

## ACTION REQUIRED

### **ASSEMBLY BILL 601 (Eggman), Chapter 628, Statutes of 2015**

**This law becomes effective January 1, 2016.**

**Affects:** Residential Care Facilities for the Elderly

**Subject:** Residential care facilities for the elderly: licensing and regulation

**Summary:** [Assembly Bill \(AB\) 601](#) amended sections [1569.2](#), [1569.15](#), [1569.16](#), [1569.50](#), and [1569.618](#), and added section [1569.356](#) to the Health and Safety Code.

This bill increases disclosure requirements for Residential Care Facilities for the Elderly (RCFE) applicants and licensees, as specified, and requires all RCFE applicants and licensees to maintain an email address of record with the California Department of Social Services (CDSS). This bill requires the CDSS to cross-check information, as specified in Health and Safety Code (HSC) section [1569.15\(b\)](#), and to post online additional RCFE profile information, to the extent computer systems can electronically accommodate this information.

This Implementation Plan describes only the changes to existing law as a result of the passage of AB 601, and is not a comprehensive description of all applicant disclosure requirements for RCFEs. Applicants and licensees must comply with both existing and new statutes and regulations governing RCFEs.

The Implementation Plan is divided into the following two sections:

- I. RCFE Applicant/Licensee Requirements as of January 1, 2016; and
- II. RCFE Application/Change in Information Submissions as of January 1, 2016.

### **I. RCFE APPLICANT/LICENSEE REQUIREMENTS AS OF JANUARY 1, 2016:**

#### **Applicants**

##### *Disclosure Requirements - Ownership History and Structure*

In addition to existing requirements, applicants' for RCFE licensure are required to provide the CDSS the following:

- Evidence of reputable and responsible character, as specified in HSC section [1569.15\(a\)\(2\)](#), for individuals or entities holding a beneficial ownership (as defined in HSC section [1569.2\(b\)](#)) of 10 percent or more, and the person who has operational control of the RCFE for which the application is being sought. *This requirement does not apply to investors in a publicly*

*traded company or investment fund, if those investors are silent and do not have influence or control, as specified.*

- Disclosure of whether the RCFE is a for-profit or not-for-profit provider.
- Name, address, license number, and licensing agency name of other health, residential, or community care facilities owned, managed, or operated by the same applicant or by any parent organization (as defined in HSC section [1569.2\(k\)](#)) of the applicant.
- Name and business address of any person or entity that controls (as defined in HSC section [1569.2\(e\)](#)) the applicant.
- If part of a chain (as defined in HSC section [1569.2\(d\)](#)), a diagram indicating the relationship between the applicant and the persons or entities that are part of the chain, including those that are controlled by the same parties, and in a separate list, the name, address and license number, if applicable, for each person or entity in the diagram.
- Name and address of any persons, organizations, or entities that own the real estate property on which the facility seeking licensure and other licensed health, residential, or community care facilities owned, managed, or operated by the same applicant or parent organization, is located.
- Name and address of any management company serving the facility and the same information required of applicants in HSC sections [1569.15\(a\)\(3\)\(C\)](#) and [\(a\)\(3\)\(D\)](#), specific to the management company.
- Name of the person with operational control of the applicant, such as the Chief Executive Officer (CEO), general partner, owner or like party, and to state that person's prior or present service as an administrator, CEO, general partner, director, or like role, or as a person who has held or holds a beneficial ownership interest of 10 percent or more in any RCFE, health clinic, health facility, community care facility, or similarly licensed facility, in California or any other state, within the past ten years.
- Evidence of right of possession of the facility prior to the time the license is granted, which may be satisfied by the submission of a copy of the entire lease agreement or deed.

#### *Disclosure Requirements – Disciplinary Actions and Bankruptcy*

Applicants for RCFE licensure and persons with operational control of the applicant, as specified, are required to provide the CDSS the following:

- Information related to any revocation, suspension, probation, exclusion order, or other similar administrative disciplinary action that was filed and sustained in California or any other state, or in the process of being adjudicated, against a facility associated with the licensee or person who has operational control of the licensee, within the past 10 years.
- Copies of final findings, orders, or both, issued by any health, residential, or community care licensing agency or any court relevant to disciplinary actions described above.
- Copies of any petition for bankruptcy relief filed within five years of the date of the application involving operation or closure of a health, residential, or

community care facility licensed in California or any other state, the court, date, and case number of the filing, and whether the discharge was granted. If the discharge was not granted, provide copies of any court findings supporting denial of discharge.

