providing placement or referral services, conservator pursuant to Part 3 (commencing with Section 1800) of Division 4 of the Probate Code, conservator pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code, and regional center for persons with developmental disabilities which is engaged in finding homes or other places for the placement of elderly persons for temporary or permanent care.

(b) A placement agency shall not place individuals in licensed residential care facilities for the elderly when the individual, because of his or her health condition, cannot be cared for within the limits of the license or requires inpatient care in a health facility. Violation of this subdivision is a misdemeanor.

(c) A placement agency or employee of a placement agency shall not place, refer, or recommend placement of a person in a facility providing care and supervision, or protective supervision, unless the facility is licensed as a residential care facility for the elderly or is exempt from licensing under Section 1569.145. Violation of this subdivision is a misdemeanor.

(d) Any employee of a placement agency who knows, or reasonably suspects, that a facility which is not exempt from licensing is operating without a license shall report the name and address of the facility to the department. Failure to report as required by this subdivision is a misdemeanor.

(e) The department shall investigate any report filed under subdivision (d). If the department has probable cause to believe that the facility which is the subject of the report is operating without a license, the department shall investigate the facility within 10 days after receipt of the report.

(f) A placement agency shall notify the appropriate licensing agency of any known or suspected incidents which would jeopardize the health or safety of residents in a residential care facility for the elderly. Reportable incidents include, but are not limited to, all of the following:
(1) Incidents of physical abuse.
(2) Any violation of personal rights.
(3) Any situation in which a facility is unclean, unsafe, unsanitary, or in poor condition.
(4) Any situation in which a facility has insufficient personnel or incompetent personnel on duty.
(5) Any situation in which residents experience mental or verbal abuse.

(Amended by Stats. 1991, Ch. 888, Sec. 10.)

1569.48.

An emergency resident contingency account may be established within the Technical Assistance Fund established under Section 1523.2 to which not more than 50 percent of each penalty assessed pursuant to Section 1569.49 is deposited for use by the Community Care Licensing Division of the department, at the discretion of the director, for the relocation and care of residents when a facility’s license is revoked or temporarily suspended. The money in the account shall cover costs, including, but not limited to, transportation expenses, expenses incurred in notifying family members, and any other costs directly associated with providing continuous care and supervision to the residents. The department shall seek the input of stakeholders and local agencies in developing policies for emergency resident care and supervision.

(Amended by Stats. 2014, Ch. 29, Sec. 23. Effective June 20, 2014.)

1569.481.

(a) (1) It is the intent of the Legislature in enacting this section to authorize the department to take quick, effective action to protect the health and safety of residents of residential care facilities for the elderly and to minimize the effects of transfer trauma that accompany the abrupt transfer of residents by appointing a temporary manager to assume the operation of a facility that is found to be in a condition in which continued operation by the licensee or his or her representative presents a substantial probability of imminent danger of serious physical harm or death to the residents.

(2) A temporary manager appointed pursuant to this section shall assume the operation of the facility in order to bring it into compliance with the law, facilitate a transfer of ownership to a new licensee, or ensure the orderly transfer of residents should the facility be required to close. Upon a final decision and order of revocation of the license, issuance of a temporary suspension, or a forfeiture by operation of law, the department shall immediately issue a provisional license to the appointed temporary manager. Notwithstanding the applicable sections of this code governing the revocation of a provisional license, the
provisional license issued to a temporary manager shall automatically expire upon the
termination of the temporary manager. The temporary manager shall possess the
provisional license solely for purposes of carrying out the responsibilities authorized by this
section and the duties set forth in the written agreement between the department and the
temporary manager. The temporary manager shall have no right to appeal the expiration of
the provisional license.

(b) For purposes of this section, “temporary manager” means the person, corporation, or
other entity appointed temporarily by the department as a substitute facility licensee or
administrator with authority to hire, terminate, reassign staff, obligate facility funds, alter
facility procedures, and manage the facility to correct deficiencies identified in the facility’s
operation. The temporary manager shall have the final authority to direct the care and
supervision activities of any person associated with the facility, including superseding the
authority of the licensee and the administrator.

(c) The director, in order to protect the residents of the facility from physical or mental
abuse, abandonment, or any other substantial threat to health or safety, may appoint a
temporary manager when any of the following circumstances exist:
(1) The director determines that it is necessary to temporarily suspend the license of a
residential care facility for the elderly pursuant to Section 1569.50 and the immediate
relocation of the residents is not feasible based on transfer trauma, lack of available
alternative placements, or other emergency considerations for the health and safety of the
residents.
(2) The licensee is unwilling or unable to comply with the requirements of Section 1569.525
or the requirements of Section 1569.682 regarding the safe and orderly relocation of
residents when ordered to do so by the department or when otherwise required by law.
(3) The licensee has opted to secure a temporary manager pursuant to Section 1569.525.

(d) (1) Upon appointment, the temporary manager shall complete its application for a
license to operate a residential care facility for the elderly and take all necessary steps and
make best efforts to eliminate any substantial threat to the health and safety to residents
or complete the transfer of residents to alternative placements pursuant to Section
1569.525 or 1569.682. For purposes of a provisional license issued to a temporary
manager, the licensee’s existing fire safety clearance shall serve as the fire safety clearance
for the temporary manager’s provisional license.
(2) A person shall not impede the operation of a temporary manager. The temporary
manager’s access to, or possession of, the property shall not be interfered with during the
term of the temporary manager appointment. There shall be an automatic stay for a 60-day
period subsequent to the appointment of a temporary manager of any action that would
interfere with the functioning of the facility, including, but not limited to, termination of
utility services, attachments, or setoffs of resident trust funds, and repossess of
equipment in the facility.
(e) (1) The appointment of a temporary manager shall be immediately effective and shall continue for a period not to exceed 60 days unless otherwise extended in accordance with paragraph (2) of subdivision (h) at the discretion of the department or as permitted by paragraph (2) of subdivision (d) of Section 1569.525, or unless otherwise terminated earlier by any of the following events:
(A) The temporary manager notifies the department, and the department verifies, that the facility meets state and, if applicable, federal standards for operation, and will be able to continue to maintain compliance with those standards after the termination of the appointment of the temporary manager.
(B) The department approves a new temporary manager.
(C) A new operator is licensed.
(D) The department closes the facility.
(E) A hearing or court order ends the temporary manager appointment, including the appointment of a receiver under Section 1569.482.
(F) The appointment is terminated by the department or the temporary manager.
(2) The appointment of a temporary manager shall authorize the temporary manager to act pursuant to this section. The appointment shall be made pursuant to a written agreement between the temporary manager and the department that outlines the circumstances under which the temporary manager may expend funds. The department shall provide the licensee and administrator with a copy of the accusation to appoint a temporary manager at the time of appointment. The accusation shall notify the licensee of the licensee’s right to petition the Office of Administrative Hearings for a hearing to contest the appointment of the temporary manager as described in subdivision (f) and shall provide the licensee with a form and appropriate information for the licensee’s use in requesting a hearing.
(3) The director may rescind the appointment of a temporary manager and appoint a new temporary manager at any time that the director determines the temporary manager is not adhering to the conditions of the appointment.
(f) (1) The licensee of a residential care facility for the elderly may contest the appointment of the temporary manager by filing a petition for an order to terminate the appointment of the temporary manager with the Office of Administrative Hearings within 15 days from the date of mailing of the accusation to appoint a temporary manager under subdivision (e). On the same day as the petition is filed with the Office of Administrative Hearings, the licensee shall serve a copy of the petition to the office of the director.
(2) Upon receipt of a petition under paragraph (1), the Office of Administrative Hearings shall set a hearing date and time within 10 business days of the receipt of the petition. The office shall promptly notify the licensee and the department of the date, time, and place of the hearing. The office shall assign the case to an administrative law judge. At the hearing, relevant evidence may be presented pursuant to Section 11513 of the Government Code. The administrative law judge shall issue a written decision on the petition within 10
business days of the conclusion of the hearing. The 10-day time period for holding the hearing and for rendering a decision may be extended by the written agreement of the parties.

(3) The administrative law judge shall uphold the appointment of the temporary manager if the department proves, by a preponderance of the evidence, that the circumstances specified in subdivision (c) applied to the facility at the time of the appointment. The administrative law judge shall order the termination of the temporary manager if the burden of proof is not satisfied.

(4) The decision of the administrative law judge is subject to judicial review as provided in Section 1094.5 of the Code of Civil Procedure by the superior court of the county where the facility is located. This review may be requested by the licensee of the facility or the department by filing a petition seeking relief from the order. The petition may also request the issuance of temporary injunctive relief pending the decision on the petition. The superior court shall hold a hearing within 10 business days of the filing of the petition and shall issue a decision on the petition within 10 days of the hearing. The department may be represented by legal counsel within the department for purposes of court proceedings authorized under this section.

(g) If the licensee does not protest the appointment or does not prevail at either the administrative hearing under paragraph (2) of subdivision (f) or the superior court hearing under paragraph (4) of subdivision (f), the temporary manager shall continue in accordance with subdivision (e).

(h) (1) If the licensee petitions the Office of Administrative Hearings pursuant to subdivision (f), the appointment of the temporary manager by the director pursuant to this section shall continue until it is terminated by the administrative law judge or by the superior court, or it shall continue until the conditions of subdivision (e) are satisfied, whichever is earlier.

(2) At any time during the appointment of the temporary manager, the director may request an extension of the appointment by filing a petition for hearing with the Office of Administrative Hearings and serving a copy of the petition on the licensee. The office shall proceed as specified in paragraph (2) of subdivision (f). The administrative law judge may extend the appointment of the temporary manager an additional 60 days upon a showing by the department that the conditions specified in subdivision (c) continue to exist.

(3) The licensee or the department may request review of the administrative law judge's decision on the extension as provided in paragraph (4) of subdivision (f).

(i) The temporary manager appointed pursuant to this section shall meet the following qualifications:

(1) Be qualified to oversee correction of deficiencies in a residential care facility for the elderly on the basis of experience and education.

(2) Not be the subject of any pending actions by the department or any other state agency nor have ever been excluded from a department-licensed facility or had a license or
certification suspended or revoked by an administrative action by the department or any other state agency.

(3) Have no financial ownership interest in the facility and have no member of his or her immediate family who has a financial ownership interest in the facility.

(4) Not currently serve, or within the past two years have served, as a member of the staff of the facility.

(j) Payment of the costs of the temporary manager shall comply with the following requirements:

(1) Upon agreement with the licensee, the costs of the temporary manager and any other expenses in connection with the temporary management shall be paid directly by the facility while the temporary manager is assigned to that facility. Failure of the licensee to agree to the payment of those costs may result in the payment of the costs by the department and subsequent required reimbursement of the department by the licensee pursuant to this section.

(2) Direct costs of the temporary manager shall be equivalent to the sum of the following:

(A) The prevailing fee paid by licensees for positions of the same type in the facility’s geographic area.

(B) Additional costs that reasonably would have been incurred by the licensee if the licensee and the temporary manager had been in an employment relationship.

(C) Any other reasonable costs incurred by the temporary manager in furnishing services pursuant to this section.

(3) Direct costs may exceed the amount specified in paragraph (2) if the department is otherwise unable to find a qualified temporary manager.

(k) (1) The responsibilities of the temporary manager may include, but are not limited to, the following:

(A) Paying wages to staff. The temporary manager shall have the full power to hire, direct, manage, and discharge employees of the facility, subject to any contractual rights they may have. The temporary manager shall pay employees at the same rate of compensation, including benefits, that the employees would have received from the licensee or wages necessary to provide adequate staff for the protection of clients and compliance with the law.

(B) Preserving resident funds. The temporary manager shall be entitled to, and shall take possession of, all property or assets of residents that are in the possession of the licensee or administrator of the facility. The temporary manager shall preserve all property, assets, and records of residents of which the temporary manager takes possession.

(C) Contracting for outside services as may be needed for the operation of the facility. Any contract for outside services in excess of five thousand dollars ($5,000) shall be approved by the director.
(D) Paying commercial creditors of the facility to the extent required to operate the facility. The temporary manager shall honor all leases, mortgages, and secured transactions affecting the building in which the facility is located and all goods and fixtures in the building, but only to the extent of payments that, in the case of a rental agreement, are for the use of the property during the period of the temporary management, or that, in the case of a purchase agreement, come due during the period of the temporary management. 

(E) Performing all acts that are necessary and proper to maintain and operate the facility in accordance with sound fiscal policies. The temporary manager shall take action as is reasonably necessary to protect or conserve the assets or property of which the temporary manager takes possession and may use those assets or property only in the performance of the powers and duties set forth in this section.

(2) Expenditures by the temporary manager in excess of five thousand dollars ($5,000) shall be approved by the director. Total encumbrances and expenditures by the temporary manager for the duration of the temporary management shall not exceed the sum of forty-nine thousand nine hundred ninety-nine dollars ($49,999) unless approved by the director in writing.

(3) The temporary manager shall not make capital improvements to the facility in excess of five thousand dollars ($5,000) without the approval of the director.

(I) (1) To the extent department funds are advanced for the costs of the temporary manager or for other expenses in connection with the temporary management, the department shall be reimbursed from the revenues accruing to the facility or to the licensee or an entity related to the licensee. Any reimbursement received by the department shall be redeposited in the account from which the department funds were advanced. If the revenues are insufficient to reimburse the department, the unreimbursed amount shall constitute grounds for a monetary judgment in civil court and a subsequent lien upon the assets of the facility or the proceeds from the sale thereof. Pursuant to Chapter 2 (commencing with Section 697.510) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure, a lien against the personal assets of the facility or an entity related to the licensee based on the monetary judgment obtained shall be filed with the Secretary of State on the forms required for a notice of judgment lien. A lien against the real property of the facility or an entity related to the licensee based on the monetary judgment obtained shall be recorded with the county recorder of the county where the facility of the licensee is located or where the real property of the entity related to the licensee is located. The lien shall not attach to the interests of a lessor, unless the lessor is operating the facility. The authority to place a lien against the personal and real property of the licensee for the reimbursement of any state funds expended pursuant to this section shall be given judgment creditor priority.

(2) For purposes of this section, “entity related to the licensee” means an entity, other than a natural person, of which the licensee is a subsidiary or an entity in which a person who
was obligated to disclose information under Section 1569.15 possesses an interest that would also require disclosure pursuant to Section 1569.15.

(m) Appointment of a temporary manager under this section does not relieve the licensee of any responsibility for the care and supervision of residents under this chapter. The licensee, even if the license is deemed surrendered or the facility abandoned, shall be required to reimburse the department for all costs associated with operation of the facility during the period the temporary manager is in place that are not accounted for by using facility revenues or for the relocation of residents handled by the department if the licensee fails to comply with the relocation requirements of Section 1569.525 or 1569.682 when required by the department to do so. If the licensee fails to reimburse the department under this section, then the department, along with using its own remedies available under this chapter, may request that the Attorney General’s office, the city attorney’s office, or the local district attorney’s office seek any available criminal, civil, or administrative remedy, including, but not limited to, injunctive relief, restitution, and damages in the same manner as provided for in Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code.

(n) The department may use funds from the emergency resident contingency account pursuant to Section 1569.48 when needed to supplement the operation of the facility or the transfer of residents under the control of the temporary manager appointed under this section if facility revenues are unavailable or exhausted when needed. Pursuant to subdivision (l), the licensee shall be required to reimburse the department for any funds used from the emergency resident contingency account during the period of control of the temporary manager and any incurred costs of collection.

(o) This section does not apply to a residential care facility for the elderly that serves six or fewer persons and is also the principal residence of the licensee.

(p) Notwithstanding any other provision of law, the temporary manager shall be liable only for damages resulting from gross negligence in the operation of the facility or intentional tortious acts.

(q) All governmental immunities otherwise applicable to the state shall also apply to the state in the use of a temporary manager in the operation of a facility pursuant to this section.

(r) A licensee shall not be liable for any occurrences during the temporary management under this section except to the extent that the occurrences are the result of the licensee’s conduct.

(s) The department may adopt regulations for the administration of this section.

(Amended by Stats. 2014, Ch. 685, Sec. 5. Effective September 27, 2014.)

1569.482.
(a) It is the intent of the Legislature in enacting this section to authorize the department to take quick, effective action to protect the health and safety of residents of residential care facilities for the elderly and to minimize the effects of transfer trauma that accompany the abrupt transfer of residents through a system whereby the department may apply for a court order appointing a receiver to temporarily operate a residential care facility for the elderly. The receivership is not intended to punish a licensee or to replace attempts to secure cooperative action to protect the residents’ health and safety. The receivership is intended to protect the residents in the absence of other reasonably available alternatives. The receiver shall assume the operation of the facility in order to bring it into compliance with law, facilitate a transfer of ownership to a new licensee, or ensure the orderly transfer of residents should the facility be required to close.

(b) (1) Whenever circumstances exist indicating that continued management of a residential care facility by the current licensee would present a substantial probability or imminent danger of serious physical harm or death to the residents, or the facility is closing or intends to terminate operation as a residential care facility for the elderly and adequate arrangements for relocation of residents have not been made at least 30 days prior to the closing or termination, the director may petition the superior court for the county in which the facility is located for an order appointing a receiver to temporarily operate the facility in accordance with this section.

(2) The petition shall allege the facts upon which the action is based and shall be supported by an affidavit of the director. A copy of the petition and affidavits, together with an order to appear and show cause why temporary authority to operate the residential care facility for the elderly should not be vested in a receiver pursuant to this section, shall be delivered to the licensee, administrator, or a responsible person at the facility to the attention of the licensee and administrator. The order shall specify a hearing date, which shall be not less than 10, nor more than 15, days following delivery of the petition and order upon the licensee, except that the court may shorten or lengthen the time upon a showing of just cause.

(c) (1) If the director files a petition pursuant to subdivision (b) for appointment of a receiver to operate a residential care facility for the elderly, in accordance with Section 564 of the Code of Civil Procedure, the director may also petition the court, in accordance with Section 527 of the Code of Civil Procedure, for an order appointing a temporary receiver. A temporary receiver appointed by the court pursuant to this subdivision shall serve until the court has made a final determination on the petition for appointment of a receiver filed pursuant to subdivision (b). A receiver appointed pursuant to this subdivision shall have the same powers and duties as a receiver would have if appointed pursuant to subdivision (b). Upon the director filing a petition for a receiver, the receiver shall complete its application for a provisional license to operate a residential care facility for the elderly. For purposes of
a provisional license issued to a receiver, the licensee’s existing fire safety clearance shall serve as the fire safety clearance for the receiver’s provisional license.

(2) At the time of the hearing, the department shall advise the licensee of the name of the proposed receiver. The receiver shall be a certified residential care facility for the elderly administrator or other responsible person or entity, as determined by the court, from a list of qualified receivers established by the department, and, if need be, with input from providers of residential care and consumer representatives. Persons appearing on the list shall have experience in the delivery of care services to clients of community care facilities, and, if feasible, shall have experience with the operation of a residential care facility for the elderly, shall not be the subject of any pending actions by the department or any other state agency, and shall not have ever been excluded from a department licensed facility nor have had a license or certification suspended or revoked by an administrative action by the department or any other state agency. The receivers shall have sufficient background and experience in management and finances to ensure compliance with orders issued by the court. The owner, licensee, or administrator shall not be appointed as the receiver unless authorized by the court.

(3) If at the conclusion of the hearing, which may include oral testimony and cross-examination at the option of any party, the court determines that adequate grounds exist for the appointment of a receiver and that there is no other reasonably available remedy to protect the residents, the court may issue an order appointing a receiver to temporarily operate the residential care facility for the elderly and enjoining the licensee from interfering with the receiver in the conduct of his or her duties. In these proceedings, the court shall make written findings of fact and conclusions of law and shall require an appropriate bond to be filed by the receiver and paid for by the licensee. The bond shall be in an amount necessary to protect the licensee in the event of any failure on the part of the receiver to act in a reasonable manner. The bond requirement may be waived by the licensee.

(4) The court may permit the licensee to participate in the continued operation of the facility during the pendency of any receivership ordered pursuant to this section and shall issue an order detailing the nature and scope of participation.

(5) Failure of the licensee to appear at the hearing on the petition shall constitute an admission of all factual allegations contained in the petition for purposes of these proceedings only.

(6) The licensee shall receive notice and a copy of the application each time the receiver applies to the court or the department for instructions regarding his or her duties under this section, when an accounting pursuant to subdivision (i) is submitted, and when any other report otherwise required under this section is submitted. The licensee shall have an opportunity to present objections or otherwise participate in those proceedings.
(d) A person shall not impede the operation of a receivership created under this section. The receiver’s access to, or possession of, the property shall not be interfered with during the term of the receivership. There shall be an automatic stay for a 60-day period subsequent to the appointment of a receiver of any action that would interfere with the functioning of the facility, including, but not limited to, cancellation of insurance policies executed by the licensees, termination of utility services, attachments, or setoffs of resident trust funds and working capital accounts and repossession of equipment in the facility.

(e) When a receiver is appointed, the licensee may, at the discretion of the court, be divested of possession and control of the facility in favor of the receiver. If the court divests the licensee of possession and control of the facility in favor of the receiver, the department shall immediately issue a provisional license to the receiver. Notwithstanding the applicable sections of this code governing the revocation of a provisional license, the provisional license issued to a receiver shall automatically expire upon the termination of the receivership. The receiver shall possess the provisional license solely for purposes of carrying out the responsibilities authorized by this section and the duties ordered by the court. The receiver shall have no right to appeal the expiration of the provisional license.

