

ACTION REQUIRED

Assembly Bill 581 (Ammiano), Chapter 295, Statutes of 2013

Affects: Community Care Facilities (Residential Care Facility; Adult Day Programs; Foster Family Agency; Foster Family Home; Small Family Home; Social Rehabilitation Facility; Community Treatment Facility; Full-Service Adoption Agency; Noncustodial Adoption Agency; Transitional Housing Placement Facility); Residential Care Facility for Persons with Chronic Life-Threatening Illness; and Residential Care Facility for the Elderly

Subject: Care facilities: retaliation

Summary: Assembly Bill 581 amends Health and Safety Code section 1539 related to Community Care Facilities; Health and Safety Code section 1568.07 related to Residential Care Facility for Persons with Chronic Life-Threatening Illness; and Health and Safety Code section 1569.37 related to Residential Care Facility for the Elderly.

This law expands protections for residents and employees of a licensee's facility with regard to discrimination and retaliation. Specifically, this law:

- (1) expands protections against discrimination and retaliation, including eviction and the threat of eviction, for residents who have initiated or participated in the filing of a complaint, grievance or request for inspection with the California Department of Social Services the local or state ombudsman; and
- (2) Prohibits discrimination and retaliation in any manner against residents or employees of a licensee's facility for their involvement in the filing of a complaint, grievance or request for inspection with the California Department of Social Services or complaint investigation with the local or state ombudsman.

Implementation: This law becomes effective January 1, 2014.

Licensees

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

If a resident or employee of a licensee's facility initiates or participates in the filing of a complaint, grievance, or an inspection conducted by the Department of Social Services or the local or state ombudsman, this law:

- Prohibits licensees from discriminating or retaliating against any person receiving the services of the facility in any manner.

- Prohibits licensees from discriminating or retaliating against any employee of the facility in any manner.

Licensing Program Analysts

Complaints Involving Residents in Care

If a Licensing Program Analyst substantiates a violation of this law that involves residents in care, the Licensing Program Analyst shall cite the facility as follows:

- *Community Care Facilities: California Code of Regulations, Title 22, Division 6 Chapter 1, Personal Rights, section 80072(a)(3);*
- *Residential Care Facilities for the Elderly: California Code of Regulations, Title 22, Division 6 Chapter 8, Personal Rights, section 87468(a)(3); and*
- *Residential Care Facilities for Persons with Chronic Life-Threatening Illness: California Code of Regulations, Title 22, Division 6, Chapter 8.5, Personal Rights, section 87872(a)(3).*

Complaints Involving Employees of a Facility

If a Licensing Program Analyst substantiates, through existing complaint investigation processes, a violation of this law specific to an employee of a licensee’s facility, the Licensing Program Analyst shall cite the facility as follows:

- *Community Care Facilities: Health and Safety Code section 1539*

“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 community care facility, 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 or state ombudsman.”

- *Residential Care Facilities for the Elderly: Health and Safety Code section 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.”

- *Residential Care Facilities for Persons with Chronic Life-Threatening Illness: Health and Safety Code section 1569.07(d)*

“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 facility, 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 or state ombudsman.”

The Department of Social Service’s Community Care Licensing Division procedures for responding to complaints are not impacted by this law. The Community Care Licensing Division will continue to respond to complaints within existing statutory and regulatory authority.

For legislative information related to this law, see:
http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab_0551-0600/ab_581_bill_20130909_chaptered.pdf