#### *Disclosure Requirements – Change in Information*

An applicant for RCFE licensure is required to provide all disclosures as specified in HSC section [1569.15 et seq.](#) during the application process, with any change in information required to be provided to the CDSS within 30 calendar days of that change, unless otherwise specified. A licensee of multiple facilities may provide a single notice of changes to the CDSS that clearly states it is on behalf of all licensed facilities within the chain.

Information pertaining to facilities operated in other states may be updated on an annual basis, except under the following circumstances:

- Information required pursuant to HSC section [1569.15\(a\)\(3\)\(B\)](#) – regarding other health, residential or community care facilities owned, managed, or operated by the applicant or parent organization of the applicant - is required to be updated within six months of that change.
- Information required pursuant to HSC section [1569.15\(a\)\(6\)](#) - regarding disciplinary actions and bankruptcies - is required to be updated within 30 calendar days of that change.

#### *Email Address*

An applicant for RCFE licensure is required to maintain an email address of record with the CDSS. The email address is required to be provided at the time of application and within 10 business days of any change.

### **Licensees**

#### *Disclosure Requirements*

An RCFE licensee is required to notify the CDSS, within 30 days unless otherwise specified, of any change of information required pursuant to HSC section [1569.15 et seq.](#)

#### *Email Address*

An RCFE licensee is required to maintain an email address of record with the CDSS. Any change of email address must be provided to the CDSS within 10 business days of that change.

## **California Department of Social Services**

### *Application Denial or Revocation*

The CDSS may deny an application for licensure if the applicant:

- Fails to cooperate with the licensing agency in the completion of the application. Failure to cooperate means that the information required by HSC section [1569.15 et seq.](#) and in applicable regulations, has not been provided, or has been not been provided in the form requested by the CDSS, or both.

The CDSS may deny an application for licensure, or subsequently revoke a license, if:

- The applicant knowingly withholds material information or makes a false statement of fact with regard to information that was required by the application for licensure.
- The applicant does not disclose administrative disciplinary actions on the application as required by HSC section [1569.15\(a\)\(6\)](#).
- Any employee, administrator, partner, officer, director, member, or manager of the applicant or licensee, any person who controls (as defined in HSC section [1569.2\(e\)](#)) the licensee, or any person who holds a beneficial ownership interest of 10 percent or more in the applicant or licensee has engaged in conduct described in HSC section [1569.50\(a\) et seq.](#) related to any RCFE, health clinic, health facility, or similarly licensed facility in California or any other state. The CDSS may also suspend a license for this violation.

The CDSS may also prohibit any person from being a licensee, owning a beneficial ownership interest of 10 percent or more in a licensed facility, or being an administrator, officer, director, member or manager of a licensee or entity controlling a licensee if they have done any of the activities described in HSC section [1569.58\(a\)\(1\)-\(5\)](#), including engaging in conduct that is inimical to the health, moral, welfare, or safety, as specified.

If there are co-applicants and the CDSS denies a license due to concerns pertaining solely to one of the co-applicants, any other co-applicant may withdraw their application, and with the CDSS' written consent pursuant to HSC section [1569.52](#), shall not be deemed to have had a license application denied.

### *Cross-Check Requirement*

The CDSS is required to cross-check all applicant information disclosed pursuant to HSC section [1569.15\(a\)\(5\)](#), if electronically available, with the California Department of Public Health, to determine if the applicant has a prior history of operating, holding a position in, or having ownership in, any entity specified in HSC section [1569.15\(a\)\(5\)](#).

### *Assessment of Civil Penalty*

The CDSS may, subsequent to licensure, assess a civil penalty of one thousand dollars (\$1,000) for a material violation of HSC section [1569.15 et seq.](#)

### *Website*

The CDSS is required to post online, to the extent the CDSS' computer system can electronically accommodate additional RCFE information, RCFE information specified in HSC section [1569.356](#). Facility specific information may be found at <http://cclid.ca.gov/PG3581.htm>.

## **II. RCFE APPLICATION/CHANGE IN INFORMATION SUBMISSIONS AS OF JANUARY 1, 2016**

### **Applicants**

#### *Applicant Disclosures*

For RCFE applications received by the CDSS as of January 1, 2016 (pending the updating of application materials, including forms, to include disclosures required by this law) applicants should submit the required information through an addendum to their application packet. Information required is summarized under the subtitle "Applicant," to include "Disclosure Requirements - Ownership History and Structure" and "Disclosure Requirements – Disciplinary Actions and Bankruptcy."