(f) A receiver appointed pursuant to this section:

(1) May exercise those powers and shall perform those duties ordered by the court, in addition to other duties provided by statute.

(2) Shall operate the facility in a manner that ensures the safety and adequate care for the residents.

(3) Shall have the same rights to possession of the building in which the facility is located, and of all goods and fixtures in the building at the time the petition for receivership is filed, as the licensee and administrator would have had if the receiver had not been appointed.

(4) May use the funds, building, fixtures, furnishings, and any accompanying consumable goods in the provision of care and services to residents and to any other persons receiving services from the facility at the time the petition for receivership was filed.

(5) Shall take title to all revenue coming to the facility in the name of the receiver who shall use it for the following purposes in descending order of priority:

(A) To pay wages to staff. The receiver shall have full power to hire, direct, manage, and discharge employees of the facility, subject to any contractual rights they may have. The receiver shall pay employees at the same rate of compensation, including benefits, that the employees would have received from the licensee or wages necessary to provide adequate staff for the protection of the clients and compliance with the law.

(B) To preserve resident funds. The receiver shall be entitled to, and shall take, possession of all property or assets of residents that are in the possession of the licensee or operator of the facility. The receiver shall preserve all property, assets, and records of residents of which the receiver takes possession.
(C) To contract for outside services as may be needed for the operation of the residential care facility for the elderly. Any contract for outside services in excess of five thousand dollars ($5,000) shall be approved by the court.

(D) To pay commercial creditors of the facility to the extent required to operate the facility. Except as provided in subdivision (h), the receiver shall honor all leases, mortgages, and secured transactions affecting the building in which the facility is located and all goods and fixtures in the building of which the receiver has taken possession, but only to the extent of payments which, in the case of a rental agreement, are for the use of the property during the period of receivership, or which, in the case of a purchase agreement, come due during the period of receivership.

(E) To receive a salary, as approved by the court.

(F) To do all things necessary and proper to maintain and operate the facility in accordance with sound fiscal policies. The receiver shall take action as is reasonably necessary to protect or conserve the assets or property of which the receiver takes possession and may use those assets or property only in the performance of the powers and duties set out in this section and by order of the court.

(G) To ask the court for direction in the treatment of debts incurred prior to the appointment, if the licensee’s debts appear extraordinary, of questionable validity, or unrelated to the normal and expected maintenance and operation of the facility, or if payment of the debts will interfere with the purposes of receivership.

(g) (1) A person who is served with notice of an order of the court appointing a receiver and of the receiver’s name and address shall be liable to pay the receiver, rather than the licensee, for any goods or services provided by the residential care facility for the elderly after the date of the order. The receiver shall give a receipt for each payment and shall keep a copy of each receipt on file. The receiver shall deposit amounts received in a special account and shall use this account for all disbursements. Payment to the receiver pursuant to this subdivision shall discharge the obligation to the extent of the payment and shall not thereafter be the basis of a claim by the licensee or any other person. A resident shall not be evicted nor may any contract or rights be forfeited or impaired, nor may any forfeiture be effected or liability increased, by reason of an omission to pay the licensee, operator, or other person a sum paid to the receiver pursuant to this subdivision.

(2) This section shall not be construed to suspend, during the temporary management by the receiver, any obligation of the licensee for payment of local, state, or federal taxes. A licensee shall not be held liable for acts or omissions of the receiver during the term of the temporary management.

(3) Upon petition of the receiver, the court may order immediate payment to the receiver for past services that have been rendered and billed, and the court may also order a sum not to exceed one month’s advance payment to the receiver of any sums that may become payable under the Medi-Cal program.
(h) (1) A receiver shall not be required to honor a lease, mortgage, or secured transaction entered into by the licensee of the facility and another party if the court finds that the agreement between the parties was entered into for a collusive, fraudulent purpose or that the agreement is unrelated to the operation of the facility.

(2) A lease, mortgage, or secured transaction or an agreement unrelated to the operation of the facility that the receiver is permitted to dishonor pursuant to this subdivision shall only be subject to nonpayment by the receiver for the duration of the receivership, and the dishonoring of the lease, mortgage, security interest, or other agreement, to this extent, by the receiver shall not relieve the owner or operator of the facility from any liability for the full amount due under the lease, mortgage, security interest, or other agreement.

(3) If the receiver is in possession of real estate or goods subject to a lease, mortgage, or security interest that the receiver is permitted to avoid pursuant to paragraph (1), and if the real estate or goods are necessary for the continued operation of the facility, the receiver may apply to the court to set a reasonable rent, price, or rate of interest to be paid by the receiver during the duration of the receivership. The court shall hold a hearing on this application within 15 days. The receiver shall send notice of the application to any known owner of the property involved at least 10 days prior to the hearing.

(4) Payment by the receiver of the amount determined by the court to be reasonable is a defense to any action against the receiver for payment or possession of the goods or real estate, subject to the lease or mortgage, which is brought by any person who received the notice required by this subdivision. However, payment by the receiver of the amount determined by the court to be reasonable shall not relieve the owner or operator of the facility from any liability for the difference between the amount paid by the receiver and the amount due under the original lease, mortgage, or security interest.

(i) A monthly accounting shall be made by the receiver to the department of all moneys received and expended by the receiver on or before the 15th day of the following month or as ordered by the court, and the remainder of income over expenses for that month shall be returned to the licensee. A copy of the accounting shall be provided to the licensee. The licensee or owner of the residential care facility for the elderly may petition the court for a determination as to the reasonableness of any expenditure made pursuant to paragraph (5) of subdivision (f).

(j) (1) The receiver shall be appointed for an initial period of not more than three months. The initial three-month period may be extended for additional periods not exceeding three months, as determined by the court pursuant to this section. At the end of one month, the receiver shall report to the court on its assessment of the probability that the residential care facility for the elderly will meet state standards for operation by the end of the initial three-month period and will continue to maintain compliance with those standards after termination of the receiver’s management. If it appears that the facility cannot be brought
into compliance with state standards within the initial three-month period, the court shall take appropriate action as follows:

(A) Extend the receiver’s management for an additional three months if there is a substantial likelihood that the facility will meet state standards within that period and will maintain compliance with the standards after termination of the receiver’s management. The receiver shall report to the court in writing upon the facility’s progress at the end of six weeks of any extension ordered pursuant to this paragraph.

(B) Order the director to revoke or temporarily suspend, or both, the license pursuant to Section 1569.50 and extend the receiver’s management for the period necessary to transfer clients in accordance with the transfer plan, but for not more than three months from the date of initial appointment of a receiver, or 14 days, whichever is greater. An extension of an additional three months may be granted if deemed necessary by the court.

(2) If it appears at the end of six weeks of an extension ordered pursuant to subparagraph (A) of paragraph (1) that the facility cannot be brought into compliance with state standards for operation or that it will not maintain compliance with those standards after the receiver’s management is terminated, the court shall take appropriate action as specified in subparagraph (B) of paragraph (1).

(3) In evaluating the probability that a residential care facility for the elderly will maintain compliance with state standards of operation after the termination of receiver management ordered by the court, the court shall consider at least the following factors:

(A) The duration, frequency, and severity of past violations in the facility.

(B) History of compliance in other care facilities operated by the proposed licensee.

(C) Efforts by the licensee to prevent and correct past violations.

(D) The financial ability of the licensee to operate in compliance with state standards.

(E) The recommendations and reports of the receiver.

(4) Management of a residential care facility for the elderly operated by a receiver pursuant to this section shall not be returned to the licensee, to any person related to the licensee, or to any person who served as a member of the facility’s staff or who was employed by the licensee prior to the appointment of the receiver unless both of the following conditions are met:

(A) The department believes that it would be in the best interests of the residents of the facility, requests that the court return the operation of the facility to the former licensee, and provides clear and convincing evidence to the court that it is in the best interests of the facility’s residents to take that action.

(B) The court finds that the licensee has fully cooperated with the department in the appointment and ongoing activities of a receiver appointed pursuant to this section, and, if applicable, any temporary manager appointed pursuant to Section 1569.481.

(5) The owner of the facility may at any time sell, lease, or close the facility, subject to the following provisions:
(A) If the owner closes the facility, or the sale or lease results in the closure of the facility, the court shall determine if a transfer plan is necessary. If the court so determines, the court shall adopt and implement a transfer plan consistent with the provisions of Section 1569.682.

(B) If the licensee proposes to sell or lease the facility and the facility will continue to operate as a residential care facility for the elderly, the court and the department shall reevaluate any proposed transfer plan. If the court and the department determine that the sale or lease of the facility will result in compliance with licensing standards, the transfer plan and the receivership shall, subject to those conditions that the court may impose and enforce, be terminated upon the effective date of the sale or lease.

(k) (1) The salary of the receiver shall be set by the court commensurate with community care facility industry standards, giving due consideration to the difficulty of the duties undertaken, and shall be paid from the revenue coming to the facility. If the revenue is insufficient to pay the salary in addition to other expenses of operating the facility, the receiver’s salary shall be paid from the emergency resident contingency account as provided in Section 1569.48. State advances of funds in excess of five thousand dollars ($5,000) shall be approved by the director. Total advances for encumbrances and expenditures shall not exceed the sum of forty-nine thousand nine hundred ninety-nine dollars ($49,999) unless approved by the director in writing.

(2) To the extent state funds are advanced for the salary of the receiver or for other expenses in connection with the receivership, as limited by subdivision (g), the state shall be reimbursed from the revenues accruing to the facility or to the licensee or an entity related to the licensee. Any reimbursement received by the state shall be redeposited in the account from which the state funds were advanced. If the revenues are insufficient to reimburse the state, the unreimbursed amount shall constitute grounds for a monetary judgment in civil court and a subsequent lien upon the assets of the facility or the proceeds from the sale thereof. Pursuant to Chapter 2 (commencing with Section 697.510) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure, a lien against the personal assets of the facility or an entity related to the licensee based on the monetary judgment obtained shall be filed with the Secretary of State on the forms required for a notice of judgment lien. A lien against the real property of the facility or an entity related to the licensee based on the monetary judgment obtained shall be recorded with the county recorder of the county where the facility of the licensee is located or where the real property of the entity related to the licensee is located. The lien shall not attach to the interests of a lessor, unless the lessor is operating the facility. The authority to place a lien against the personal and real property of the licensee for the reimbursement of any state funds expended pursuant to this section shall be given judgment creditor priority.

(3) For purposes of this subdivision, “entity related to the licensee” means an entity, other than a natural person, of which the licensee is a subsidiary or an entity in which any person
who was obligated to disclose information under Section 1569.15 possesses an interest that would also require disclosure pursuant to Section 1569.15.

(l) (1) This section does not impair the right of the owner of a residential care facility for the elderly to dispose of his or her property interests in the facility, but any facility operated by a receiver pursuant to this section shall remain subject to that administration until terminated by the court. The termination shall be promptly effectuated, provided that the interests of the residents have been safeguarded as determined by the court.

(2) This section does not limit the power of the court to appoint a receiver under any other applicable provision of law or to order any other remedy available under law.

(m) (1) Notwithstanding any other provision of law, the receiver shall be liable only for damages resulting from gross negligence in the operation of the facility or intentional tortious acts.

(2) All governmental immunities otherwise applicable to the State of California shall also apply in the use of a receiver in the operation of a facility pursuant to this section.

(3) The licensee shall not be liable for any occurrences during the receivership except to the extent that the occurrences are the result of the licensee’s conduct.

(n) The department may adopt regulations for the administration of this section. This section does not impair the authority of the department to temporarily suspend licenses under Section 1569.50 or to reach a voluntary agreement with the licensee for alternate management of a community care facility including the use of a temporary manager under Section 1569.481. This section does not authorize the department to interfere in a labor dispute.

(o) This section does not apply to a residential care facility for the elderly that serves six or fewer persons and is also the principal residence of the licensee.

(p) This section does not apply to a licensee that has obtained a certificate of authority to offer continuing care contracts, as defined in paragraph (8) of subdivision (c) of Section 1771.

(Amended by Stats. 2014, Ch. 685, Sec. 6. Effective September 27, 2014.)

1569.485.

(a) Notwithstanding any other provision of this chapter, any person who violates Section 1569.10 or 1569.44, or both, shall be assessed by the department an immediate civil penalty in the amount of one hundred dollars ($100) per resident for each day of the violation, unless other remedies available to the department, including criminal prosecution, are deemed more effective by the department.

(b) The civil penalty authorized in subdivision (a) shall be doubled if an unlicensed facility is operated and the operator refuses to seek licensure or the operator seeks licensure and the licensure application is denied and the operator continues to operate the unlicensed
facility, unless other remedies available to the department, including criminal prosecution, are deemed more effective by the department.
(c) An operator may appeal the assessment to the director. The department shall adopt regulations setting forth the appeal procedure.

(Amended by Stats. 1990, Ch. 1488, Sec. 2.)

1569.49.

(a) In addition to the suspension, temporary suspension, or revocation of a license issued under this chapter, the department may levy a civil penalty. The department shall adopt regulations setting forth the appeal procedures for deficiencies.
(b) The amount of the civil penalty shall not be less than twenty-five dollars ($25) or more than fifty dollars ($50) per day for each violation of this chapter except where the nature or seriousness of the violation or the frequency of the violation warrants a higher penalty or an immediate civil penalty assessment, or both, as determined by the department. In no event, shall a civil penalty assessment exceed one hundred fifty dollars ($150) per day per violation.
(c) Notwithstanding Section 1569.33, the department shall assess an immediate civil penalty of one hundred fifty dollars ($150) per day per violation for any of the following serious violations:
(1) (A) Fire clearance violations, including, but not limited to, overcapacity, ambulatory status, inoperable smoke alarms, and inoperable fire alarm systems. The civil penalty shall not be assessed if the licensee has done either of the following:
(i) Requested the appropriate fire clearance based on ambulatory, nonambulatory, or bedridden status, and the decision is pending.
(ii) Initiated eviction proceedings.
(B) A licensee denied a clearance for bedridden residents may appeal to the fire authority, and, if that appeal is denied, may subsequently appeal to the Office of the State Fire Marshal, and shall not be assessed an immediate civil penalty until the final appeal is decided, or after 60 days has passed from the date of the citation, whichever is earlier.
(2) Absence of supervision as required by statute or regulation.
(3) Accessible bodies of water, when prohibited in this chapter or regulations adopted pursuant to this chapter.
(4) Accessible firearms, ammunition, or both.
(5) Refused entry to a facility or any part of a facility in violation of Section 1569.32, 1569.33, or 1569.35.
(6) The presence of an excluded person on the premises.
(d) Notwithstanding Section 1569.33, any residential care facility for the elderly that is cited for repeating the same violation of this chapter within 12 months of the first violation is
subject to an immediate civil penalty of one hundred fifty dollars ($150) and fifty dollars ($50) for each day the violation continues until the deficiency is corrected.
(e) Any residential care facility for the elderly that is assessed a civil penalty pursuant to subdivision (d) which repeats the same violation of this chapter within 12 months of the violation subject to subdivision (d) shall be assessed an immediate civil penalty of one thousand dollars ($1,000) and one hundred dollars ($100) for each day the violation continues until the deficiency is corrected.
(f) The department shall adopt regulations implementing this section.
(g) This section shall become inoperative on July 1, 2015, and, as of January 1, 2016, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2016, deletes or extends the dates on which it becomes inoperative and is repealed.

(Amended by Stats. 2014, Ch. 813, Sec. 5. Effective January 1, 2015. Inoperative July 1, 2015. Repealed as of January 1, 2016, by its own provisions. See later operative version added by Sec. 6 of Stats. 2014, Ch. 813.)

1569.49.  
(a) In addition to the suspension, temporary suspension, or revocation of a license issued under this chapter, the department may levy a civil penalty.
(b) The amount of the civil penalty shall not be less than twenty-five dollars ($25) or more than fifty dollars ($50) per day for each violation of this chapter except where the nature or seriousness of the violation or the frequency of the violation warrants a higher penalty or an immediate civil penalty assessment, or both, as determined by the department. In no event, shall a civil penalty assessment exceed one hundred fifty dollars ($150) per day per violation.
(c) Notwithstanding Section 1569.33, the department shall assess an immediate civil penalty of one hundred fifty dollars ($150) per day per violation for any of the following serious violations:
(1) (A) Fire clearance violations, including, but not limited to, overcapacity, ambulatory status, inoperable smoke alarms, and inoperable fire alarm systems. The civil penalty shall not be assessed if the licensee has done either of the following:
(i) Requested the appropriate fire clearance based on ambulatory, nonambulatory, or bedridden status, and the decision is pending.
(ii) Initiated eviction proceedings.
(B) A licensee denied a clearance for bedridden residents may appeal to the fire authority, and, if that appeal is denied, may subsequently appeal to the Office of the State Fire Marshal, and shall not be assessed an immediate civil penalty until the final appeal is decided, or after 60 days has passed from the date of the citation, whichever is earlier.
(2) Absence of supervision as required by statute or regulation.
(3) Accessible bodies of water, when prohibited in this chapter or regulations adopted pursuant to this chapter.
(4) Accessible firearms, ammunition, or both.
(5) Refused entry to a facility or any part of a facility in violation of Section 1569.32, 1569.33, or 1569.35.
(6) The presence of an excluded person on the premises.
(d) For a violation that the department determines resulted in the death of a resident, the civil penalty shall be fifteen thousand dollars ($15,000).
(e) For a violation that the department determines constitutes physical abuse, as defined in Section 15610.63 of the Welfare and Institutions Code, or resulted in serious bodily injury, as defined in Section 15610.67 of the Welfare and Institutions Code, to a resident, the civil penalty shall be ten thousand dollars ($10,000).
(f) Prior to the issuance of a citation imposing a civil penalty pursuant to subdivision (d) or (e), the decision shall be approved by the director.
(g) Notwithstanding Section 1569.33, any residential care facility for the elderly that is cited for repeating the same violation of this chapter within 12 months of the first violation is subject to an immediate civil penalty of one hundred fifty dollars ($150) and fifty dollars ($50) for each day the violation continues until the deficiency is corrected.
(h) Any residential care facility for the elderly that is assessed a civil penalty pursuant to subdivision (g) that repeats the same violation of this chapter within 12 months of the violation subject to subdivision (g) shall be assessed an immediate civil penalty of one thousand dollars ($1,000) and one hundred dollars ($100) for each day the violation continues until the deficiency is corrected.
(i) (1) The department shall adopt regulations setting forth the appeal procedures for deficiencies.
(2) A licensee shall have the right to submit to the department a written request for a formal review of a civil penalty assessed pursuant to subdivisions (d) and (e) within 10 days of receipt of the notice of a civil penalty assessment and shall provide all supporting documentation at that time. The review shall be conducted by a regional manager of the Community Care Licensing Division. If the regional manager determines that the civil penalty was not assessed in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty. The licensee shall be notified in writing of the regional manager’s decision within 60 days of the request to review the assessment of the civil penalty.
(3) The licensee may further appeal to the program administrator of the Community Care Licensing Division within 10 days of receipt of the notice of the regional manager’s decision and shall provide all supporting documentation at that time. If the program administrator determines that the civil penalty was not assessed in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty. The
licensee shall be notified in writing of the program administrator’s decision within 60 days of the request to review the regional manager’s decision.

(4) The licensee may further appeal to the deputy director of the Community Care Licensing Division within 10 days of receipt of the notice of the program director’s decision and shall provide all supporting documentation at that time. If the deputy director determines that the civil penalty was not assessed in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty. The licensee shall be notified in writing of the deputy director’s decision within 60 days of the request to review the program administrator’s decision.

(5) Upon exhausting the deputy director review, a licensee may appeal a civil penalty assessed pursuant to subdivision (d) or (e) to an administrative law judge. 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 shall have all the powers granted by those provisions. In all proceedings conducted in accordance with this section, the standard of proof shall be by a preponderance of the evidence.

(6) If, in addition to an assessment of civil penalties, the department elects to file an administrative action to suspend or revoke the facility license that includes violations relating to the assessment of the civil penalties, the department review of the pending appeal shall cease and the assessment of the civil penalties shall be heard as part of the administrative action process.

(j) The department shall adopt regulations implementing this section.

(k) The department shall, by January 1, 2016, amend its regulations to reflect the changes to this section made by the act that added this subdivision.

(l) This section shall become operative on July 1, 2015.

(Repealed (in Sec. 5) and added by Stats. 2014, Ch. 813, Sec. 6. Effective January 1, 2015. Section operative July 1, 2015, by its own provisions.)

1569.495.

The civil, criminal, and administrative remedies available to the department pursuant to this article are not exclusive, and may be sought and employed in any combination deemed advisable by the state department to enforce this chapter.

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

ARTICLE 5. Suspension and Revocation [1569.50 - 1569.545]

(Article 5 added by Stats. 1985, Ch. 1127, Sec. 3.)

