

AB 1437 - Assemblyman Patterson

Principal Author Senator Scott Wiener

Modernizing Regulations

SUMMARY

AB 1437 will implement two changes to the Health and Safety Code relative to residential care facilities for the elderly (RCFEs):

Health & Safety Code Section 1569.23

Current law requires an applicant for RCFE licensure to pass an Initial Certification Training Program (ICTP). This amendment acknowledges an owner/operator who has already passed an ICTP, is a current licensed administrator, and kept up to date with their required continuing education requirements should not have to undertake an entire new ICTP if they desire to open an additional facility. Currently, licensees who have been licensed prior to 1989 or have passed the ICTP within 5 years are already exempted.

Health & Safety Code Section 1569.17

Many 6-bed facilities are operated by the same owner/operator in close proximity and often times the owner/operator needs to accommodate an employee's time off requests, such as leave or family emergencies, and an individual staff member may be temporarily moved from one site to another as a result. Current law requires the criminal background clearance for an employee to be transferred to the new location before the employee can work there. Failure to do so can result on penalties of \$100 per day up to \$500. This bill will protect an owner/operator from being financially punished if an employee, who has passed a criminal background check, is working at a separate site owned by the same licensee..

EXISTING LAW

Currently, Community Care Licensing (CCL) interprets California Health & Safety Code Section 1569.23 as requiring a licensee to redo the ICTP (coursework and testing) if the licensee applies for a new facility at a date that is later than five years since the licensee last completed an ICTP. This applies even if the licensee is also a certified administrator who would already be required to complete continuing education and has already passed the written test for administrators.

Current law also treats the situation of an employee of a licensee that operates multiple facilities, who is found working at another one of the same licensee's facilities without being associated to that facility, the same as if the employee had been found working without verification of criminal clearance. This results in a civil penalty of \$100/day (up to \$500).

PROBLEM

Health & Safety Code Section 1569.23- ICTP

Under this code section, the current interpretation of the law requires repeating the ICTP (coursework and testing) simply because the licensee has chosen to open a new facility (an operator would not have to undergo this process absent the desire to open a new facility). There are many precedents in other fields in which continuing professional education is required (as it is here) but a new licensure exam is not required to open another office. Requiring an entirely new ICTP for a second time is needlessly burdensome and repetitive.

Health & Safety Code Section 1569.17-
Background Checks

Current law unfairly penalizes licensees having multiple facilities who transfer background cleared employees among facilities by treating the employees as though they had no background clearance and penalizing the employers accordingly. This sometimes happens because the local CCL office failed to properly process a criminal background clearance transfer request.

The transferring of one employee from one site to another is often done for an employee's benefit as well as for the health and safety of the residents, and sometimes with minimal prior notice (i.e. medical or family emergency, sickness, etc.). Punitive measures that prevent this type of flexibility can be harmful to all concerned while providing no consumer benefit because the employee has already been cleared through a background check.

THE SOLUTION

The solution is to change current law as follows:

Health and Safety Code Section 1569.23 would be changed to allow licensees to forgo an additional ICTP if they are a current licensed administrator who has kept up with their continuing education requirements.

Health and Safety Code Section 1569.17 would be changed so that a licensee is not required to transfer criminal clearance when an employee of the licensee moves to another of the licensee's facilities.

These changes will also reduce the workload for CCL by eliminating the need to process needless certifications and transfers.

FISCAL EFFECT

- Impact Unknown

SUPPORT

- 6Beds, Inc. (SPONSOR)

OPPOSITION

- None.

CONTACT

Calvin Rusch, Legislative Director
Calvin.Rusch@Asm.Ca.Gov
916-319-2023