

Assembly Bill No. 1961

CHAPTER 109

An act to amend Section 1569.73 of the Health and Safety Code, relating to care facilities.

[Approved by Governor July 3, 2002. Filed with Secretary of State July 5, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1961, Canciamilla. Residential care facilities for the elderly: terminally ill persons.

Existing law provides for the licensure and regulation of residential care facilities for the elderly by the State Department of Social Services.

Existing law prohibits any person who requires 24-hour skilled nursing or intermediate care, or who is bedridden, other than for a temporary illness or for recovery from surgery, from being a resident at a residential care facility for the elderly.

Existing law authorizes the waiver of this prohibition to allow a resident who has been diagnosed as terminally ill to remain in the facility when certain requirements are met.

This bill would permit a residential care facility for the elderly to obtain a waiver from the department, when certain requirements are met, for the purpose of allowing a person who has been diagnosed by his or her physician and surgeon as being terminally ill to become a resident of the facility if that person is already receiving hospice services and would continue to receive those services without disruption.

The people of the State of California do enact as follows:

SECTION 1. Section 1569.73 of the Health and Safety Code is amended to read:

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) 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.

(d) 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.



(e) 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.

(f) 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.

(g) 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 (e) of Section 1569.72, and to obtain and maintain a fire clearance as required under Section 1569.149.