1569.50.
(a) The department may deny an application for a license or may suspend or revoke a license issued under this chapter upon any of the following grounds and in the manner provided in this chapter:
(1) Violation by the licensee of this chapter or of the rules and regulations adopted under this chapter.
(2) Aiding, abetting, or permitting the violation of this chapter or of the rules and regulations adopted under this chapter.
(3) Conduct that is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility or the people of the State of California.
(4) The conviction of a licensee, or other person mentioned in Section 1569.17 at any time before or during licensure, of a crime as defined in Section 1569.17.
(5) Engaging in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services for the care of clients.
(b) The director may temporarily suspend a license, prior to a hearing when, in the opinion of the director, the action is necessary to protect residents or clients of the facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety. The director shall notify the licensee of the temporary suspension and the effective date of the temporary suspension and at the same time shall serve the provider with an accusation. Upon receipt of a notice of defense to the accusation by the licensee, the director shall, within 15 days, set the matter for hearing, and the hearing shall be held as soon as possible but not later than 30 days after receipt of the notice. The temporary suspension shall remain in effect until the time the hearing is completed and the director has made a final determination on the merits. However, the temporary suspension shall be deemed vacated if the director fails to make a final determination on the merits within 30 days after the original hearing has been completed.
(c) 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 revocation 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. 2. Effective January 1, 2015.)

1569.51.

(a) Proceedings for the suspension, revocation, or denial of a license under this chapter shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the state
department shall have all the powers granted by these provisions. In the event of conflict between this chapter and those provisions of the Government Code, the provisions of the Government Code shall prevail.

(b) In all proceedings conducted in accordance with this section, the standard of proof to be applied shall be by the preponderance of the evidence.

(c) If the license is not temporarily suspended pursuant to Section 1569.50, the hearing shall be held within 90 days after receipt of the notice of defense, unless a continuance of the hearing is granted by the department or the administrative law judge. When the matter has been set for hearing only the administrative law judge may grant a continuance of the hearing. The administrative law judge may, but need not, grant a continuance of the hearing, only upon finding the existence of one or more of the following:

(1) The death or incapacitating illness of a party, a representative or attorney of a party, a witness to an essential fact, or of the parent, child, or member of the household of such person, when it is not feasible to substitute another representative, attorney, or witness because of the proximity of the hearing date.

(2) Lack of notice of hearing as provided in Section 11509 of the Government Code.

(3) A material change in the status of the case where a change in the parties or pleadings requires postponement, or an executed settlement or stipulated findings of fact obviate the need for hearing. A partial amendment of the pleadings shall not be good cause for continuance to the extent that the unamended portion of the pleadings is ready to be heard.

(4) A stipulation for continuance signed by all parties or their authorized representatives, including, but not limited to, a representative, which is communicated with the request for continuance to the administrative law judge no later than 25 business days before the hearing.

(5) The substitution of the representative or attorney of a party upon showing that the substitution is required.

(6) The unavailability of a party, representative, or attorney of a party, or witness to an essential fact due to a conflicting and required appearance in a judicial matter if when the hearing date was set, the person did not know and could neither anticipate nor at any time avoid the conflict, and the conflict with request for continuance is immediately communicated to the administrative law judge.

(7) The unavailability of a party, a representative or attorney of a party, or a material witness due to an unavoidable emergency.

(8) Failure by a party to comply with a timely discovery request if the continuance request is made by the party who requested the discovery.

(Amended by Stats. 1992, Ch. 1315, Sec. 22. Effective January 1, 1993.)

1569.510.
(a) The department shall conduct an unannounced visit to a facility within 30 days after the effective date of a temporary suspension of a license in order to ensure that the facility is nonoperational, unless the department previously has verified that the facility is nonoperational.
(b) The department shall conduct an unannounced visit to a facility within 30 days after the effective date of a revocation of a license in order to ensure that the facility is nonoperational, unless the department previously has verified that the facility is nonoperational.

(Added by Stats. 2008, Ch. 291, Sec. 17. Effective September 25, 2008.)

1569.511.

(a) The administrative law judge conducting a hearing under this article may permit the testimony of a child witness, or a similarly vulnerable witness, including a witness who is developmentally disabled, to be taken outside the presence of the respondent or respondents if all of the following conditions exist:
(1) The administrative law judge determines that taking the witness’s testimony outside the presence of the respondent or respondents is necessary to ensure truthful testimony.
(2) The witness is likely to be intimidated by the presence of the respondent or respondents.
(3) The witness is afraid to testify in front of the respondent or respondents.
(b) If the testimony of the witness is taken outside of the presence of the respondent or respondents, the department shall provide for the use of one-way closed-circuit television so the respondent or respondents can observe the testimony of the witness. Nothing in this section shall limit a respondent’s right of cross-examination.
(c) The administrative law judge conducting a hearing under this section may clear the hearing room of any persons who are not a party to the action in order to protect any witness from intimidation or other harm, taking into account the rights of all persons.

(Added by Stats. 1994, Ch. 1267, Sec. 7. Effective January 1, 1995.)

1569.512.

(a) (1) An out-of-court statement made by a minor under 12 years of age who is the subject or victim of an allegation at issue is admissible evidence at an administrative hearing conducted pursuant to this article. The out-of-court statement may be used to support a finding of fact unless an objection is timely made and the objecting party establishes that the statement is unreliable because it was the product of fraud, deceit, or
undue influence. However, the out-of-court statement may not be the sole basis for the finding of fact, unless the adjudicator finds that the time, content, and circumstances of the statement provide sufficient indicia of reliability.

(2) The proponent of the statement shall give reasonable notice to all parties of the intended introduction of the statement at the hearing.

(3) For purposes of this subdivision, an objection is timely if it identifies with reasonable specificity the disputed out-of-court statement and it gives the proponent of the evidence a reasonable period of time to prepare a response to the objection prior to the hearing.

(b) This section shall not be construed to limit the right of any party to the administrative hearing to subpoena a witness whose statement is admitted as evidence or to introduce admissible evidence relevant to the weight of the hearsay evidence or the credibility of the hearsay declarant.

(Added by Stats. 2002, Ch. 707, Sec. 3. Effective January 1, 2003.)

1569.515.

In addition to the witness fees and mileage provided by Section 11450.40 of the Government Code, the department may pay actual, necessary, and reasonable expenses in an amount not to exceed the per diem allowance payable to a nonrepresented state employee on travel status. The department may pay witness expenses pursuant to this section in advance of the hearing.

(Amended by Stats. 1995, Ch. 938, Sec. 62. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938.)

1569.52.

The withdrawal of an application for a license after it has been filed with the department shall not, unless the department consents in writing to such withdrawal, deprive the department of its authority to institute or continue a proceeding against the applicant for the denial of the license upon any ground provided by law or to enter an order denying the license upon any such ground.

The suspension, expiration, or forfeiture by operation of law of a license issued by the department, or its suspension, forfeiture, or cancellation by order of the department or by order of a court of law, or its surrender without the written consent of the department, shall not deprive the department of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

(Added by Stats. 1985, Ch. 1127, Sec. 3.)
1569.525.

(a) If the director determines that it is necessary to temporarily suspend or to revoke any license of a residential care facility for the elderly in order to protect the residents or clients of the facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety pursuant to Section 1569.50, the department shall make every effort to minimize trauma for the residents.

(b) (1) (A) After a decision is made to temporarily suspend or, upon an order, to revoke the license of a residential care facility for the elderly which is likely to result in closure of the facility, the department shall contact both of the following:

(i) The Office of the State Long-Term Care Ombudsman.

(ii) Any local agency that may have placement or advocacy responsibility for the residents of a residential care facility for the elderly.

(B) The department shall work with these agencies, and the licensee if the director determines it to be appropriate, to locate alternative placement sites and to contact relatives or other persons responsible for the care of these residents, and to assist in the transfer of residents.

(2) The department shall use appropriately skilled professionals deemed appropriate by the department to provide onsite evaluation of the residents and assist in any transfers.

(3) The department shall require the licensee to prepare and submit to the licensing agency a written plan for relocation and compliance with the terms and conditions of the approved plans, and to provide other information as necessary for the enforcement of this section.

(c) Upon receipt of an order to temporarily suspend or revoke a license, the licensee shall be prohibited from accepting new residents or entering into admission agreements for new residents.

(d) Upon an order to temporarily suspend a license, the following shall apply:

(1) The licensee shall immediately provide written notice of the temporary suspension to the resident and initiate contact with the resident’s responsible person, if applicable.

(2) The department may secure, or permit the licensee to secure, the services of a temporary manager who is not an immediate family member of the licensee or an entity that is not owned by the licensee to manage the day-to-day operations of the facility. The temporary manager shall be appointed and assume operation of the facility in accordance with Section 1569.481.

(e) Upon an order to revoke a license following the temporary suspension of a license pursuant to Section 1569.50 that led to the transfer of all residents, the following shall apply:

(1) The licensee shall provide a 60-day written notice of license revocation that may lead to closure to the resident and the resident’s responsible person within 24 hours of receipt of the department’s order of revocation.
(2) The department shall permit the licensee to secure the services of a temporary manager who is not an immediate family member of the licensee or an entity that is not owned by the licensee to manage the day-to-day operations of the residential care facility for the elderly for a period of at least 60 days, provided that all of the following conditions are met:

(A) A proposal is submitted to the department within 72 hours of the licensee’s receipt of the department’s order of revocation that includes both of the following:

(i) A completed “Application for a Community Care Facility or Residential Care Facility for the Elderly License” form (LIC 200), or similar form as determined by the department, signed and dated by both the licensee and the person or entity described in paragraph (2).

(ii) A copy of the executed agreement between the licensee and the person or entity described in paragraph (2) that delineates the roles and responsibilities of each party and specifies that the person or entity described in paragraph (2) shall have the full authority necessary to operate the facility, in compliance with all applicable laws and regulations, and without interference from the licensee.

(B) The person or entity described in paragraph (2) shall be currently licensed and in substantial compliance to operate a residential care facility for the elderly that is of comparable size or greater and has comparable programming to the facility. For purposes of this subparagraph, the following definitions apply:

(i) “Comparable programming” includes, but is not limited to, dementia care, hospice care, and care for residents with exempted prohibited health care conditions.

(ii) “Comparable size” means a facility capacity of 1 to 15 residents, 16 to 49 residents, or 50 or more residents.

(C) The person or entity described in paragraph (2) shall not be subject to the application fee specified in Section 1569.185.

(D) If the department denies a proposal to secure the services of a person or entity pursuant to paragraph (2), this denial shall not be deemed a denial of a license application subject to the right to a hearing under Section 1569.22 and other procedural rights under Section 1569.51.

(f) (1) Notwithstanding Section 1569.651 or any other law, for paid preadmission fees, a resident who transfers from the facility due to the notice of temporary suspension or revocation of a license pursuant to this section is entitled to a refund in accordance with all of the following:

(A) A 100-percent refund if preadmission fees were paid within six months of either notice of closure required by this section.

(B) A 75-percent refund if preadmission fees were paid more than six months, but not more than 12 months, before either notice required by this section.

(C) A 50-percent refund if preadmission fees were paid more than 12 months, but not more than 18 months, before either notice required by this section.
(D) A 25-percent refund if preadmission fees were paid more than 18 months, but not more than 25 months, before either notice required by this section.
(2) No preadmission fee refund is required if preadmission fees were paid 25 months or more before either notice required by this section.
(3) The preadmission fee refund required by this paragraph shall be paid within 15 days of issuing either notice required by this section. In lieu of the refund, the resident may request that the licensee provide a credit toward the resident’s monthly fee obligation in an amount equal to the preadmission fee refund due.
(4) If a resident transfers from the facility due to the revocation of a license, and the resident gives notice at least five days before leaving the facility, or if the transfer is due to a temporary suspension of the license order, the licensee shall refund to the resident or his or her legal representative a proportional per diem amount of any prepaid monthly fees at the time the resident leaves the facility and the unit is vacated. Otherwise the licensee shall pay the refund within seven days from the date that the resident leaves the facility and the unit is vacated.
(g) Within 24 hours after each residence who is transferring pursuant to these provisions have left the facility, the licensee that had his or her license temporarily suspended or revoked shall, based on information provided by the resident or the resident’s responsible person, submit a final list of names and new locations of all residents to the department and the local ombudsman program.
(h) If at any point during or following a temporary suspension or revocation order of a license the director determines that there is a risk to the residents of a facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety, the department shall take any necessary action to minimize trauma for the residents, including, but not limited to, all of the following:
(1) Contact any local agency that may have placement or advocacy responsibility for the residents and work with those agencies to locate alternative placement sites.
(2) Contact the residents’ relatives, legal representatives, authorized agents in a health care directive, or responsible parties.
(3) Assist in the transfer of residents, and, if necessary, arrange or coordinate transportation.
(4) Provide onsite evaluation of the residents and use any medical personnel deemed appropriate by the department to provide onsite evaluation of the residents and assist in any transfers.
(5) Arrange for or coordinate care and supervision.
(6) Arrange for the distribution of medications.
(7) Arrange for the preparation and service of meals and snacks.
(8) Arrange for the preparation of the residents’ records and medications for transfer of each resident.
(9) Assist in any way necessary to facilitate a safe transfer of all residents.
(10) Check on the status of each transferred resident within 24 hours of transfer.
   (i) The participation of the department and local agencies in the relocation of residents from
   a residential care facility for the elderly shall not relieve the licensee of any responsibility
   under this section. A licensee that fails to comply with the requirements of this section shall
   be required to reimburse the department and local agencies for the cost of providing those
   services. If the licensee fails to provide the services required in this section, the department
   shall request that the Attorney General’s office, the city attorney’s office, or the local district
   attorney’s office seek injunctive relief and damages.
   (j) Notwithstanding Section 1569.49, a licensee who fails to comply with the requirements
   of this section shall be liable for civil penalties in the amount of five hundred dollars ($500)
   per violation per day for each day that the licensee is in violation of this section, until the
   violation has been corrected. The civil penalties shall be issued immediately following the
   written notice of violation.
   (k) This section shall not preclude the department from amending the effective date in the
   order of suspension or revocation of a license and closing the facility, or from pursuing any
   other available remedies if necessary to protect the health and safety of the residents in
   care.
   (Amended by Stats. 2014, Ch. 29, Sec. 26. Effective June 20, 2014.)

1569.53.

Any license suspended or revoked pursuant to this chapter may be reinstated pursuant to
Section 11522 of the Government Code.
Whenever a license issued under this chapter for a residential care facility for the elderly is
suspended, revoked, temporarily suspended, forfeited, canceled, or expires, the department
shall provide written notice of the occurrence within 10 days to the local director of social
services in the county in which the facility is located.
(Added by Stats. 1985, Ch. 1127, Sec. 3.)

1569.54.

(a) (1) When the department does not suspend the license of a residential care facility for
the elderly pursuant to this article, the department may still order the licensee to remove a
resident who has a health condition which cannot be cared for within the limits of the
license or requires inpatient care in a health facility as determined by the department.
(2) Where the department determines that the resident’s mental or physical condition
requires immediate transfer from the facility in order to protect the health and safety of the
resident, the department may order the licensee to remove the resident after the department consults with a physician or other medical professional about the transfer and ways in which transfer trauma can be minimized.

(b) (1) Where the department alleges that a resident has a health condition which cannot be cared for within the limits of the license or requires inpatient care in a health facility, the department shall give notice to the resident, his or her legal representative when appropriate, and the licensee. The notice shall specify a deadline for submitting a written plan for relocation and inform the resident of his or her right for a review and determination by an interdisciplinary team as provided for in Section 1569.34. The resident, or his or her legal representative, shall have three working days to inform the licensee of the request for review. Upon receiving a request from a resident, or his or her legal representative, for a review and determination, the licensee shall forward the request to the department within two working days of receipt. Failure or refusal by the licensee to submit the request for review and determination to the department may be subject to the civil penalties specified in Section 1569.49.

(2) The review and determination shall be completed within 30 days from the date that the resident was initially informed of the need to relocate. If the determination is made that the resident must relocate, the notice shall include a plan for transfer, including attempts to minimize transfer trauma for the resident.

The department may require the licensee to prepare and submit to the licensing agency a written plan for relocation, to comply with the terms and conditions of the approved plans and to provide other information as necessary for the enforcement of this section.

(c) The provisions allowing for a resident’s right to a review prior to transfer as provided for in subdivision (b) neither negates the department’s authority and responsibility to require an immediate transfer according to paragraph (2) of subdivision (a) when the department finds and provides evidence that the resident must be relocated in order to protect the health and safety of the resident, nor implies any right to a fair hearing pursuant to Chapter 7 (commencing with Section 10950) of Part 2 of Division 9 of the Welfare and Institutions Code.

The department shall specify in regulations the process provided for pursuant to this section for making relocation decisions and for appealing and reviewing these decisions.

(Repealed and added by Stats. 1989, Ch. 1115, Sec. 24.)

1569.545.

(a) For purposes of this section, “suspension of new admissions” means a prohibition on admitting new residents to receive care or services in the facility.

(b) The department may order a suspension of new admissions for a facility in either of the following circumstances:
(1) The department finds that the facility has violated this chapter or any applicable regulations, the violation presents a direct and immediate risk to the health, safety, or personal rights of a resident or residents of the facility, and the violation is not corrected immediately.
(2) The facility has failed to pay a fine assessed by the department after the facility’s appeal rights have been exhausted.
(c) A suspension of new admissions for a failure to pay a fine, as described in paragraph (2) of subdivision (b), shall remain in effect until the facility pays the fine assessed by the department.
(d) A suspension of new admissions under paragraph (1) of subdivision (b) shall remain in effect until the department determines that the facility has corrected the violation. The department shall conduct a followup visit to determine compliance within 10 working days following the latest date of correction specified in the notice of deficiency, unless the licensee has demonstrated that the deficiency was corrected as required in the notice. The department may make unannounced visits after the suspension of new admissions is lifted to ensure that the facility continues to maintain correction of the violation. The department may order another suspension of new admissions or take other appropriate enforcement action if the facility does not maintain correction of the violation.
(e) A licensee may appeal a suspension of new admissions ordered under this section to the director. The department shall adopt regulations that specify the appeal procedure.
(f) A suspension of new admissions ordered under this section shall not be stayed pending the facility’s appeal or request for review.

(Added by Stats. 2014, Ch. 706, Sec. 1. Effective January 1, 2015.)

ARTICLE 5.5. Employee Actions [1569.58 - 1569.595]

( Article 5.5 added by Stats. 1989, Ch. 825, Sec. 2. )

1569.58.

(a) The department may prohibit any person from being a member of the board of directors, an executive director, a board member, or an officer of a licensee, or a licensee from employing, or continuing the employment of, or allowing in a licensed facility, or allowing contact with clients of a licensed facility by, any employee, prospective employee, or person who is not a client who has:
(1) Violated, or aided or permitted the violation by any other person of, any provisions of this chapter or of any rules or regulations promulgated under this chapter.
(2) Engaged in conduct that is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility, or the people of the State of California.
(3) Been denied an exemption to work or to be present in a facility, when that person has been convicted of a crime as defined in Section 1569.17.
(4) Engaged in any other conduct that would constitute a basis for disciplining a licensee.
(5) Engaged in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services for the care of clients.
(b) The excluded person, the facility, and the licensee shall be given written notice of the basis of the department’s action and of the excluded person’s right to an appeal. The notice shall be served either by personal service or by registered mail. Within 15 days after the department serves the notice, the excluded person may file with the department a written appeal of the exclusion order. If the excluded person fails to file a written appeal within the prescribed time, the department’s action shall be final.
(c) (1) The department may require the immediate removal of a member of the board of directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility pending a final decision of the matter, when, in the opinion of the director, the action is necessary to protect residents or clients from physical or mental abuse, abandonment, or any other substantial threat to their health or safety.
(2) If the department requires the immediate removal of a member of the board of directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility the department shall serve an order of immediate exclusion upon the excluded person that shall notify the excluded person of the basis of the department’s action and of the excluded person’s right to a hearing.
(3) Within 15 days after the department serves an order of immediate exclusion, the excluded person may file a written appeal of the exclusion with the department. The department’s action shall be final if the excluded person does not appeal the exclusion within the prescribed time. The department shall do the following upon receipt of a written appeal:
(A) Within 30 days of receipt of the appeal, serve an accusation upon the excluded person.
(B) Within 60 days of receipt of a notice of defense by the excluded person pursuant to Section 11506 of the Government Code, conduct a hearing on the accusation.
(4) An order of immediate exclusion of the excluded person from the facility shall remain in effect until the hearing is completed and the director has made a final determination on the merits. However, the order of immediate exclusion shall be deemed vacated if the director fails to make a final determination on the merits within 60 days after the original hearing has been completed.
(d) An excluded person who files a written appeal of the exclusion order with the department pursuant to this section shall, as part of the written request, provide his or her current mailing address. The excluded person shall subsequently notify the department in writing of any change in mailing address, until the hearing process has been completed or terminated.

(e) Hearings held pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code. The standard of proof shall be the preponderance of the evidence and the burden of proof shall be on the department.

(f) The department may institute or continue a disciplinary proceeding against a member of the board of directors, an executive director, or an officer of a licensee or an employee, prospective employee, or person who is not a client upon any ground provided by this section. The department may enter an order prohibiting any person from being a member of the board of directors, an executive director, or an officer of a licensee, or prohibiting the excluded person’s employment or presence in the facility, or otherwise take disciplinary action against the excluded person, notwithstanding any resignation, withdrawal of employment application, or change of duties by the excluded person, or any discharge, failure to hire, or reassignment of the excluded person by the licensee or that the excluded person no longer has contact with clients at the facility.

(g) A licensee’s failure to comply with the department’s exclusion order after being notified of the order shall be grounds for disciplining the licensee pursuant to Section 1569.50.

(h) (1) (A) In cases where the excluded person appealed the exclusion order and there is a decision and order of the department upholding the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or from being a certified foster parent for the remainder of the excluded person’s life, unless otherwise ordered by the department.

(B) The excluded individual may petition for reinstatement one year after the effective date of the decision and order of the department upholding the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the decision and order.

(2) (A) In cases where the department informed the excluded person of his or her right to appeal the exclusion order and the excluded person did not appeal the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or a certified foster parent for the remainder of the excluded person’s life, unless otherwise ordered by the department.

(B) The excluded individual may petition for reinstatement after one year has elapsed from the date of the notification of the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the exclusion order.
1569.59.

(a) (1) If the department determines that a person was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.2 (commencing with Section 1569), 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 exclude the person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to the chapter.

(2) If the department determines that a person previously was issued a certificate of approval by a foster family agency which was revoked by the department pursuant to subdivision (b) of Section 1534 within the preceding two years, the department shall exclude the person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter.

(b) If the department determines that the person 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 exclude the person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter and as follows:

(1) In cases where the applicant petitioned for a hearing, the department shall exclude the person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter 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 exclude the person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(c) If the department determines that the person 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
exclude the person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter and as follows:

(1) In cases where the applicant petitioned for a hearing, the department shall exclude the person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter 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 exclude the person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(d) Exclusion or removal of an individual pursuant to this section shall not be considered an order of exclusion for purposes of Section 1569.58 or any other law.

(e) The department may determine not to exclude a person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter if it has been determined that the reasons for the denial of the application or revocation of the facility license or certificate of approval were due to circumstances or conditions that either have been corrected or are no longer in existence.

(Amended by Stats. 1998, Ch. 311, Sec. 41. Effective August 19, 1998.)

1569.595.

The department shall conduct an unannounced visit to a facility within 30 days after the department serves an order of immediate exclusion from the facility upon the licensee or a person subject to immediate removal or exclusion from the facility pursuant to paragraph (3) of subdivision (c) of Section 1569.17 and subdivision (c) of Section 1569.58 in order to ensure that the excluded person is not within the facility, unless the department previously has verified that the excluded person is not within the facility.

(Added by Stats. 2008, Ch. 291, Sec. 18. Effective September 25, 2008.)

ARTICLE 6. Other Provisions [1569.60 - 1569.696]

(Article 6 added by Stats. 1985, Ch. 1127, Sec. 3.)

1569.60.
(a) The director shall require as a condition precedent to the issuance of any license for a residential care facility for the elderly, if the licensee handles or will handle any money of a person within the facility, that the applicant for the license file or have on file with the department a bond issued by a surety company admitted to do business in this state in a sum to be fixed by the department based upon the magnitude of the operations of the applicant, but which sum shall not be less than one thousand dollars ($1,000), running to the State of California and conditioned upon his or her faithful and honest handling of the money of persons within the facility.

(b) The failure of any licensee under this chapter to maintain on file with the state department a bond in the amount prescribed by the director or who embezzles the trust funds of a person in the facility shall constitute cause for the revocation of the license.

(c) The provisions of this section shall not apply if the licensee handles moneys of persons within the residential care facility for the elderly in amounts less than fifty dollars ($50) per person and less than five hundred dollars ($500) for all persons in any month.

(Amended by Stats. 1992, Ch. 1315, Sec. 24. Effective January 1, 1993.)

1569.601.

The director may grant a partial or total variance from the bonding requirements of Section 1569.60 for any residential care facility for the elderly if he or she finds that compliance with them is so onerous that a residential care facility for the elderly will cease to operate, and if he or she also finds that money of the persons received or cared for in the facility has been, or will be, deposited in a bank in this state, in a trust company authorized to transact a trust business in this state, or in a savings and loan association in this state, upon condition that the money may not be withdrawn except on authorization of the guardian or conservator of the person.

(Added by renumbering Section 1569.61 by Stats. 1989, Ch. 1115, Sec. 25.)

1569.605.

On and after July 1, 2015, all residential care facilities for the elderly, except those facilities that are an integral part of a continuing care retirement community, shall maintain liability insurance covering injury to residents and guests in the amount of at least one million dollars ($1,000,000) per occurrence and three million dollars ($3,000,000) in the total annual aggregate, caused by the negligent acts or omissions to act of, or neglect by, the licensee or its employees.

(Added by Stats. 2014, Ch. 205, Sec. 1. Effective January 1, 2015.)
1569.61.

The department shall develop and maintain at each district office a file for each facility in that district, containing all documents regarding the facility that were received or created by the department on or after January 1, 1999, and that are not confidential under other provisions of law. This file shall be available immediately upon the request of any consumer who shall have the right to obtain copies of documents from the file upon the payment of a reasonable charge for the copies.

(Added by Stats. 1998, Ch. 306, Sec. 3. Effective January 1, 1999.)

1569.613.

Any person who becomes an administrator of a residential care facility for the elderly on or after January 1, 1992, shall, at a minimum, comply with all of the following:
(a) Be at least 21 years of age.
(b) Have a valid certificate as an administrator of a residential care facility for the elderly as required by Section 1569.616, or have submitted the documentation required to obtain a certificate pursuant to subdivision (d) of Section 1569.616.
(c) Have a high school diploma or pass a general educational development test as described in Article 3 (commencing with Section 51420) of Chapter 3 of Part 28 of the Education Code.
(d) Obtain criminal record clearance as provided for in Sections 1569.17 and 1569.171.

(Amended by Stats. 1995, Ch. 224, Sec. 1. Effective January 1, 1996.)

1569.616.

(a) (1) An administrator of a residential care facility for the elderly shall be required to successfully complete a department-approved certification program prior to employment.
(2) In those cases where the individual is both the licensee and the administrator of a facility, or a licensed nursing home administrator, the individual shall comply with the requirements of this section unless he or she qualifies for one of the exemptions provided for in subdivision (b).
(3) Failure to comply with this section shall constitute cause for revocation of the license of the facility where an individual is functioning as the administrator.
(4) The licensee shall notify the department within 30 days of any change in administrators.
(b) Individuals seeking exemptions under paragraph (2) of subdivision (a) shall meet the following criteria and fulfill the required portions of the certification program, as the case may be:
(1) An individual designated as the administrator of a residential care facility for the elderly who holds a valid license as a nursing home administrator issued in accordance with Chapter 2.35 (commencing with Section 1416) of Division 2 shall be required to complete the areas in the uniform core of knowledge required by this section that pertain to the law, regulations, policies, and procedural standards that impact the operations of residential care facilities for the elderly, the use, misuse, and interaction of medication commonly used by the elderly in a residential setting, and resident admission, retention, and assessment procedures, equal to 12 hours of classroom instruction. An individual meeting the requirements of this paragraph shall not be required to take a written test.

(2) In those cases where the individual was both the licensee and administrator on or before July 1, 1991, the individual shall be required to complete all the areas specified for the certification program, but shall not be required to take the written test required by this section. Those individuals exempted from the written test shall be issued a conditional certification that is valid only for the administrator of the facility for which the exemption was granted.

(A) As a condition to becoming an administrator of another facility, the individual shall be required to pass the written test provided for in this section.

(B) As a condition to applying for a new facility license, the individual shall be required to pass the written test provided for in Section 1569.23.

(c) (1) The administrator certification program shall require a minimum of 40 hours of classroom instruction that provides training on a uniform core of knowledge in each of the following areas:

(A) Laws, regulations, and policies and procedural standards that impact the operations of residential care facilities for the elderly.

(B) Business operations.

(C) Management and supervision of staff.

(D) Psychosocial needs of the elderly.

(E) Community and support services.

(F) Physical needs for elderly persons.

(G) Use, misuse, and interaction of medication commonly used by the elderly.

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

(I) Training focused specifically on serving clients with dementia. This training shall be for at least four hours.

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

(2) Individuals applying for certification under this section shall successfully complete an approved certification program, pass a written test administered by the department within 60 days of completing the program, and submit the documentation required by subdivision (d) to the department within 30 days of being notified of having passed the test. The
department may extend these time deadlines for good cause. The department shall notify the applicant of his or her test results within 30 days of administering the test.

(d) The department shall not begin the process of issuing a certificate until receipt of all of the following:

(1) A certificate of completion of the administrator training required pursuant to this chapter.

(2) The fee required for issuance of the certificate. A fee of one hundred dollars ($100) shall be charged by the department to cover the costs of processing the application for certification.

(3) Documentation of passing the written test or of qualifying for an exemption pursuant to subdivision (b).

(4) Submission of fingerprints. The department and the Department of Justice shall expedite the criminal record clearance for holders of certificates of completion. The department may waive the submission for those persons who have a current criminal record clearance on file.

(e) It shall be unlawful for a person not certified under this section to hold himself or herself out as a certified administrator of a residential care facility for the elderly. Any person willfully making a false representation as being a certified administrator is guilty of a misdemeanor.

(f) (1) Certificates issued under this section shall be renewed every two years and renewal shall be conditional upon the certificate holder submitting documentation of completion of 40 hours of continuing education related to the core of knowledge specified in paragraph (1) of subdivision (c). No more than one-half of the required 40 hours of continuing education necessary to renew the certificate may be satisfied through online courses. All other continuing education hours shall be completed in a classroom setting. For purposes of this section, individuals who hold a valid license as a nursing home administrator issued in accordance with Chapter 2.35 (commencing with Section 1416) of Division 2 of the Health and Safety Code and meet the requirements of paragraph (1) of subdivision (b) shall only be required to complete 20 hours of continuing education.

(2) Every certified administrator of a residential care facility for the elderly is required to renew his or her certificate and shall complete the continuing education requirements of this subdivision whether he or she is certified according to subdivision (a) or (b). At least 8 hours of the 40-hour continuing education requirement for a certified administrator of a residential care facility for the elderly shall include instruction on serving clients with dementia, including, but not limited to, instruction related to direct care, physical environment, and admissions procedures and assessment.

(3) Certificates issued under this section shall expire every two years, on the anniversary date of the initial issuance of the certificate, except that any administrator receiving his or her initial certification on or after January 1, 1999, shall make an irrevocable election to
have his or her recertification date for any subsequent recertification either on the date two
years from the date of issuance of the certificate or on the individual’s birthday during the
second calendar year following certification. The department shall send a renewal notice to
the certificate holder 90 days prior to the expiration date of the certificate. If the certificate
is not renewed prior to its expiration date, reinstatement shall only be permitted after the
certificate holder has paid a delinquency fee equal to three times the renewal fee and has
provided evidence of completion of the continuing education required.
(4) To renew a certificate, the certificate holder shall, on or before the certificate expiration
date, request renewal by submitting to the department documentation of completion of the
required continuing education courses and pay the renewal fee of one hundred dollars
($100), irrespective of receipt of the department’s notification of the renewal. A renewal
request postmarked on or before the expiration of the certificate is proof of compliance with
this paragraph.
(5) A suspended or revoked certificate is subject to expiration as provided for in this
section. If reinstatement of the certificate is approved by the department, the certificate
holder, as a condition precedent to reinstatement, shall pay a fee in an amount equal to the
renewal fee, plus the delinquency fee, if any, accrued at the time of its revocation or
suspension.
(6) A certificate that is not renewed within four years after its expiration shall not be
renewed, restored, reissued, or reinstated except upon completion of a certification
program, passing any test that may be required of an applicant for a new certificate at that
time, and paying the appropriate fees provided for in this section.
(7) A fee of twenty-five dollars ($25) shall be charged for the reissuance of a lost
certificate.
(8) A certificate holder shall inform the department of his or her employment status within
30 days of any change.
(g) The department may revoke a certificate issued under this section for any of the
following:
(1) Procuring a certificate by fraud or misrepresentation.
(2) Knowingly making or giving any false statement or information in conjunction with the
application for issuance of a certificate.
(3) Criminal conviction, unless an exemption is granted pursuant to Section 1569.17.
(h) The certificate shall be considered forfeited under either of the following conditions:
(1) The administrator has had a license revoked, suspended, or denied as authorized under
Section 1569.50.
(2) The administrator has been denied employment, residence, or presence in a facility
based on action resulting from an administrative hearing pursuant to Section 1569.58.
(i) (1) The department shall establish, by regulation, the program content, the testing
instrument, the process for approving certification programs, and criteria to be used in
authorizing individuals, organizations, or educational institutions to conduct certification programs and continuing education courses. These regulations shall be developed in consultation with provider and consumer organizations, and shall be made available at least six months prior to the deadline required for certification. The department may deny vendor approval to any agency or person that has not provided satisfactory evidence of their ability to meet the requirements of vendorization set out in the regulations adopted pursuant to subdivision (j).

(2) (A) A vendor of online programs for continuing education shall ensure that each online course contains all of the following:
(i) An interactive portion where the participant receives feedback, through online communication, based on input from the participant.
(ii) Required use of a personal identification number or personal identification information to confirm the identity of the participant.
(iii) A final screen displaying a printable statement, to be signed by the participant, certifying that the identified participant completed the course. The vendor shall obtain a copy of the final screen statement with the original signature of the participant prior to the issuance of a certificate of completion. The signed statement of completion shall be maintained by the vendor for a period of three years and be available to the department upon demand. Any person who certifies as true any material matter pursuant to this section that he or she knows to be false is guilty of a misdemeanor.
(B) Nothing in this subdivision shall prohibit the department from approving online programs for continuing education that do not meet the requirements of subparagraph (A) if the vendor demonstrates to the department’s satisfaction that, through advanced technology, the course and the course delivery meet the requirements of this section.
(3) The department may authorize vendors to conduct the administrator certification training program pursuant to provisions set forth in this section. The department shall conduct the written test pursuant to regulations adopted by the department.
(4) The department shall prepare and maintain an updated list of approved training vendors.
(5) The department may inspect training programs, continuing education courses, and online courses, at no charge to the department, in order to determine if content and teaching methods comply with paragraphs (1) and (2), if applicable, and with regulations. If the department determines that a vendor is not complying with the intent of this section, the department shall take appropriate action to bring the program into compliance, which may include removing the vendor from the approved list.
(6) The department shall establish reasonable procedures and timeframes, not to exceed 30 days, for the approval of vendor training programs.
(7) The department may charge a reasonable fee, not to exceed one hundred fifty dollars ($150) every two years, to certification program vendors for review and approval of the
initial 40-hour training program pursuant to subdivision (c). The department may also charge the vendor a fee, not to exceed one hundred dollars ($100) every two years, for the review and approval of the continuing education courses needed for recertification pursuant to this subdivision.

(j) This section shall be operative upon regulations being adopted by the department to implement the administrator certification program as provided for in this section.

(k) The department shall establish a registry for holders of certificates that shall include, at a minimum, information on employment status and criminal record clearance.

(l) Notwithstanding any law to the contrary, vendors approved by the department who exclusively provide either initial or continuing education courses for certification of administrators of a residential care facility for the elderly, as defined in subdivision (k) of Section 1569.2, a group home facility, as defined by regulations of the department, or an adult residential care facility, as defined by regulations of the department, shall be regulated solely by the department pursuant to this chapter. No other state or local governmental entity shall be responsible for regulating the activity of those vendors.

(m) This section shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date.

(Amended by Stats. 2014, Ch. 705, Sec. 3. Effective January 1, 2015. Repealed as of January 1, 2016, by its own provisions. See later operative version added by Sec. 4 of Stats. 2014, Ch. 705.)

1569.616.

(a) (1) An administrator of a residential care facility for the elderly shall be required to successfully complete a department-approved certification program prior to employment.

(2) In those cases where the individual is both the licensee and the administrator of a facility, or a licensed nursing home administrator, the individual shall comply with the requirements of this section unless he or she qualifies for one of the exemptions provided for in subdivision (b).

(3) Failure to comply with this section shall constitute cause for revocation of the license of the facility where an individual is functioning as the administrator.

(4) The licensee shall notify the department within 30 days of any change in administrators.

(b) Individuals seeking exemptions under paragraph (2) of subdivision (a) shall meet the following criteria and fulfill the required portions of the certification program, as the case may be:

(1) An individual designated as the administrator of a residential care facility for the elderly who holds a valid license as a nursing home administrator issued in accordance with Chapter 2.35 (commencing with Section 1416) of Division 2 shall be required to complete the areas in the uniform core of knowledge required by this section that pertain to the law,
regulations, policies, and procedural standards that impact the operations of residential care facilities for the elderly, the use, misuse, and interaction of medication commonly used by the elderly in a residential setting, and resident admission, retention, and assessment procedures, equal to 12 hours of classroom instruction. An individual meeting the requirements of this paragraph shall not be required to take a written test.

(2) In those cases where the individual was both the licensee and administrator on or before July 1, 1991, the individual shall be required to complete all the areas specified for the certification program, but shall not be required to take the written test required by this section. Those individuals exempted from the written test shall be issued a conditional certification that is valid only for the administrator of the facility for which the exemption was granted.

(A) As a condition to becoming an administrator of another facility, the individual shall be required to pass the written test provided for in this section.

(B) As a condition to applying for a new facility license, the individual shall be required to pass the written test provided for in Section 1569.23.

(c) (1) The administrator certification program shall require a minimum of 80 hours of coursework, which shall include at least 60 hours of in-person instruction that provides training on a uniform core of knowledge in each of the following areas:

(A) Laws, regulations, and policies and procedural standards that impact the operations of residential care facilities for the elderly.

(B) Business operations.

(C) Management and supervision of staff.

(D) Psychosocial needs of the elderly.

(E) Community and support services.

(F) Physical needs for elderly persons.

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

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

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

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

(K) Residents’ rights and the importance of initial and ongoing training for all staff to ensure that residents’ rights are fully respected and implemented.

(L) Managing the physical environment, including, but not limited to, maintenance and housekeeping.

(M) Postural supports, restricted health conditions, and hospice care.
(2) Individuals applying for certification under this section shall successfully complete an approved certification program, pass a written test administered by the department within 60 days of completing the program, and submit the documentation required by subdivision (d) to the department within 30 days of being notified of having passed the test. The department may extend these time deadlines for good cause. The department shall notify the applicant of his or her test results within 30 days of administering the test.

(3) The department shall ensure the test consists of at least 100 questions and allows an applicant to have access to the California Residential Care Facilities for the Elderly Act and related regulations during the test. The department, no later than July 1 of every other year, shall review and revise the test in order to ensure the rigor and quality of the test. Each year, the department shall ensure, by January 1, that the test is not in conflict with prevailing law. The department may convene a stakeholder group to assist in developing and reviewing test questions.

(d) The department shall not begin the process of issuing a certificate until receipt of all of the following:

(1) A certificate of completion of the administrator training required pursuant to this chapter.

(2) The fee required for issuance of the certificate. A fee of one hundred dollars ($100) shall be charged by the department to cover the costs of processing the application for certification.

(3) Documentation of passing the written test or of qualifying for an exemption pursuant to subdivision (b).

(4) Submission of fingerprints. The department and the Department of Justice shall expedite the criminal record clearance for holders of certificates of completion. The department may waive the submission for those persons who have a current criminal record clearance on file.

(e) It shall be unlawful for a person not certified under this section to hold himself or herself out as a certified administrator of a residential care facility for the elderly. Any person willfully making a false representation as being a certified administrator is guilty of a misdemeanor.

(f) (1) Certificates issued under this section shall be renewed every two years and renewal shall be conditional upon the certificate holder submitting documentation of completion of 40 hours of continuing education related to the uniform core of knowledge specified in paragraph (1) of subdivision (c). No more than one-half of the required 40 hours of continuing education necessary to renew the certificate may be satisfied through online courses. All other continuing education hours shall be completed in a classroom setting. For purposes of this section, individuals who hold a valid license as a nursing home administrator issued in accordance with Chapter 2.35 (commencing with Section 1416) of
Division 2 and meet the requirements of paragraph (1) of subdivision (b) shall only be required to complete 20 hours of continuing education.

(2) Every certified administrator of a residential care facility for the elderly is required to renew his or her certificate and shall complete the continuing education requirements of this subdivision whether he or she is certified according to subdivision (a) or (b). At least eight hours of the 40-hour continuing education requirement for a certified administrator of a residential care facility for the elderly shall include instruction on serving clients with dementia, including, but not limited to, instruction related to direct care, physical environment, and admissions procedures and assessment.

(3) Certificates issued under this section shall expire every two years, on the anniversary date of the initial issuance of the certificate, except that any administrator receiving his or her initial certification on or after January 1, 1999, shall make an irrevocable election to have his or her recertification date for any subsequent recertification either on the date two years from the date of issuance of the certificate or on the individual’s birthday during the second calendar year following certification. The department shall send a renewal notice to the certificate holder 90 days prior to the expiration date of the certificate. If the certificate is not renewed prior to its expiration date, reinstatement shall only be permitted after the certificate holder has paid a delinquency fee equal to three times the renewal fee and has provided evidence of completion of the continuing education required.

(4) To renew a certificate, the certificate holder shall, on or before the certificate expiration date, request renewal by submitting to the department documentation of completion of the required continuing education courses and pay the renewal fee of one hundred dollars ($100), irrespective of receipt of the department’s notification of the renewal. A renewal request postmarked on or before the expiration of the certificate is proof of compliance with this paragraph.

(5) A suspended or revoked certificate is subject to expiration as provided for in this section. If reinstatement of the certificate is approved by the department, the certificate holder, as a condition precedent to reinstatement, shall pay a fee in an amount equal to the renewal fee, plus the delinquency fee, if any, accrued at the time of its revocation or suspension.

(6) A certificate that is not renewed within four years after its expiration shall not be renewed, restored, reissued, or reinstated except upon completion of a certification program, passing any test that may be required of an applicant for a new certificate at that time, and paying the appropriate fees provided for in this section.

(7) A fee of twenty-five dollars ($25) shall be charged for the reissuance of a lost certificate.

(8) A certificate holder shall inform the department of his or her employment status within 30 days of any change.
(g) The department may revoke a certificate issued under this section for any of the following:
(1) Procuring a certificate by fraud or misrepresentation.
(2) Knowingly making or giving any false statement or information in conjunction with the application for issuance of a certificate.
(3) Criminal conviction, unless an exemption is granted pursuant to Section 1569.17.
(h) The certificate shall be considered forfeited under either of the following conditions:
(1) The administrator has had a license revoked, suspended, or denied as authorized under Section 1569.50.
(2) The administrator has been denied employment, residence, or presence in a facility based on action resulting from an administrative hearing pursuant to Section 1569.58.
(i) (1) The department shall establish, by regulation, the program content, the testing instrument, the process for approving certification programs, and criteria to be used in authorizing individuals, organizations, or educational institutions to conduct certification programs and continuing education courses. These regulations shall be developed in consultation with provider and consumer organizations, and shall be made available at least six months prior to the deadline required for certification. The department may deny vendor approval to any agency or person that has not provided satisfactory evidence of their ability to meet the requirements of vendorization set out in the regulations adopted pursuant to subdivision (j).
(2) (A) A vendor of online programs for continuing education shall ensure that each online course contains all of the following:
   (i) An interactive portion where the participant receives feedback, through online communication, based on input from the participant.
   (ii) Required use of a personal identification number or personal identification information to confirm the identity of the participant.
   (iii) A final screen displaying a printable statement, to be signed by the participant, certifying that the identified participant completed the course. The vendor shall obtain a copy of the final screen statement with the original signature of the participant prior to the issuance of a certificate of completion. The signed statement of completion shall be maintained by the vendor for a period of three years and be available to the department upon demand. Any person who certifies as true any material matter pursuant to this section that he or she knows to be false is guilty of a misdemeanor.
   (B) Nothing in this subdivision shall prohibit the department from approving online programs for continuing education that do not meet the requirements of subparagraph (A) if the vendor demonstrates to the department’s satisfaction that, through advanced technology, the course and the course delivery meet the requirements of this section.
(3) The department may authorize vendors to conduct the administrator certification training program pursuant to provisions set forth in this section. The department shall conduct the written test pursuant to regulations adopted by the department.

(4) The department shall prepare and maintain an updated list of approved training vendors.

(5) The department may inspect training programs, continuing education courses, and online courses, at no charge to the department, in order to determine if content and teaching methods comply with paragraphs (1) and (2), if applicable, and with regulations. If the department determines that a vendor is not complying with the intent of this section, the department shall take appropriate action to bring the program into compliance, which may include removing the vendor from the approved list.

(6) The department shall establish reasonable procedures and timeframes, not to exceed 30 days, for the approval of vendor training programs.

(7) The department may charge a reasonable fee, not to exceed one hundred fifty dollars ($150) every two years, to certification program vendors for review and approval of the initial 80-hour training program pursuant to subdivision (c). The department may also charge the vendor a fee, not to exceed one hundred dollars ($100) every two years, for the review and approval of the continuing education courses needed for recertification pursuant to this subdivision.

(j) This section shall be operative upon regulations being adopted by the department to implement the administrator certification program as provided for in this section.

(k) The department shall establish a registry for holders of certificates that shall include, at a minimum, information on employment status and criminal record clearance.

(l) Notwithstanding any law to the contrary, vendors approved by the department who exclusively provide either initial or continuing education courses for certification of administrators of a residential care facility for the elderly, as defined in subdivision (k) of Section 1569.2, a group home facility, as defined by regulations of the department, or an adult residential care facility, as defined by regulations of the department, shall be regulated solely by the department pursuant to this chapter. No other state or local governmental entity shall be responsible for regulating the activity of those vendors.

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

(Repealed (in Sec. 3) and added by Stats. 2014, Ch. 705, Sec. 4. Effective January 1, 2015. Section operative January 1, 2016, by its own provisions.)

1569.617.

(a) (1) There is hereby created in the State Treasury, the Certification Fund from which moneys, upon appropriation of the Legislature, shall be expended by the department for the purpose of administering the residential care facilities for the elderly certification program
provided under Sections 1569.23, 1569.615, and 1569.616, the adult residential facilities certification program pursuant to Section 1562.3, and the group home facilities certification program pursuant to Section 1522.41.

(2) All money contained in the Residential Care Facility for the Elderly Fund on the operative date of this paragraph shall be retained in the Certification Fund for appropriation for the purposes specified in paragraph (1).

(b) The fund shall consist of specific appropriations that the Legislature sets aside for use by the fund and all fees, penalties, and fines collected pursuant to Sections 1522.41, 1562.3, 1562.23, 1569.615, and 1569.616.

(c) For the 1998–99 fiscal year, the sum of not to exceed two hundred fifty thousand dollars ($250,000) from the Certification Fund shall be appropriated to the State Department of Social Services to administer the group home facilities certification program pursuant to Section 1522.41. The department shall repay the appropriation made for the 1998–99 fiscal year into the Certification Fund upon receipt of fees pursuant to Section 1522.41.

(Amended by Stats. 1998, Ch. 311, Sec. 42. Effective August 19, 1998.)

1569.618.

(a) The administrator designated by the licensee pursuant to subdivision (k) of Section 1569.15 shall be present at the facility during normal working hours. A facility manager designated by the licensee with notice to the department, shall be responsible for the operation of the facility when the administrator is temporarily absent from the facility.

(b) At least one administrator, facility manager, or designated substitute who is at least 21 years of age and has qualifications adequate to be responsible and accountable for the management and administration of the facility pursuant to Title 22 of the California Code of Regulations shall be on the premises 24 hours per day. The designated substitute may be a direct care staff member who shall not be required to meet the educational, certification, or training requirements of an administrator. The designated substitute shall meet qualifications that include, but are not limited to, all of the following:

(1) Knowledge of the requirements for providing care and supervision appropriate to each resident of the facility.

(2) Familiarity with the facility’s planned emergency procedures.

(3) Training to effectively interact with emergency personnel in the event of an emergency call, including an ability to provide a resident’s medical records to emergency responders.

(c) The facility shall employ, and the administrator shall schedule, a sufficient number of staff members to do all of the following:

(1) Provide the care required in each resident’s written record of care as described in Section 1569.80.
(2) Ensure the health, safety, comfort, and supervision of the residents.
(3) Ensure that at least one staff member who has cardiopulmonary resuscitation (CPR) training and first aid training is on duty and on the premises at all times. This paragraph shall not be construed to require staff to provide CPR.
(4) Ensure that the facility is clean, safe, sanitary, and in good repair at all times.
(d) “Facility manager” means a person on the premises with the authority and responsibility necessary to manage and control the day-to-day operation of a residential care facility for the elderly and supervise the clients. The facility manager, licensee, and administrator, or any combination thereof, may be the same person provided he or she meets all applicable requirements. If the administrator is also the facility manager for the same facility, he or she shall be limited to the administration and management of only one facility.

(1569.62.)

(a) The director shall ensure that licensees, administrators, and staffs of residential care facilities for the elderly have appropriate training to provide the care and services for which a license or certificate is issued.
(b) The department shall develop jointly with the California Department of Aging, with input from provider organizations, requirements for a uniform core of knowledge within the required 20 hours of continuing education for administrators, and their designated substitutes, and for recertification of administrators of residential care facilities for the elderly. This knowledge base shall include, as a minimum, basic understanding of the psychosocial and physical care needs of elderly persons and administration. The department shall develop jointly with the California Department of Aging, with input from provider organizations, a uniform resident assessment tool to be used by all residential care facilities for the elderly. The assessment tool shall, in lay terms, help to identify resident needs for service and assistance with activities of daily living.
The departments shall develop a mandatory training program on the utilization of the assessment tool to be given to administrators and their designated substitutes.
(c) This section shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date.

(1569.62. (Amended by Stats. 2014, Ch. 705, Sec. 5. Effective January 1, 2015. Repealed as of January 1, 2016, by its own provisions. See later operative version added by Sec. 6 of Stats. 2014, Ch. 705.)
(a) The director shall ensure that licensees, administrators, and staff of residential care facilities for the elderly have appropriate training to provide the care and services for which a license or certificate is issued.

(b) The department shall develop jointly with the California Department of Aging requirements for a uniform core of knowledge for the required initial certification and continuing education for administrators, and their designated substitutes, and for recertification of administrators of residential care facilities for the elderly. This knowledge base shall include, as a minimum, basic understanding of the psychosocial and physical care needs of elderly persons, applicable laws and regulations, residents’ rights, and administration. This training shall be developed in consultation with individuals or organizations with specific expertise in residential care facilities for the elderly or assisted living services, or by an outside source with expertise in residential care facilities for the elderly or assisted living services.

(1) The initial certification training for administrators shall consist of at least 80 hours.

(2) The continuing education requirement for administrators is at least 40 hours of training during each two-year certification period, as specified in paragraph (1) of subdivision (f) of Section 1569.616.

(c) (1) The department shall develop a uniform resident assessment tool to be used by all residential care facilities for the elderly. The assessment tool shall, in lay terms, help to identify resident needs for service and assistance with activities of daily living.

(2) The departments shall develop a mandatory training program on the utilization of the assessment tool to be given to administrators and their designated substitutes.

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

(Repealed in Sec. 5) and added by Stats. 2014, Ch. 705, Sec. 6. Effective January 1, 2015. Section operative January 1, 2016, by its own provisions.)

1569.625.

(a) The Legislature finds that the quality of services provided to residents of residential care facilities for the elderly is dependent upon the training and skills of staff. It is the intent of the Legislature in enacting this section to ensure that direct-care staff have the knowledge and proficiency to carry out the tasks of their jobs.

(b) The department shall adopt regulations to require staff members of residential care facilities for the elderly who assist residents with personal activities of daily living to receive appropriate training. This training shall consist of 10 hours of training within the first four weeks of employment and four hours annually thereafter. This training shall be administered on the job, or in a classroom setting, or any combination of the two. The department shall establish, in consultation with provider organizations, the subject matter required for this training.
(c) The training shall include, but not be limited to, all of the following:
(1) Physical limitations and needs of the elderly.
(2) Importance and techniques for personal care services.
(3) Residents’ rights.
(4) Policies and procedures regarding medications.
(5) Psychosocial needs of the elderly.
(6) Building and fire safety and the appropriate response to emergencies.
(d) This section shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date.

(Amended by Stats. 2014, Ch. 701, Sec. 2.5. Effective January 1, 2015. Repealed as of January 1, 2016, by its own provisions. See later operative version added by Sec. 2.7 of Stats. 2014, Ch. 701.)

1569.625.

(a) The Legislature finds that the quality of services provided to residents of residential care facilities for the elderly is dependent upon the training and skills of staff. It is the intent of the Legislature in enacting this section to ensure that direct-care staff have the knowledge and proficiency to carry out the tasks of their jobs.

(b) (1) The department shall adopt regulations to require staff members of residential care facilities for the elderly who assist residents with personal activities of daily living to receive appropriate training. This training shall consist of 40 hours of training. A staff member shall complete 20 hours, including six hours specific to dementia care, as required by subdivision (a) of Section 1569.626 and four hours specific to postural supports, restricted health conditions, and hospice care, as required by subdivision (a) of Section 1569.696, before working independently with residents. The remaining 20 hours shall include six hours specific to dementia care and shall be completed within the first four weeks of employment. The training coursework may utilize various methods of instruction, including, but not limited to, lectures, instructional videos, and interactive online courses. The additional 16 hours shall be hands-on training.

(2) In addition to paragraph (1), training requirements shall also include an additional 20 hours annually, eight hours of which shall be dementia care training, as required by subdivision (a) of Section 1569.626, and four hours of which shall be specific to postural supports, restricted health conditions, and hospice care, as required by subdivision (a) of Section 1569.696. This training shall be administered on the job, or in a classroom setting, or both, and may include online training.

(3) The department shall establish, in consultation with provider organizations, the subject matter required for the training required by this section.

(c) The training shall include, but not be limited to, all of the following:
(1) Physical limitations and needs of the elderly.
(2) Importance and techniques for personal care services.
(3) Residents’ rights.
(4) Policies and procedures regarding medications.
(5) Psychosocial needs of the elderly.
(6) Building and fire safety and the appropriate response to emergencies.
(7) Dementia care, including the use and misuse of antipsychotics, the interaction of drugs commonly used by the elderly, and the adverse effects of psychotropic drugs for use in controlling the behavior of persons with dementia.
(8) The special needs of persons with Alzheimer’s disease and dementia, including nonpharmacologic, person-centered approaches to dementia care.
(9) Cultural competency and sensitivity in issues relating to the underserved, aging, lesbian, gay, bisexual, and transgender community.

d) This section shall not apply to certified nurse assistants, certified pursuant to Article 9 (commencing with Section 1337) of Chapter 2, licensed vocational nurses, licensed pursuant to Chapter 6.5 (commencing with Section 2840) of Division 2 of the Business and Professions Code, and registered nurses, licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code, except both of the following shall apply:
   (1) A licensed or certified health professional with valid certification shall receive eight hours of training on resident characteristics, resident records, and facility practices and procedures prior to providing direct care to residents.
   (2) In addition to paragraph (1), a certified nurse assistant shall also receive the 12 hours of dementia care training specified in Section 1569.626 and the annual training specified in paragraph (2) of subdivision (b).

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

(Repealed (in Sec. 2.5) and added by Stats. 2014, Ch. 701, Sec. 2.7. Effective January 1, 2015. Section operative January 1, 2016, by its own provisions.)

1569.626.

(a) All residential care facilities for the elderly that advertise or promote special care, special programming, or a special environment for persons with dementia, in addition to complying with the training requirements described in Section 1569.625, shall meet the following training requirements for all direct care staff:
   (1) Six hours of resident care orientation within the first four weeks of employment. All six hours shall be devoted to the care of persons with dementia. The facility may utilize various methods of instruction, including, but not limited to, preceptorship, mentoring, and other
forms of observation and demonstration. The orientation time shall be exclusive of any administrative instruction.

(2) Eight hours of in-service training per year on the subject of serving residents with dementia. This training shall be developed in consultation with individuals or organizations with specific expertise in dementia care or by an outside source with expertise in dementia care. In formulating and providing this training, reference may be made to written materials and literature on dementia and the care and treatment of persons with dementia. This training requirement may be satisfied in one day or over a period of time. This training requirement may be provided at the facility or offsite and may include a combination of observation and practical application.

(b) This section shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date.

(Amended by Stats. 2014, Ch. 698, Sec. 5. Effective January 1, 2015. Repealed as of January 1, 2016, by its own provisions. See later operative version added by Sec. 6 of Stats. 2014, Ch. 698.)

1569.626.

(a) All residential care facilities for the elderly shall meet the following training requirements, as described in Section 1569.625, for all direct care staff:

(1) Twelve hours of dementia care training, six of which shall be completed before a staff member begins working independently with residents, and the remaining six hours of which shall be completed within the first four weeks of employment. All 12 hours shall be devoted to the care of persons with dementia. The facility may utilize various methods of instruction, including, but not limited to, preceptorship, mentoring, and other forms of observation and demonstration. The orientation time shall be exclusive of any administrative instruction.

(2) Eight hours of in-service training per year on the subject of serving residents with dementia. This training shall be developed in consultation with individuals or organizations with specific expertise in dementia care or by an outside source with expertise in dementia care. In formulating and providing this training, reference may be made to written materials and literature on dementia and the care and treatment of persons with dementia. This training requirement may be satisfied in one day or over a period of time. This training requirement may be provided at the facility or offsite and may include a combination of observation and practical application.

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

(Repealed (in Sec. 5) and added by Stats. 2014, Ch. 698, Sec. 6. Effective January 1, 2015. Section operative January 1, 2016, by its own provisions.)
1569.627.

Any residential care facility for the elderly that advertises or promotes special care, special programming, or a special environment for persons with dementia shall disclose to the department the special features of the facility in its plan of operation. This information shall be provided to the public by the facility upon request. The information shall include a brief narrative description of all of the following facility features:
(a) Philosophy, including, but not limited to, program goals.
(b) Preadmission assessment.
(c) Admission.
(d) Assessment.
(e) Program.
(f) Staff.
(g) Staff training.
(h) Physical environment.
(i) Changes in condition, including, but not limited to, when and under what circumstances are changes made to a participant’s care plan.
(j) Success indicators.

(Added by Stats. 2000, Ch. 434, Sec. 6. Effective January 1, 2001.)

1569.628.

A licensee of a residential care facility for the elderly that advertises or promotes special care, programming, or environments for persons with a health related condition, except as specified in Section 1569.72, shall provide to each prospective resident an accurate narrative description of these programs and services. The description shall be provided in writing prior to admission. All reasonable efforts shall be made to communicate the information in the narrative description to a person who is unable to read it himself or herself, including, but not limited to, reading the description out loud.

(Added by Stats. 2003, Ch. 322, Sec. 1. Effective January 1, 2004.)

1569.63.

The director shall insure that licensing personnel at the department have appropriate training to properly carry out this chapter.

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

1569.64.
The department shall institute a staff development and training program within the organization structure to develop among staff the knowledge and understanding necessary to successfully carry out this chapter. Specifically, the department shall do all of the following:
(a) Provide staff with 36 hours of training per year that reflect the unique needs of the elderly.
(b) Give priority to applications from individuals with experience as care providers to the elderly.
(c) Provide new staff with comprehensive training within the first six months of employment. This training shall, at a minimum, include the following core areas: administrative action process, client populations, conducting facility visits, cultural awareness, documentation skills, facility operations, human relation skills, interviewing techniques, investigation processes, and regulation administration.
This training shall also provide new staff who have earned fewer than 16 semester units in gerontology or geriatric education from an accredited college at least 40 hours of preservice training in the aging process and the psycho-social and health care needs of elderly persons.
(Amended by Stats. 1992, Ch. 1319, Sec. 2. Effective January 1, 1993.)

1569.65.

(a) On or before January 1, 1987, the department shall publish a comprehensive consumer guideline brochure to assist persons in the evaluation and selection of a licensed residential care facility for the elderly. The department shall develop the brochure for publication with the advice and assistance of the Advisory Committee on Community Care Facilities and the State Department of Aging.
(b) The consumer guideline brochure shall include, but not be limited to, guidelines highlighting resident health and safety issues to be considered in the selection of a residential care facility for the elderly, locations of the licensing offices of the State Department of Social Services where facility records may be reviewed, types of local organizations which may have additional information on specific facilities, and a list of recommended inquiries to be made in the selection of a residential care facility for the elderly.
(c) Upon publication, the consumer guideline brochures shall be distributed to statewide resident advocacy groups, statewide consumer advocacy groups, state and local ombudsmen, and all licensed residential care facilities for the elderly. The brochure shall be made available on request to all other interested persons.
(Added by Stats. 1985, Ch. 1127, Sec. 3.)
1569.651.

(a) A licensee of a residential care facility for the elderly shall not require any form of preadmission fee or deposit from a recipient under the State Supplementary Program for the Aged, Blind and Disabled (Article 5 (commencing with Section 12200) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code) who applies for admission to the facility.

(b) If a licensee charges a preadmission fee, the licensee shall provide the applicant or his or her representative with a written general statement describing all costs associated with the preadmission fee charges and stating that the preadmission fee is refundable. The statement shall describe the conditions for the refund as specified in subdivision (g). A licensee shall only charge a single preadmission fee as defined in subdivision (e) per resident admission.

(c) A licensee of a residential care facility for the elderly shall not require, request, or accept any funds from a resident or a resident’s representative that constitutes a deposit against any possible damages by the resident.

(d) Any fee charged by a licensee of a residential care facility for the elderly, whether prior to or after admission, shall be clearly specified in the admission agreement.

(e) For the purposes of this section, “preadmission fee” means an application fee, processing fee, admission fee, entrance fee, community fee, or other fee, however designated, that is requested or accepted by a licensee of a residential care facility for the elderly prior to admission.

(f) 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 (8) of subdivision (c) of Section 1771.

(g) If the applicant decides not to enter the facility prior to the facility’s completion of a preadmission appraisal or if the facility fails to provide full written disclosure of the preadmission fee charges and refund conditions, the applicant or the applicant’s representative shall be entitled to a refund of 100 percent of the preadmission fee.

(h) Unless subdivision (g) applies, preadmission fees in excess of five hundred dollars ($500) shall be refunded according to the following:

(1) If the applicant does not enter the facility after a preadmission appraisal is conducted, the applicant or the applicant’s representative shall be entitled to a refund of at least 80 percent of the preadmission fee amount in excess of five hundred dollars ($500).

(2) If the resident leaves the facility for any reason during the first month of residency, the resident shall be entitled to a refund of at least 80 percent of the preadmission fee amount in excess of five hundred dollars ($500).
(3) If the resident leaves the facility for any reason during the second month of residency, the resident shall be entitled to a refund of at least 60 percent of the preadmission fee amount in excess of five hundred dollars ($500).

(4) If the resident leaves the facility for any reason during the third month of residency, the resident shall be entitled to a refund of at least 40 percent of the preadmission fee amount in excess of five hundred dollars ($500).

(5) The facility may, but is not required to, make a refund of the preadmission fee for residents living in the facility for four or more months.

(i) (1) Notwithstanding subdivision (g), if a resident is evicted by a facility pursuant to subdivision (a) of Section 1569.682, the resident or the resident’s legal representative shall be entitled to a refund of preadmission fees in excess of five hundred dollars ($500) in accordance with all of the following:

(A) A 100-percent refund if preadmission fees were paid within six months of notice of eviction.

(B) A 75-percent refund if preadmission fees were paid more than six months but not more than 12 months before notice of eviction.

(C) A 50-percent refund if preadmission fees were paid more than 12 months but not more than 18 months before notice of eviction.

(D) A 25-percent refund if preadmission fees were paid more than 18 months but less than 25 months before notice of eviction.

(2) No preadmission refund is required if preadmission fees were paid 25 months or more before the notice of eviction.

(3) The preadmission refund required by this subdivision shall be paid within 15 days of issuing the eviction notice.

(Amended by Stats. 2007, Ch. 686, Sec. 1. Effective January 1, 2008.)

1569.652.

(a) A residential care facility for the elderly shall not require advance notice for terminating an admission agreement upon the death of a resident. No fees shall accrue once all personal property belonging to the deceased resident is removed from the living unit.

(b) Upon the death of a resident, a licensee shall not impede the removal of the resident’s personal property from the facility during reasonable hours by an individual or individuals authorized by the resident or the resident’s responsible person, as identified in the admission agreement or attachment, or by a court-appointed executor or administrator of the decedent’s estate, if applicable.

(c) A refund of any fees paid in advance covering the time after the resident’s personal property has been removed from the facility shall be issued to the individual, individuals, or
entity contractually responsible for the fees or, if the deceased resident paid the fees, to the resident’s estate, within 15 days after the personal property is removed.

(d) If fees are assessed while a resident’s personal property remains in a unit after the resident is deceased, a licensee shall, within three days of becoming aware of the resident’s death, provide to the resident’s responsible person, or other individual or individuals as identified in the admission agreement or attachment, written notice of the facility’s policies regarding contract termination upon death and refunds.

(e) This section shall not apply to fees charged by a continuing care equity project as defined in paragraph (6) of subdivision (e) of Section 1771 or amounts deducted from entrance fee refunds or repayments described in paragraph (2) of subdivision (r) of Section 1771.

(Added by Stats. 2013, Ch. 290, Sec. 1. Effective January 1, 2014.)

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 60 days’ prior written notice to the residents or the residents’ representatives setting forth the amount of the increase, the reason for the increase, and a general description of the additional costs, except for an increase in the rate due to a change in the level of care of the resident. This subdivision shall not apply to optional services that are provided by individuals, professionals, or organizations under a separate fee-for-service arrangement with residents.

(b) No licensee shall 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.

(Added by Stats. 2002, Ch. 557, Sec. 2. Effective January 1, 2003.)
1569.657.

(a) For any rate increase due to a change in the level of care of the resident, the licensee shall provide the resident and the resident’s representative, if any, written notice of the rate increase within two business days after initially providing services at the new level of care. The notice shall include a detailed explanation of the additional services to be provided at the new level of care and an accompanying itemization of the charges.

(b) This section shall not apply to any resident of the facility who is a recipient of benefits pursuant to Article 5 (commencing with Section 12200) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code under the State Supplementary Program for Aged, Blind and Disabled.

(c) This section shall not apply to a provider who has entered into one or more continuing care contracts at a licensed residential care facility for the elderly pursuant to a certificate of authority, as defined in paragraph (5) of subdivision (c) of Section 1771.

(Added by Stats. 2004, Ch. 401, Sec. 1. Effective January 1, 2005.)

1569.658.

(a) On or before January 31 of each year, the licensee of a licensed residential care facility for the elderly shall prepare a document disclosing its average monthly rate increases, inclusive of rates for living units and service fees, for each of the previous 3 years. For purposes of this section, “service fees” do not include fees for optional services or services provided by a third party. The licensee shall disclose the average amount of the increase, as well as the average percentage of increase. Newly licensed facilities without three years of resident rate increase history shall disclose the average increase for the years during which the facility has been serving residents. This section does not apply to newly licensed facilities with no current residents.

(b) The licensee shall provide a written copy of the disclosure required by this section to every resident or resident’s representative, upon signing an admission agreement to receive residential or other services from the facility. The resident or resident’s representative shall sign a confirmation of receipt of the disclosure, which shall be maintained by the facility in the resident’s file.

(c) The licensee shall provide a copy of the most recent disclosure required by this section to any prospective resident, or his or her representative.

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

(Added by Stats. 2008, Ch. 478, Sec. 1. Effective January 1, 2009.)
1569.66.

At least annually, the director shall publish and make available to interested persons a list or lists covering all licensed residential care facilities for the elderly and the services for which each facility has been licensed. A list or lists containing changes shall be published and made available periodically, as determined by the director.

(Amended by Stats. 1986, Ch. 844, Sec. 8.)

1569.67.

(a) The department shall develop a written notice for the purpose of informing any individual who requests information regarding admission to a residential care facility for the elderly that the department’s licensing analysts’ inspection reports on all residential care facilities for the elderly are on file and are available for public review in the department’s community care licensing district office nearest to each residential care facility for the elderly.

(b) The department shall adopt regulations requiring that each residential care facility provide this notice, as well as the address of the nearest departmental community care licensing district office, to any individual who requests information regarding admission to a residential care facility for the elderly and to any resident of the facility.

(Added by Stats. 1989, Ch. 911, Sec. 1.)

1569.68.

All residential care facilities shall be required to include their current license number in any public advertisement or correspondence.

(Added by Stats. 1989, Ch. 465, Sec. 1.)

1569.681.

(a) Each residential care facility for the elderly licensed under this chapter shall reveal its license number in all advertisements, publications, or announcements made with the intent to attract clients or residents.

(b) Advertisements, publications, or announcements subject to the requirements of subdivision (a) referred to herein include, but are not limited to, those contained in the following:

(1) Newspaper or magazine.

(2) Consumer report.
(3) Announcement of intent to commence business.
(4) Telephone directory yellow pages.
(5) Professional or service directory.
(6) Radio or television commercial.

(Added by renumbering Section 1569.314 (as added by Stats. 1989, Ch. 458) by Stats. 1990, Ch. 1137, Sec. 1.)

1569.682.

(a) A licensee of a licensed residential care facility for the elderly shall, prior to transferring a resident of the facility to another facility or to an independent living arrangement as a result of the forfeiture of a license, as described in subdivision (a), (b), or (f) of Section 1569.19, or a change of use of the facility pursuant to the department’s regulations, take all reasonable steps to transfer affected residents safely and to minimize possible transfer trauma, and shall, at a minimum, do all of the following:
(1) Prepare, for each resident, a relocation evaluation of the needs of that resident, which shall include both of the following:
(A) Recommendations on the type of facility that would meet the needs of the resident based on the current service plan.
(B) A list of facilities, within a 60-mile radius of the resident’s current facility, that meet the resident’s present needs.
(2) Provide each resident or the resident’s responsible person with a written notice no later than 60 days before the intended eviction. The notice shall include all of the following:
(A) The reason for the eviction, with specific facts to permit a determination of the date, place, witnesses, and circumstances concerning the reasons.
(B) A copy of the resident’s current service plan.
(C) The relocation evaluation.
(D) A list of referral agencies.
(E) The right of the resident or resident’s legal representative to contact the department to investigate the reasons given for the eviction pursuant to Section 1569.35.
(F) The contact information for the local long-term care ombudsman, including address and telephone number.
(3) Discuss the relocation evaluation with the resident and his or her legal representative within 30 days of issuing the notice of eviction.
(4) Submit a written report of any eviction to the licensing agency within five days.
(5) Upon issuing the written notice of eviction, a licensee shall not accept new residents or enter into new admission agreements.
(6) (A) For paid preadmission fees in excess of five hundred dollars ($500), the resident is entitled to a refund in accordance with all of the following:
(i) A 100-percent refund if preadmission fees were paid within six months of notice of eviction.
(ii) A 75-percent refund if preadmission fees were paid more than six months but not more than 12 months before notice of eviction.
(iii) A 50-percent refund if preadmission fees were paid more than 12 months but not more than 18 months before notice of eviction.
(iv) A 25-percent refund if preadmission fees were paid more than 18 months but less than 25 months before notice of eviction.
(B) No preadmission refund is required if preadmission fees were paid 25 months or more before the notice of eviction.
(C) The preadmission refund required by this paragraph shall be paid within 15 days of issuing the eviction notice. In lieu of the refund, the resident may request that the licensee provide a credit toward the resident’s monthly fee obligation in an amount equal to the preadmission fee refund due.

(7) If the resident gives notice five days before leaving the facility, the licensee shall refund to the resident or his or her legal representative a proportional per diem amount of any prepaid monthly fees at the time the resident leaves the facility and the unit is vacated. Otherwise the licensee shall pay the refund within seven days from the date that the resident leaves the facility and the unit is vacated.

(8) Within 10 days of all residents having left the facility, the licensee, based on information provided by the resident or resident’s legal representative, shall submit a final list of names and new locations of all residents to the department and the local ombudsman program.
(b) If seven or more residents of a residential care facility for the elderly will be transferred as a result of the forfeiture of a license or change in the use of the facility pursuant to subdivision (a), the licensee shall submit a proposed closure plan to the department for approval. The department shall approve or disapprove the closure plan, and monitor its implementation, in accordance with the following requirements:
(1) Upon submission of the closure plan, the licensee shall be prohibited from accepting new residents and entering into new admission agreements for new residents.
(2) The closure plan shall meet the requirements described in subdivision (a), and describe the staff available to assist in the transfers. The department’s review shall include a determination as to whether the licensee’s closure plan contains a relocation evaluation for each resident.
(3) Within 15 working days of receipt, the department shall approve or disapprove the closure plan prepared pursuant to this subdivision, and, if the department approves the plan, it shall become effective upon the date the department grants its written approval of the plan.
(4) If the department disapproves a closure plan, the licensee may resubmit an amended plan, which the department shall promptly either approve or disapprove, within 10 working
days of receipt by the department of the amended plan. If the department fails to approve a closure plan, it shall inform the licensee, in writing, of the reasons for the disapproval of the plan.

(5) If the department fails to take action within 20 working days of receipt of either the original or the amended closure plan, the plan, or amended plan, as the case may be, shall be deemed approved.

(6) Until such time that the department has approved a licensee’s closure plan, the facility shall not issue a notice of transfer or require any resident to transfer.

(7) Upon approval by the department, the licensee shall send a copy of the closure plan to the local ombudsman program.

(c) (1) If a licensee fails to comply with the requirements of this section, or if the director determines that it is necessary to protect the residents of a facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety, the department shall take any necessary action to minimize trauma for the residents, including caring for the residents through the use of a temporary manager or receiver as provided for in Sections 1569.481 and 1569.482 when the director determines the immediate relocation of the residents is not feasible based on transfer trauma or other considerations such as the unavailability of alternative placements. The department shall contact any local agency that may have assessment placement, protective, or advocacy responsibility for the residents, and shall work together with those agencies to locate alternative placement sites, contact relatives or other persons responsible for the care of these residents, provide onsite evaluation of the residents, and assist in the transfer of residents.

(2) The participation of the department and local agencies in the relocation of residents from a residential care facility for the elderly shall not relieve the licensee of any responsibility under this section. A licensee that fails to comply with the requirements of this section shall be required to reimburse the department and local agencies for the cost of providing the relocation services or the costs incurred in caring for the residents through the use of a temporary manager or receiver as provided for in Sections 1569.481 and 1569.482. If the licensee fails to provide the relocation services required in this section, then the department may request that the Attorney General’s office, the city attorney’s office, or the local district attorney’s office seek injunctive relief and damages in the same manner as provided for in Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code, including restitution to the department of any costs incurred in caring for the residents through the use of a temporary manager or receiver as provided for in Sections 1569.481 and 1569.482.

(d) A licensee who fails to comply with requirements of this section shall be liable for the imposition of civil penalties in the amount of one hundred dollars ($100) per violation per day for each day that the licensee is in violation of this section, until such time that the violation has been corrected. The civil penalties shall be issued immediately following the
written notice of violation. However, if the violation does not present an immediate or substantial threat to the health or safety of residents and the licensee corrects the violation within three days after receiving the notice of violation, the licensee shall not be liable for payment of any civil penalties pursuant to this subdivision related to the corrected violation. (e) A licensee, on and after January 1, 2015, who fails to comply with this section and 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 Section 1569.19, shall be excluded from licensure in facilities licensed by the department without the right to petition for reinstatement. (f) A resident of a residential care facility for the elderly covered under this section may bring a civil action against any person, firm, partnership, or corporation who owns, operates, establishes, manages, conducts, or maintains a residential care facility for the elderly who violates the rights of a resident, as set forth in this section. Any person, firm, partnership, or corporation who owns, operates, establishes, manages, conducts, or maintains a residential care facility for the elderly who violates this section shall be responsible for the acts of the facility’s employees and shall be liable for costs and attorney’s fees. Any such residential care facility for the elderly may also be enjoined from permitting the violation to continue. The remedies specified in this section shall be in addition to any other remedy provided by law. (g) This section shall not apply to a licensee that has obtained a certificate of authority to offer continuing care contracts, as defined in paragraph (8) of subdivision (c) of Section 1771.

(Amended by Stats. 2014, Ch. 700, Sec. 3.5. Effective January 1, 2015.)

1569.683.

(a) In addition to complying with other applicable regulations, a licensee of a residential care facility for the elderly who sends a notice of eviction to a resident shall set forth in the notice to quit the reasons relied upon for the eviction, with specific facts to permit determination of the date, place, witnesses, and circumstances concerning those reasons. In addition, the notice to quit shall include all of the following:

(1) The effective date of the eviction.
(2) Resources available to assist in identifying alternative housing and care options, including public and private referral services and case management organizations.
(3) Information about the resident’s right to file a complaint with the department regarding the eviction, with the name, address, and telephone number of the nearest office of community care licensing and the State Ombudsman.
(4) The following statement: “In order to evict a resident who remains in the facility after the effective date of the eviction, the residential care facility for the elderly must file an
unlawful detainer action in superior court and receive a written judgment signed by a judge. If the facility pursues the unlawful detainer action, you must be served with a summons and complaint. You have the right to contest the eviction in writing and through a hearing.”
(b) The licensee, in addition to either serving a 30-day notice, or seeking approval from the department and serving three days notice, on the resident, shall notify, or mail a copy of the notice to quit to, the resident’s responsible person.

(Added by Stats. 2009, Ch. 617, Sec. 2. Effective January 1, 2010.)

1569.686.

(a) A licensee shall notify the department, the State Long-Term Care Ombudsman, all residents, and, if applicable, their legal representatives, in writing, within two business days, and shall notify all applicants for potential residence, and, if applicable, their legal representatives, prior to admission, of any of the following events, or knowledge of the event:
(1) A notice of default, notice of trustee’s sale, or any other indication of foreclosure is issued on the property.
(2) An unlawful detainer action is initiated against the licensee.
(3) The licensee files for bankruptcy.
(4) The licensee receives a written notice of default of payment of rent described in Section 1161 of the Code of Civil Procedure.
(5) A utility company has sent a notice of intent to terminate electricity, gas, or water service on the property within not more than 15 days of the notice.
(b) Upon receipt of the notice required pursuant to subdivision (a), the department shall initiate a compliance plan, noncompliance conference, or other appropriate action.
(c) A licensee who fails to comply with this section may be liable for civil penalties in an amount not to exceed one hundred dollars ($100) for each day of the failure to provide notification required in this section. The total civil penalty shall not exceed two thousand dollars ($2,000). If a resident is relocated without the notification required by this section, and suffers transfer trauma or other harm to his or her health or safety, the department may also suspend or revoke the licensee’s license and issue a permanent revocation of the licensee’s ability to operate or act as an administrator of a facility anywhere in the state. Suspension or revocation proceedings pursuant to this subdivision shall be conducted in compliance with Section 1569.51.
(d) For purposes of this section, “property” means the land or building in which a residential care facility for the elderly is located.
(e) This section shall not apply to licensees of residential care facilities for the elderly that have obtained a certificate of authority, as defined in paragraph (5) of subdivision (c) of
Section 1771, to offer continuing care contracts, as defined in paragraph (8) of subdivision (c) of Section 1771.

(Added by Stats. 2011, Ch. 376, Sec. 3. Effective January 1, 2012.)

1569.69.

(a) Each residential care facility for the elderly licensed under this chapter shall ensure that each employee of the facility who assists residents with the self-administration of medications meets the following training requirements:

(1) In facilities licensed to provide care for 16 or more persons, the employee shall complete 16 hours of initial training. This training shall consist of eight hours of hands-on shadowing training, which shall be completed prior to assisting with the self-administration of medications, and eight hours of other training or instruction, as described in subdivision (f), which shall be completed within the first two weeks of employment.

(2) In facilities licensed to provide care for 15 or fewer persons, the employee shall complete six hours of initial training. This training shall consist of two hours of hands-on shadowing training, which shall be completed prior to assisting with the self-administration of medications, and four hours of other training or instruction, as described in subdivision (f), which shall be completed within the first two weeks of employment.

(3) An employee shall be required to complete the training requirements for hands-on shadowing training described in this subdivision prior to assisting any resident in the self-administration of medications. The training and instruction described in this subdivision shall be completed, in their entirety, within the first two weeks of employment.

(4) The training shall cover all of the following areas:

(A) The role, responsibilities, and limitations of staff who assist residents with the self-administration of medication, including tasks limited to licensed medical professionals.

(B) An explanation of the terminology specific to medication assistance.

(C) An explanation of the different types of medication orders: prescription, over-the-counter, controlled, and other medications.

(D) An explanation of the basic rules and precautions of medication assistance.

(E) Information on medication forms and routes for medication taken by residents.

(F) A description of procedures for providing assistance with the self-administration of medications in and out of the facility, and information on the medication documentation system used in the facility.

(G) An explanation of guidelines for the proper storage, security, and documentation of centrally stored medications.

(H) A description of the processes used for medication ordering, refills, and the receipt of medications from the pharmacy.

(I) An explanation of medication side effects, adverse reactions, and errors.
(5) To complete the training requirements set forth in this subdivision, each employee shall pass an examination that tests the employee’s comprehension of, and competency in, the subjects listed in paragraph (4).

(6) Residential care facilities for the elderly shall encourage pharmacists and licensed medical professionals to use plain English when preparing labels on medications supplied to residents. As used in this section, “plain English” means that no abbreviations, symbols, or Latin medical terms shall be used in the instructions for the self-administration of medication.

(7) The training requirements of this section are not intended to replace or supplant those required of all staff members who assist residents with personal activities of daily living as set forth in Section 1569.625.

(8) The training requirements of this section shall be repeated if either of the following occurs:

(A) An employee returns to work for the same licensee after a break of service of more than 180 consecutive calendar days.

(B) An employee goes to work for another licensee in a facility in which he or she assists residents with the self-administration of medication.

(b) Each employee who received training and passed the examination required in paragraph (5) of subdivision (a), and who continues to assist with the self-administration of medicines, shall also complete four hours of in-service training on medication-related issues in each succeeding 12-month period.

(c) The requirements set forth in subdivisions (a) and (b) do not apply to persons who are licensed medical professionals.

(d) Each residential care facility for the elderly that provides employee training under this section shall use the training material and the accompanying examination that are developed by, or in consultation with, a licensed nurse, pharmacist, or physician. The licensed residential care facility for the elderly shall maintain the following documentation for each medical consultant used to develop the training:

(1) The name, address, and telephone number of the consultant.

(2) The date when consultation was provided.

(3) The consultant’s organization affiliation, if any, and any educational and professional qualifications specific to medication management.

(4) The training topics for which consultation was provided.

(e) Each person who provides employee training under this section shall meet the following education and experience requirements:

(1) A minimum of five hours of initial, or certified continuing, education or three semester units, or the equivalent, from an accredited educational institution, on topics relevant to medication management.
(2) The person shall meet any of the following practical experience or licensure requirements:
(A) Two years of full-time experience, within the last four years, as a consultant with expertise in medication management in areas covered by the training described in subdivision (a).
(B) Two years of full-time experience, or the equivalent, within the last four years, as an administrator for a residential care facility for the elderly, during which time the individual has acted in substantial compliance with applicable regulations.
(C) Two years of full-time experience, or the equivalent, within the last four years, as a direct care provider assisting with the self-administration of medications for a residential care facility for the elderly, during which time the individual has acted in substantial compliance with applicable regulations.
(D) Possession of a license as a medical professional.
(3) The licensed residential care facility for the elderly shall maintain the following documentation on each person who provides employee training under this section:
(A) The person’s name, address, and telephone number.
(B) Information on the topics or subject matter covered in the training.
(C) The time, dates, and hours of training provided.
(f) Other training or instruction, as required in paragraphs (1) and (2) of subdivision (a), may be provided offsite, and may use various methods of instruction, including, but not limited to, all of the following:
(1) Lectures by presenters who are knowledgeable about medication management.
(2) Video recorded instruction, interactive material, online training, and books.
(3) Other written or visual materials approved by organizations or individuals with expertise in medication management.
(g) Residential care facilities for the elderly licensed to provide care for 16 or more persons shall maintain documentation that demonstrates that a consultant pharmacist or nurse has reviewed the facility’s medication management program and procedures at least twice a year.
(h) Nothing in this section authorizes unlicensed personnel to directly administer medications.
(i) This section shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date.

(Amended by Stats. 2014, Ch. 705, Sec. 7. Effective January 1, 2015. Repealed as of January 1, 2016, by its own provisions. See later operative version added by Sec. 8 of Stats. 2014, Ch. 705.)

1569.69.
(a) Each residential care facility for the elderly licensed under this chapter shall ensure that each employee of the facility who assists residents with the self-administration of medications meets all of the following training requirements:

(1) In facilities licensed to provide care for 16 or more persons, the employee shall complete 24 hours of initial training. This training shall consist of 16 hours of hands-on shadowing training, which shall be completed prior to assisting with the self-administration of medications, and 8 hours of other training or instruction, as described in subdivision (f), which shall be completed within the first four weeks of employment.

(2) In facilities licensed to provide care for 15 or fewer persons, the employee shall complete 10 hours of initial training. This training shall consist of 6 hours of hands-on shadowing training, which shall be completed prior to assisting with the self-administration of medications, and 4 hours of other training or instruction, as described in subdivision (f), which shall be completed within the first two weeks of employment.

(3) An employee shall be required to complete the training requirements for hands-on shadowing training described in this subdivision prior to assisting any resident in the self-administration of medications. The training and instruction described in this subdivision shall be completed, in their entirety, within the first two weeks of employment.

(4) The training shall cover all of the following areas:
(A) The role, responsibilities, and limitations of staff who assist residents with the self-administration of medication, including tasks limited to licensed medical professionals.
(B) An explanation of the terminology specific to medication assistance.
(C) An explanation of the different types of medication orders: prescription, over-the-counter, controlled, and other medications.
(D) An explanation of the basic rules and precautions of medication assistance.
(E) Information on medication forms and routes for medication taken by residents.
(F) A description of procedures for providing assistance with the self-administration of medications in and out of the facility, and information on the medication documentation system used in the facility.
(G) An explanation of guidelines for the proper storage, security, and documentation of centrally stored medications.
(H) A description of the processes used for medication ordering, refills, and the receipt of medications from the pharmacy.
(I) An explanation of medication side effects, adverse reactions, errors, the adverse effects of psychotropic drugs for use in controlling the behavior of persons with dementia, and the increased risk of death when elderly residents with dementia are given antipsychotic medications.

(5) To complete the training requirements set forth in this subdivision, each employee shall pass an examination that tests the employee’s comprehension of, and competency in, the subjects listed in paragraph (4).
(6) Residential care facilities for the elderly shall encourage pharmacists and licensed medical professionals to use plain English when preparing labels on medications supplied to residents. As used in this section, “plain English” means that no abbreviations, symbols, or Latin medical terms shall be used in the instructions for the self-administration of medication.

(7) The training requirements of this section are not intended to replace or supplant those required of all staff members who assist residents with personal activities of daily living as set forth in Sections 1569.625 and 1569.696.

(8) The training requirements of this section shall be repeated if either of the following occur:

(A) An employee returns to work for the same licensee after a break of service of more than 180 consecutive calendar days.

(B) An employee goes to work for another licensee in a facility in which he or she assists residents with the self-administration of medication.

(b) Each employee who received training and passed the examination required in paragraph (5) of subdivision (a), and who continues to assist with the self-administration of medicines, shall also complete eight hours of in-service training on medication-related issues in each succeeding 12-month period.

(c) The requirements set forth in subdivisions (a) and (b) do not apply to persons who are licensed medical professionals.

(d) Each residential care facility for the elderly that provides employee training under this section shall use the training material and the accompanying examination that are developed by, or in consultation with, a licensed nurse, pharmacist, or physician. The licensed residential care facility for the elderly shall maintain the following documentation for each medical consultant used to develop the training:

(1) The name, address, and telephone number of the consultant.

(2) The date when consultation was provided.

(3) The consultant’s organization affiliation, if any, and any educational and professional qualifications specific to medication management.

(4) The training topics for which consultation was provided.

(e) Each person who provides employee training under this section shall meet the following education and experience requirements:

(1) A minimum of five hours of initial, or certified continuing, education or three semester units, or the equivalent, from an accredited educational institution, on topics relevant to medication management.

(2) The person shall meet any of the following practical experience or licensure requirements:
(A) Two years of full-time experience, within the last four years, as a consultant with expertise in medication management in areas covered by the training described in subdivision (a).

(B) Two years of full-time experience, or the equivalent, within the last four years, as an administrator for a residential care facility for the elderly, during which time the individual has acted in substantial compliance with applicable regulations.

(C) Two years of full-time experience, or the equivalent, within the last four years, as a direct care provider assisting with the self-administration of medications for a residential care facility for the elderly, during which time the individual has acted in substantial compliance with applicable regulations.

(D) Possession of a license as a medical professional.

(3) The licensed residential care facility for the elderly shall maintain the following documentation on each person who provides employee training under this section:

(A) The person’s name, address, and telephone number.

(B) Information on the topics or subject matter covered in the training.

(C) The times, dates, and hours of training provided.

(f) Other training or instruction, as required in paragraphs (1) and (2) of subdivision (a), may be provided offsite, and may use various methods of instruction, including, but not limited to, all of the following:

(1) Lectures by presenters who are knowledgeable about medication management.

(2) Video recorded instruction, interactive material, online training, and books.

(3) Other written or visual materials approved by organizations or individuals with expertise in medication management.

(g) Residential care facilities for the elderly licensed to provide care for 16 or more persons shall maintain documentation that demonstrates that a consultant pharmacist or nurse has reviewed the facility’s medication management program and procedures at least twice a year.

(h) Nothing in this section authorizes unlicensed personnel to directly administer medications.

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

(Repealed (in Sec. 7) and added by Stats. 2014, Ch. 705, Sec. 8. Effective January 1, 2015. Section operative January 1, 2016, by its own provisions.)

1569.695.

(a) In addition to any other requirement of this chapter, a residential care facility for the elderly shall have an emergency plan that shall include, but not be limited to, all of the following:

(1) Evacuation procedures.
(2) Plans for the facility to be self-reliant for a period of not less than 72 hours immediately following any emergency or disaster, including, but not limited to, a long-term power failure.

(3) Transportation needs and evacuation procedures to ensure that the facility can communicate with emergency response personnel or can access the information necessary in order to check the emergency routes to be used at the time of an evacuation and relocation necessitated by a disaster.

(4) Procedures that address, but are not limited to, all of the following:

(A) Provision of emergency power that could include identification of suppliers of backup generators.

(B) Responding to individual residents’ needs in the event the emergency call buttons are inoperable.

(C) Process for communicating with residents, families, hospice providers, and others, as appropriate, that might include landline telephones, cellular telephones, or walkie-talkies.

(D) Assistance with, and administration of, medications.

(E) Storage and preservation of medications.

(F) The operation of assistive medical devices that need electric power for their operation, including, but not limited to, oxygen equipment and wheelchairs.

(G) A process for identifying residents with special needs, such as hospice, and a plan for meeting those needs.

(b) Each facility subject to this section shall make the plan available upon request to residents onsite and available to local emergency responders.

(c) The department’s Community Care Licensing Division shall confirm, during comprehensive licensing visits, that the plan is on file at the facility.

(d) Nothing in this section shall create a new or additional requirement for the department to evaluate the emergency plan. The department shall only verify that the plan is on file at the time of the comprehensive inspection.

(e) This subdivision shall not apply to 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.

(f) This section shall become operative on March 1, 2009.

(Added by Stats. 2008, Ch. 477, Sec. 1. Effective January 1, 2009. Section operative March 1, 2009, by its own provisions.)

1569.696.

(a) All residential care facilities for the elderly shall provide training to direct care staff on postural supports, restricted conditions or health services, and hospice care as a component of the training requirements specified in Section 1569.625. The training shall include all of the following:
(1) Four hours of training on the care, supervision, and special needs of those residents, prior to providing direct care to residents. The facility may utilize various methods of instruction, including, but not limited to, preceptorship, mentoring, and other forms of observation and demonstration. The orientation time shall be exclusive of any administrative instruction.
(2) Four hours of training thereafter of in-service training per year on the subject of serving those residents.
(b) This training shall be developed in consultation with individuals or organizations with specific expertise in the care of those residents described in subdivision (a). In formulating and providing this training, reference may be made to written materials and literature. This training requirement may be provided at the facility or offsite and may include a combination of observation and practical application.
(c) This section shall become operative on January 1, 2016.

(Added by Stats. 2014, Ch. 705, Sec. 9. Effective January 1, 2015. Section operative January 1, 2016, by its own provisions.)

ARTICLE 6.6. Secured Perimeters [1569.698 - 1569.7]
(Article 6.6 added by Stats. 1995, Ch. 550, Sec. 2.)

1569.698.

(a) The State Fire Marshal has proposed that the State Building Standards Commission adopt building standards to provide for locked and secured perimeters in residential care facilities for the elderly that care for persons with dementia:
(1) It is acknowledged that these building standards will not become effective until October 1, 1996.
(2) It is the policy of the State Building Standards Commission that building standards be adopted exclusively into the California Building Standards Code and not into state statute. (3) However, in recognition of the immediate need of residential care facilities for the elderly caring for persons with dementia to provide a secured environment, it is the intent of the Legislature that the building standards for locked and secured perimeters proposed by the State Fire Marshal for adoption in the 1994 California Building Standards Code, as set forth in Section 1569.699, be effective upon the date this article becomes operative.
(b) (1) Upon the filing of emergency regulations with the Secretary of State pursuant to subdivision (c), a residential care facility for the elderly that cares for people with dementia may utilize secured perimeter fences or locked exit doors, if it meets the requirements for additional safeguards required by those regulations.
(2) For the purposes of this article, dementia includes Alzheimer’s disease and related disorders, diagnosed by a physician, that increase the tendency to wander and that decrease hazard awareness and the ability to communicate.

(3) It is the intent of the Legislature in enacting this article that residential care facilities for the elderly have options for the security of persons with dementia who are residents of those facilities that are in addition to existing security exceptions made for individual residents. It is the further intent of the Legislature that these additional options shall include the use of waivers of certain building standards relating to fire safety, to be issued by the state department with the approval of the State Fire Marshal, to permit the care of a target group of persons with dementia by means of secured perimeter fences, or the use of locked exterior doors. Each waiver request shall include a facility plan of operation that addresses elements of care to be identified by the department in regulations and demonstrates the facility’s ability to meet the safety needs of persons with dementia.

(4) The department shall adopt regulations that ensure that staff for secured perimeter facilities receive appropriate and adequate training in the care of residents with dementia.

(5) Nothing in this section is intended to prohibit residential care facilities for the elderly from accepting or retaining persons with dementia whose needs can be fully met using care options permitted by existing law and regulations.

(6) It is not the intent of the Legislature to authorize an increase in the level of care provided in a residential care facility for the elderly or to establish a supplemental rate structure based on the services provided in the facility.

(7) All admissions to residential care facilities for the elderly shall continue to be voluntary on the part of the resident or with the lawful consent of the resident’s legal conservator.

(c) The department shall adopt regulations to implement subdivision (b) in accordance with those provisions of the Administrative Procedure Act contained in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The initial adoption of any emergency regulations following the effective date of the act amending this section during the 1995–96 Regular Legislative Session shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Emergency regulations adopted pursuant to this subdivision shall remain in effect for no more than 180 days.

(d) In addition to the security options authorized by subdivision (b), residential care facilities for the elderly that accept or retain as residents persons with dementia, and that choose to utilize the security options of egress-control devices of the time-delay type in addition to secured perimeter fences or locked exit doors, shall comply with Section 1569.699, or regulations adopted by the State Building Standards Commission, whichever is operative.

(e) A residential care facility for the elderly shall not utilize special egress-control devices of the time-delay type, secured perimeter fences, or locked exit doors unless the facility meets
the requirements of Section 1569.699 or the Building Standards Commission adopts building standards to implement this section.

(f) Any person who is not a conservatee and is entering a locked or secured perimeter facility pursuant to this section, shall sign a statement of voluntary entry. The facility shall retain the original statement and shall send a copy of the statement to the department.

(Amended by Stats. 2014, Ch. 913, Sec. 26. Effective January 1, 2015.)

1569.699.

(a) When approved by the person responsible for enforcement as described in Section 13146, exit doors in facilities classified as Group R, Division 2 facilities under the California Building Standards Code, licensed as residential care facilities for the elderly, and housing clients with Alzheimer’s disease or dementia, may be equipped with approved listed special egress-control devices of the time-delay type, provided the building is protected throughout by an approved automatic sprinkler system and an approved automatic smoke-detection system. The devices shall conform to all of the following requirements:
(1) Automatic deactivation of the egress-control device upon activation of either the sprinkler system or the detection system.
(2) Automatic deactivation of the egress-control device upon loss of electrical power to any one of the following: The egress-control device; the smoke-detection system; exit illumination as required by Section 1012 of the California Building Code.
(3) Be capable of being deactivated by a signal from a switch located in an approved location.
(4) Initiate an irreversible process that will deactivate the egress-control device whenever a manual force of not more than 15 pounds (66.72 N) is applied for two seconds to the panic bar or other door-latching hardware. The egress-control device shall deactivate within an approved time period not to exceed a total of 15 seconds, except that the person responsible for enforcement as described in Section 13146 may approve a delay not to exceed 30 seconds in residential care facilities for the elderly serving patients with Alzheimer’s disease. The time delay established for each egress-control device shall not be field adjustable.
(5) Actuation of the panic bar or other door-latching hardware shall activate an audible signal at the door.
(6) The unlatching shall not require more than one operation.
(7) A sign shall be provided on the door located above and within 12 inches (305mm) of the panic bar or other door-latching hardware reading: KEEP PUSHING. THIS DOOR WILL OPEN IN ____ SECONDS. ALARM WILL SOUND. Sign letter shall be at least one inch (25mm) in height and shall have a stroke of not less than 1/8 inch (3.3mm).
Regardless of the means of deactivation, relocking of the egress-control device shall be by manual means only at the door.

(b) Grounds of residential care facilities for the elderly serving persons with Alzheimer’s disease or dementia may be fenced, and gates therein equipped with locks, provided safe dispersal areas are located not less than 50 feet (15240mm) from the buildings. Dispersal areas shall be sized to provide an area of not less than three square feet (0.28 2) per occupant. Gates shall not be installed across corridors or passageways leading to the dispersal areas unless they comply with the exit requirements of Section 1021 of the California Building Standards Code.

(c) Exit doors may be locked in residential care facilities for the elderly that meet the requirements for Group I, Division 3 occupancies under the California Building Standards Code and that care for people with dementia.

(d) This section shall become inoperative on the date the State Building Standards Commission adopts regulations regarding secured perimeters in residential care facilities for the elderly, and, as of the January 1 next following that date, is repealed, unless a later enacted statute, that becomes operative on or before that January 1, deletes or extends the dates on which it becomes inoperative and is repealed.

(Added by Stats. 1995, Ch. 550, Sec. 2. Effective October 4, 1995. Inoperative on date prescribed by its own provisions. Repealed on January 1 after inoperative date, by its own provisions.)

1569.6991.

On and after January 1, 1999, no security window bars may be installed or maintained on any residential care facility for the elderly unless the security window bars meet current state and local requirements, as applicable, for security window bars and safety release devices.

(Added by Stats. 1998, Ch. 343, Sec. 3. Effective January 1, 1999.)

1569.7.

Residential care facilities for the elderly that serve residents with Alzheimer’s disease and other forms of dementia should include information on sundowning as part of the training for direct care staff, and should include in the plan of operation a brief narrative description explaining activities available for residents to decrease the effects of sundowning, including, but not limited to, increasing outdoor activities in appropriate weather conditions.

(Added by Stats. 2003, Ch. 383, Sec. 3. Effective January 1, 2004.)
ARTICLE 7. Levels of Care [1569.70 - 1569.74]

( Article 7 added by Stats. 1985, Ch. 1127, Sec. 3. )

1569.70.

It is the intent of the Legislature to develop and implement a plan to establish three levels of care under the residential care facility for the elderly license, subject to future Budget Act appropriations and statutory authorization to implement levels of care.

(a) The guidelines for the development of these levels of care are:

(1) Level I—Base care and supervision. Residents at this level are able to maintain a higher degree of independence and need only minimum care and supervision, as defined, and minimal personal care assistance.

(2) Level II—Nonmedical personal care. Residents at this level have functional limitations and psychosocial needs requiring not only care and supervision but frequent assistance with personal activities of daily living and active intervention to help them maintain their potential for independent living.

(3) Level III—Health related assistance. Residents at this level require the services of lower levels and rely on the facility for extensive assistance with personal activities of daily living. This level may include residents who also require the occasional services of an appropriate skilled professional due to chronic health problems and returning residents recovering from illness, injury, or treatment that required placement in facilities providing higher levels of care.

These levels are to be based on the services required by residents at each level due to their functional limitations.

(b) The levels of care plan shall include:

(1) Guidelines for meeting requirements at each level of care by utilizing appropriate community and professional services. Options shall be provided to allow facilities to meet resident needs by accessing community services or hiring appropriate staff.

(2) Assessment procedures for facility evaluation of residents’ level of care needs.

(3) Process for ensuring the individual facility’s ability to serve clients at each level of care they intend to provide.

(4) Recommendations for a supplemental rate structure based on the services required at Levels II and III to be provided for residents who need those levels of care and are recipients of SSI/SSP. These rates shall be in addition to the basic SSI/SSP rate for providing care supervision and shall reflect actual costs of operation for residential care facilities for the elderly.

(5) Procedures for assessment and certification of SSI/SSP recipients, by county social services departments to allow for administration of the supplemental rate structure.
(6) Procedures for evaluating and monitoring the appropriateness of the levels of care determined for SSI/SSP recipients.
(c) Implementation of the levels of care system shall consider the applicability of the 1985 level of care report developed by the California Health and Human Services Agency, so as to ensure continuity in the residential care facility for the elderly program as outlined under this chapter.

(Amended by Stats. 2004, Ch. 183, Sec. 191. Effective January 1, 2005.)

1569.71.
In consultation with the State Fire Marshal the department shall develop and expedite implementation of regulations related to nonambulatory persons that ensure resident safety but also provide flexibility to allow residents to remain in the least restrictive environment. Following the implementation of levels of care, regulations related to nonambulatory persons shall also provide the flexibility necessary for those levels in residential care facilities for the elderly.

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

1569.72.
(a) Except as otherwise provided in subdivision (d), no resident shall be admitted or retained in a residential care facility for the elderly if any of the following apply:
(1) The resident requires 24-hour, skilled nursing or intermediate care.
(2) The resident is bedridden, other than for a temporary illness or for recovery from surgery.
(b) (1) For the purposes of this section, “bedridden“ means requiring assistance in turning and repositioning in bed or being unable to independently transfer to and from bed, except in a facility with appropriate and sufficient care staff, mechanical devices, if necessary, and safety precautions, as determined by the director in regulations.
(2) The determination of the bedridden status of persons with developmental disabilities shall be made by the Director of Social Services or his or her designated representative, in consultation with the Director of Developmental Services or his or her designated representative, after consulting the resident’s individual safety plan. The determination of the bedridden status of all other persons with disabilities who are not developmentally disabled shall be made by the Director of Social Services, or his or her designated representative.
(c) Notwithstanding paragraph (2) of subdivision (a), bedridden persons may be admitted to, and remain in, residential care facilities for the elderly that secure and maintain an
appropriate fire clearance. A fire clearance shall be issued to a facility in which one or more bedridden persons reside if either of the following conditions are met:
(1) The fire safety requirements are met. Residents who are unable to independently transfer to and from bed, but who do not need assistance to turn or reposition in bed, shall be considered nonambulatory for purposes of this paragraph.
(2) Alternative methods of protection are approved.
(d) (1) For purposes of this section, “temporary illness” means any illness which persists for 14 days or less.
(e) A bedridden resident may be retained in a residential care facility for the elderly in excess of 14 days if all of the following requirements are satisfied:
(1) The facility notifies the department in writing regarding the temporary illness or recovery from surgery.
(2) The facility submits to the department, with the notification, a physician and surgeon’s written statement to the effect that the resident’s illness or recovery is of a temporary nature. The statement shall contain an estimated date upon which the illness or recovery will end or upon which the resident will no longer be confined to a bed.
(3) The department determines that the health and safety of the resident is adequately protected in that facility and that transfer to a higher level of care is not necessary.
(4) This section does not expand the scope of care and supervision of a residential care facility for the elderly.
(f) Notwithstanding the length of stay of a bedridden resident, every facility admitting or retaining a bedridden resident, as defined in this section, shall, within 48 hours of the resident’s admission or retention in the facility, notify the local fire authority with jurisdiction in the bedridden resident’s location of the estimated length of time the resident will retain his or her bedridden status in the facility.
(g) Nothing in this section shall be used for purposes of Section 1569.70 to determine the appropriateness of residents being admitted or retained in a residential care facility for the elderly on the basis of health-related conditions and the need for these services until the three levels of care set forth in Section 1569.70 are fully implemented. This section shall not prohibit the Community Care Licensing Division of the State Department of Social Services from continuing to implement the regulations of Article 8 (commencing with Section 87700) of Chapter 8 of Division 6 of Title 22 of the California Code of Regulations, as promulgated and approved on February 13, 1990.
(h) (1) The department and the Office of the State Fire Marshal, in consultation with the State Department of Developmental Services, shall each promulgate regulations that meet all of the following conditions:
(A) Are consistent with subdivisions (a) to (f), inclusive.
(B) Are applicable to facilities regulated under this chapter, consistent with the regulatory requirements of the California Building Standards Code for fire and life safety for the
respective occupancy classifications into which the State Department of Social Services' community care licensing classifications fall.

(C) Permit residents to remain in home-like settings.

(2) At a minimum, these regulations shall do both of the following with regard to a residential care facility that provides care for six or fewer residents, at least one of whom is bedridden:

(A) Clarify the fire and life safety requirements for a fire clearance for the facility.
(B) (i) Identify procedures for requesting the approval of alternative means of providing equivalent levels of fire and life safety protection.
(ii) Either the facility, the resident or resident’s representative, or local fire official may request from the Office of the State Fire Marshal a written opinion concerning the interpretation of the regulations promulgated by the State Fire Marshal pursuant to this section for a particular factual dispute. The State Fire Marshal shall issue the written opinion within 45 days following the request.
(i) For facilities that care for six or fewer clients, a local fire official may not impose fire safety requirements stricter than the fire safety regulations promulgated for the particular type of facility by the Office of the State Fire Marshal or the local fire safety requirements imposed on any other single family dwelling, whichever is more strict.
(j) This section and any regulations promulgated thereunder shall be interpreted in a manner that provides flexibility to allow bedridden persons to avoid institutionalization and be admitted to, and safely remain in, community-based residential care facilities.

(Amended by Stats. 2009, Ch. 471, Sec. 3. Effective January 1, 2010.)

1569.725.

(a) A residential care facility for the elderly may permit incidental medical services to be provided through a home health agency, licensed pursuant to Chapter 8 (commencing with Section 1725), when all of the following conditions are met:

(1) The facility, in the judgment of the department, has the ability to provide the supporting care and supervision appropriate to meet the needs of the resident receiving care from a home health agency.
(2) The home health agency has been advised of the regulations pertaining to residential care facilities for the elderly and the requirements related to incidental medical services being provided in the facility.
(3) There is evidence of an agreed-upon protocol between the home health agency and the residential care facility for the elderly. The protocol shall address areas of responsibility of the home health agency and the facility and the need for communication and the sharing of resident information related to the home health care plan. Resident information may be shared between the home health agency and the residential care facility for the elderly
relative to the resident’s medical condition and the care and treatment provided to the resident by the home health agency including, but not limited to, medical information, as defined by the Confidentiality of Medical Information Act, Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code.

(4) There is ongoing communication between the home health agency and the residential care facility for the elderly about the services provided to the resident by the home health agency and the frequency and duration of care to be provided.

(b) Nothing in this section is intended to expand the scope of care and supervision for a residential care facility for the elderly, as prescribed by this chapter.

(c) Nothing in this section shall require any care or supervision to be provided by the residential care facility for the elderly beyond that which is permitted in this chapter.

(d) The department shall not be responsible for the evaluation of medical services provided to the resident of the residential care facility for the elderly by the home health agency.

(e) Any regulations, policies, or procedures related to sharing resident information and development of protocols, established by the department pursuant to this section, shall be developed in consultation with the State Department of Health Services and persons representing home health agencies and residential care facilities for the elderly.

(Amended by Stats. 1998, Ch. 831, Sec. 6. Effective January 1, 1999.)

1569.73.

(a) Notwithstanding Section 1569.72 or any other provision of law, a residential care facility for the elderly may obtain a waiver from the department for the purpose of allowing a resident who has been diagnosed as terminally ill by his or her physician and surgeon to remain in the facility, or allowing a person who has been diagnosed as terminally ill by his or her physician and surgeon to become a resident of the facility if that person is already receiving hospice services and would continue to receive hospice services without disruption if he or she became a resident, when all the following conditions are met:

(1) The facility agrees to retain the terminally ill resident, or accept as a resident the terminally ill person, and to seek a waiver on behalf of the individual, provided the individual has requested the waiver and is capable of deciding to obtain hospice services.

(2) The terminally ill resident, or the terminally ill person to be accepted as a resident, has obtained the services of a hospice certified in accordance with federal medicare conditions of participation and licensed pursuant to Chapter 8 (commencing with Section 1725) or Chapter 8.5 (commencing with Section 1745).

(3) The facility, in the judgment of the department, has the ability to provide care and supervision appropriate to meet the needs of the terminally ill resident or the terminally ill person to be accepted as a resident, and is in substantial compliance with regulations governing the operation of residential care facilities for the elderly.
(4) The hospice has agreed to design and provide for care, services, and necessary medical intervention related to the terminal illness as necessary to supplement the care and supervision provided by the facility.

(5) An agreement has been executed between the facility and the hospice regarding the care plan for the terminally ill resident or terminally ill person to be accepted as a resident. The care plan shall designate the primary caregiver, identify other caregivers, and outline the tasks the facility is responsible for performing and the approximate frequency with which they shall be performed. The care plan shall specifically limit the facility’s role for care and supervision to those tasks allowed under this chapter.

(6) The facility has obtained the agreement of those residents who share the same room with the terminally ill resident, or any resident who will share a room with the terminally ill person to be accepted as a resident, to allow the hospice caregivers into their residence.

(b) At any time that the licensed hospice, the facility, or the terminally ill resident determines that the resident’s condition has changed so that continued residence in the facility will pose a threat to the health and safety to the terminally ill resident or any other resident, the facility may initiate procedures for a transfer.

(c) A facility that has obtained a hospice waiver from the department pursuant to this section need not call emergency response services at the time of a life-threatening emergency if the hospice agency is notified instead and all of the following conditions are met:

(1) The resident is receiving hospice services from a licensed hospice agency.

(2) The resident has completed an advance directive, as defined in Section 4605 of the Probate Code, requesting to forego resuscitative measures.

(3) The facility has documented that facility staff have received training from the hospice agency on the expected course of the resident’s illness and the symptoms of impending death.

(d) Nothing in this section is intended to expand the scope of care and supervision for a residential care facility for the elderly as defined in this act, nor shall a facility be required to alter or extend its license in order to retain a terminally ill resident or allow a terminally ill person to become a resident of the facility as authorized by this section.

(e) Nothing in this section shall require any care or supervision to be provided by the residential care facility for the elderly beyond that which is permitted in this chapter.

(f) Nothing in this section is intended to expand the scope of life care contracts or the contractual obligation of continuing care retirement communities as defined in Section 1771.

(g) The department shall not be responsible for the evaluation of medical services provided to the resident by the hospice and shall have no liability for the independent acts of the hospice.
(h) Nothing in this section shall be construed to relieve a licensed residential care facility for the elderly of its responsibility to notify the appropriate fire authority of the presence of a bedridden resident in the facility as required under subdivision (f) of Section 1569.72, and to obtain and maintain a fire clearance as required under Section 1569.149.

(Amended by Stats. 2003, Ch. 312, Sec. 2. Effective January 1, 2004.)

1569.74.

(a) Licensed residential care facilities for the elderly that employ health care providers may establish policies to honor a request to forego resuscitative measures as defined in Section 4780 of the Probate Code.
(b) Any policy established pursuant to subdivision (a) shall meet all of the following conditions:
(1) The policy shall be in writing and specify procedures to be followed in implementing the policy.
(2) The policy and procedures shall, at all times, be available in the facility for review by the department.
(3) The licensee shall ensure that all staff are aware of the policy as well as the procedures to be followed in implementing the policy.
(4) A copy of the policy shall be given to each resident who makes a request to forego resuscitative measures and to the resident’s primary physician.
(5) A copy of the resident’s request to forego resuscitative measures shall be maintained in the facility and shall be immediately available for review by facility staff, the licensed health care provider, and the department.
(6) Facility staff are prohibited, on behalf of any resident, from signing any directive document as a witness or from being the legally recognized surrogate decisionmaker.
(7) The facility shall provide the resident’s physician with a copy of the resident’s request to forego resuscitative measures form.
(c) Any action by a facility that has established policies pursuant to subdivision (a), to honor a resident’s request to forego resuscitative measures as provided for in subdivision (a) may only be taken in either of the following ways:
(1) By a licensed health care provider who is employed by the facility and on the premises at the time of the life threatening emergency.
(2) By notifying, under those conditions specified in subdivision (c) of Section 1569.73, the hospice agency that is caring for a resident receiving hospice services.
(d) Licensed residential care facilities for the elderly that have not established policies pursuant to subdivision (a), may keep an executed request to forego resuscitative measures form in the resident’s file and present it to an emergency medical technician or paramedic when authorized to do so in writing by the resident or his or her legally
recognized surrogate decisionmaker. The request may be honored by an emergency medical technician or by any health care provider as defined in Section 4621 of the Probate Code, who, in the course of professional or volunteer duties, responds to emergencies.

(Amended by Stats. 2003, Ch. 312, Sec. 3. Effective January 1, 2004.)

ARTICLE 7.5. Resident Participation in Decisionmaking [1569.80-1569.80.]

(Article 7.5 added by Stats. 1998, Ch. 660, Sec. 2.)

1569.80.

(a) A resident of a residential care facility for the elderly, or the resident’s representative, or both, shall have the right to participate in decisionmaking regarding the care and services to be provided to the resident. Accordingly, prior to, or within two weeks after, the resident’s admission, the facility shall coordinate a meeting with the resident and the resident’s representative, if any, an appropriate member or members of the facility’s staff, if the resident is receiving home health services in the facility, a representative of the home health agency involved, and any other appropriate parties. The facility shall ensure that participants in the meeting prepare a written record of the care the resident will receive in the facility, and the resident’s preferences regarding the services provided at the facility.

(b) Once prepared, the written record described in subdivision (a) shall be used by the facility, and, if applicable pursuant to Section 1569.725, the home health agency, to determine the care and services provided to the resident. If the resident has a regular physician, the written record shall be sent by the facility to that physician.

(c) The written record described in subdivision (a) shall be reviewed, and, if necessary, revised, at least once every 12 months, or upon a significant change in the resident’s condition, as defined by regulations, whichever occurs first. The review shall take place at a meeting coordinated by the facility, and attended by the resident, the resident’s representative, if any, an appropriate member or members of the facility’s staff, and, if the resident is receiving home health services in the facility, a representative from the home health agency involved.

(d) This section shall not preclude a residential care facility for the elderly or home health agency from satisfying other state or federal obligations at a meeting required by subdivision (a) or (c).

(e) If the residential care facility for the elderly is a continuing care retirement community, as defined in paragraph (10) of subdivision (c) of Section 1771, this section shall apply only to residents who require care and supervision, as defined in subdivision (b) of Section 1569.2.

(Added by Stats. 1998, Ch. 660, Sec. 2. Effective January 1, 1999.)
ARTICLE 8. Local Regulation [1569.82 - 1569.87]

(Article 8 added by Stats. 1986, Ch. 844, Sec. 11.)

1569.82.

The Legislature hereby declares that it is the policy of this state that each county and city shall permit and encourage the development of sufficient numbers of residential care facilities for the elderly as are commensurate with local need.
This article shall apply equally to any chartered city, general law city, county, city and county, district, and any other local public entity.
For the purposes of this article, “six or fewer persons” does not include the licensee or members of the licensee’s family or persons employed as facility staff.

(Added by Stats. 1986, Ch. 844, Sec. 11.)

1569.83.

Any person licensed under this chapter who operates, or proposes to operate a residential care facility for the elderly, the department or other public agency authorized to license the facility, or any public or private agency which uses or may use the services of the facility to place its clients, may invoke this article.
This section shall not be construed to prohibit any interested party from bringing suit to invoke this article.

(Added by Stats. 1986, Ch. 844, Sec. 11.)

1569.84.

A residential care facility for the elderly, which serves six or fewer persons shall not be subject to any business taxes, local registration fees, use permit fees, or other fees to which other family dwellings of the same type in the same zone are not likewise subject.
Nothing in this section shall be construed to forbid the imposition of local property taxes, fees for water service and garbage collection, fees for inspections not prohibited by Section 1569.85, local bond assessments, and other fees, charges, and assessments to which other family dwellings of the same type in the same zone are likewise subject. Neither the State Fire Marshal nor any local public entity shall charge any fee for enforcing fire inspection regulations pursuant to state law or regulation or local ordinance, with respect to residential care facilities for the elderly which serve six or fewer persons.
For the purposes of this section, “family dwelling,” includes, but is not limited to, single-family dwellings, units in multifamily dwellings, including units in duplexes and units in
apartment dwellings, mobilehomes, including mobilehomes located in mobilehome parks, units in cooperatives, units in condominiums, units in townhouses, and units in planned unit developments.

(Amended by Stats. 1987, Ch. 1092, Sec. 4. Effective September 24, 1987.)

1569.85.

(a) Whether or not unrelated persons are living together, a residential care facility for the elderly that serves six or fewer persons shall be considered a residential use of property for the purposes of this article. In addition, the residents and operators of the facility shall be considered a family for the purposes of any law or zoning ordinance that relates to the residential use of property pursuant to this article.

(b) For the purpose of all local ordinances, a residential care facility for the elderly that serves six or fewer persons shall not be included within the definition of a boarding house, rooming house, institution or home for the care of the aged, guest home, rest home, community residence, or other similar term that implies that the residential care facility for the elderly is a business run for profit or differs in any other way from a family dwelling.

(c) This section shall not be construed to forbid a city, county, or other local public entity from placing restrictions on building heights, setback, lot dimensions, or placement of signs of a residential care facility for the elderly that serves six or fewer persons as long as the restrictions are identical to those applied to other family dwellings of the same type in the same zone.

(d) This section shall not be construed to forbid the application to a residential care facility for the elderly of any local ordinance that deals with health and safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local public entity if the ordinance does not distinguish residential care facilities for the elderly that serve six or fewer persons from other family dwellings of the same type in the same zone and if the ordinance does not distinguish residents of the residential care facilities for the elderly from persons who reside in other family dwellings of the same type in the same zone.

(e) No conditional use permit, zoning variance, or other zoning clearance shall be required of a residential care facility for the elderly that serves six or fewer persons that is not required of a family dwelling of the same type in the same zone.

(f) Use of a family dwelling for purposes of a residential care facility for the elderly serving six or fewer persons shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 or local building codes. However, nothing in this section is intended to supersede Section 13143 or 13143.6, to the extent these sections are applicable to residential care facilities for the elderly providing care for six or fewer residents.
(g) For the purposes of this section, “family dwelling,” includes, but is not limited to, single-family dwellings, units in multifamily dwellings, including units in duplexes and units in apartment dwellings, mobilehomes, including mobilehomes located in mobilehome parks, units in cooperatives, units in condominiums, units in townhouses, and units in planned unit developments.

(Amended by Stats. 2014, Ch. 144, Sec. 35. Effective January 1, 2015.)

1569.86.

No fire inspection clearance or other permit, license, clearance, or similar authorization shall be denied to a residential care facility for the elderly because of a failure to comply with local ordinances from which the facilities are exempt under Section 1569.85, provided that the applicant otherwise qualifies for the fire clearance, license, permit, or similar authorization.

(Added by Stats. 1986, Ch. 844, Sec. 11.)

1569.87.

For the purposes of any contract, deed, or covenant for the transfer of real property executed on or after January 1, 1979, a residential facility for the elderly which serves six or fewer persons shall be considered a residential use of property and a use of property by a single family, notwithstanding any disclaimers to the contrary.

(Added by Stats. 1986, Ch. 844, Sec. 11.)

ARTICLE 9. Admission Agreements [1569.880 - 1569.889]

(Article 9 added by Stats. 2003, Ch. 409, Sec. 2.)

1569.880.

(a) For purposes of this section, an “admission agreement” includes all documents that a resident or his or her representative must sign at the time of, or as a condition of, admission to a residential care facility for the elderly licensed under this chapter.

(b) The admission agreement shall not include any written attachment containing any provision that is prohibited from being included in the admission agreement.

(Added by Stats. 2003, Ch. 409, Sec. 2. Effective January 1, 2004.)

1569.881.
(a) Every residential care facility for the elderly shall make blank complete copies of its admission agreement available to the public immediately, subject to time required for copying or mailing, at cost, upon request.
(b) Every residential care facility for the elderly shall conspicuously post in a location accessible to the public view within the facility either a complete copy of the admission agreement, or a notice of its availability from the facility.
(Added by Stats. 2003, Ch. 409, Sec. 2. Effective January 1, 2004.)

1569.882.

(a) The admission agreement shall be printed in black type of not less than 12-point type size, on plain white paper. The print shall appear on one side of the paper only.
(b) The admission agreement shall be written in clear, coherent, and unambiguous language, using words with common and everyday meanings. It shall be appropriately divided, and each section shall be appropriately captioned.
(Added by Stats. 2003, Ch. 409, Sec. 2. Effective January 1, 2004.)

1569.883.

(a) The admission agreement shall not include unlawful waivers of facility liability for the health and safety or personal property of residents.
(b) The admission agreement shall not include any provision that the facility knows or should know is deceptive, or unlawful under state or federal law.
(Added by Stats. 2003, Ch. 409, Sec. 2. Effective January 1, 2004.)

1569.884.

The admission agreement shall include all of the following:
(a) A comprehensive description of any items and services provided under a single fee, such as a monthly fee for room, board, and other items and services.
(b) A comprehensive description of, and the fee schedule for, all items and services not included in a single fee. In addition, the agreement shall indicate that the resident shall receive a monthly statement itemizing all separate charges incurred by the resident.
(c) A facility may assess a separate charge for an item or service only if that separate charge is authorized by the admission agreement. If additional services are available through the facility to be purchased by the resident that were not available at the time the admission agreement was signed, a list of these services and charges shall be provided to
the resident or the resident’s representative. A statement acknowledging the acceptance or refusal to purchase the additional services shall be signed and dated by the resident or the resident’s representative and attached to the admission agreement.
(d) An explanation of the use of third-party services within the facility that are related to the resident’s service plan, including, but not limited to, ancillary, health, and medical services, how they may be arranged, accessed, and monitored, any restrictions on third-party services, and who is financially responsible for the third-party services.
(e) A comprehensive description of billing and payment policies and procedures.
(f) The conditions under which rates may be increased pursuant to Section 1569.655.
(g) The facility’s policy concerning family visits and other communication with residents, pursuant to Section 1569.313.
(h) The facility’s policy concerning refunds, including the conditions under which a refund for advanced monthly fees will be returned in the event of a resident’s death, pursuant to Section 1569.652.
(i) Conditions under which the agreement may be terminated.
(j) An explanation of the facility’s responsibility to prepare a relocation evaluation, for each resident and a closure plan and to provide notice in the case of an eviction pursuant to Section 1569.682.

(Amended by Stats. 2013, Ch. 290, Sec. 2. Effective January 1, 2014.)

1569.885.

(a) When referring to a resident’s obligation to observe facility rules, the admission agreement shall indicate that the rules must be reasonable, and that there is a facility procedure for suggesting changes in the rules. A facility rule shall not violate any right set forth in this article or in other applicable laws and regulations.
(b) The admission agreement shall specify that a copy of the facility grievance procedure for resolution of resident complaints about facility practices shall be made available to the resident or his or her representative.
(c) The admission agreement shall inform a resident of the right to contact the State Department of Social Services, the long-term care ombudsman, or both, regarding grievances against the facility.
(d) A copy of any applicable resident’s rights specified by law or regulation shall be an attachment to all admission agreements.
(e) The statement of resident’s rights attached to admissions agreements by a residential care facility for the elderly shall include information on the reporting of suspected or known elder and dependent adult abuse, as set forth in Section 1569.889.

(Amended by Stats. 2005, Ch. 456, Sec. 1. Effective January 1, 2006.)
1569.886.

(a) The admission agreement shall not include any ground for involuntary transfer or eviction of the resident unless those grounds are specifically enumerated under state law or regulation.

(b) The admission agreement shall list the justifications for eviction permissible under state law or regulation, exactly as they are worded in the applicable law or regulation.

(c) The admission agreement shall include an explanation of the resident’s right to notice prior to an involuntary transfer, discharge, or eviction, the process by which the resident may appeal the decision and a description of the relocation assistance offered by the facility.

(d) The admission agreement shall state the responsibilities of the licensee and the rights of the resident when a facility evicts residents pursuant to Section 1569.682.

(Amended by Stats. 2007, Ch. 686, Sec. 4. Effective January 1, 2008.)

1569.887.

(a) The admission agreement shall be signed and dated, acknowledging the contents of the document, by the resident or the resident’s representative.

(b) The licensee shall retain in the resident’s file the original signed and dated initial agreement and all subsequent modifications.

(c) The licensee shall provide a copy of the signed and dated admission agreement to the resident or the resident’s representative, if any.

(d) The admission agreement shall be reviewed at the time of the compliance visit and in response to a complaint involving the admission agreement.

(Added by Stats. 2003, Ch. 409, Sec. 2. Effective January 1, 2004.)

1569.888.

(a) The requirements of this article relating to admission agreements for residential care facilities for the elderly are intended to be in addition to, and not exclusive of, any other requirements established by state law or regulation.

(b) This article 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.

(Added by Stats. 2003, Ch. 409, Sec. 2. Effective January 1, 2004.)

1569.889.
(a) The personal rights form made available by the department’s Community Care Licensing Division to residential care facilities for the elderly shall include a statement regarding procedures for reporting known or suspected elder and dependent adult abuse, including the toll-free telephone number of the State Long-Term Care Ombudsman’s CRISISline and a blank space for the telephone number of the nearest approved organization for long-term care ombudsman activities. A residential care facility for the elderly shall insert in the form’s blank space the telephone number of the nearest approved organization for long-term care ombudsman activities.

(b) The department’s Community Care Licensing Division shall adopt or amend any regulation and revise any document or policy as necessary to implement this section.

(Added by Stats. 2005, Ch. 456, Sec. 2. Effective January 1, 2006.)