If the applicant operates facilities out of state that require disclosure pursuant to this law, the applicant shall include information on the name of the applicable licensing agency.

#### *Change in Information – Disclosures*

Information required pursuant to HSC section [1569.15 et seq.](#) shall be provided at the time of application. If there is a change in information, the licensee shall provide this update as specified in HSC section [1569.15\(d\)\(1\)-\(2\)](#). The licensee shall provide required updates to their local regional office.

#### *Email address*

Applicants are required to maintain an email address of record with the CDSS. Pending the updating of application materials (including the LIC 200 – Application for a Community Care Facility or Residential Care Facility for the Elderly License) applicants should include their email address as requested in question 6 on the LIC 200. This form lists the field as optional, but it is now required for RCFE applicants.

## **Licensees**

### *Change in Information - Disclosures*

Licensees are required to abide by the new disclosure requirements as specified in HSC section [1569.15](#) on a flow basis, specific to any change that occurs on or after January 1, 2016. If a change occurs that requires disclosure per HSC section [1569.15 et seq.](#), the licensee must provide notification to the CDSS within 30 calendar days, unless a shorter timeframe is already required by the CDSS through statute or regulation. If there is a change related to information not previously reported to the CDSS, sufficient information should be provided by the licensee to allow CDSS to understand the context of the change.

If a new application is required pursuant to California Code of Regulations (CCR), Title 22, Division 6, Chapter 8, Section 87161- Resubmission of Application - the applicant must submit an application in full as described in HSC section [1569.15 et seq.](#) A new application is required (1) when there is a change in facility location; (2) any change in the licensee; (3) failure to complete a new application in the required time frame; (4) any increase in capacity, as specified; and, (5) a corporate organizational change, including, but not limited to, change in structure, sale or transfer of the majority of stock, separating from a parent company, or merger with another company (this change requires a notification to CDSS within forty-eight (48) hours).

Disclosures required pursuant to HSC section [1569.15\(d\)\(1\)-\(2\)](#) shall be provided by the licensee to their local regional office.

### *Email Address*

Licensees are required to maintain an email address of record with the CDSS. The CDSS will mail a request for email address to licensees beginning January 1, 2016, with direction on how to provide email address of record to the CDSS. Upon receipt, licensees will have 10 business days to respond to this request.

## **Licensing Program Analysts**

### *Disclosure - Updates*

Information required pursuant to HSC section [1569.15 et seq.](#) is required to be provided at the time of application, with any change in information required to be provided to the CDSS within 30 calendar days of that change, unless a shorter timeframe is already required by the Department through regulation or statute.

If it is determined that there is a change in the information and the licensee has not provided the CDSS the required information in the timeframe specified, the LPA shall cite:

- *Health and Safety Code section [1569.15\(d\)](#) and provide reference to applicable statute where disclosure was not provided.*
- *CCR, Title 22, Division 6, Chapter 8, and applicable regulation section (if regulation requires a shorter timeframe than statute.)*

The following scenarios based on the new law and existing regulations are provided as examples to assist Licensing Program Analysts to identify noncompliance occurring on or after January 1, 2016.

Scenario	Cite
There is a change within the RCFE of the chief corporate officer and the licensee does not provide the required disclosure to the CDSS within 15 working days.	CCR, Title 22, Division 6, Chapter 8, Section 87211(c).
The person with operational control of the licensee changes and the licensee does not provide the required disclosure to the CDSS within 30 calendar days.	Health and Safety Code section <a href="#">1569.15(d)</a> and include reference to specific subdivision not updated.
Licensee separates from their parent company and does not provide the required disclosure to the CDSS within 48 hours.	CCR, Title 22, Division 6, Chapter 8, Section 87161 (a)(5).

Note: A licensee of multiple facilities may provide a single notice of changes to the CDSS on behalf of all licensed facilities in that chain. Information pertaining to facilities operated in other states may be updated on an annual basis, except for the following information:

- Information required pursuant to HSC section [1569.15\(a\)\(6\)](#) - regarding disciplinary actions and bankruptcies - is required to be updated within 30 calendar days of that change.
- Information required pursuant to HSC section [1569.15\(a\)\(3\)\(B\)](#) – regarding other health, residential or community care facilities owned, managed, or operated by the applicant or parent organization of the applicant - is required to be updated within six months of that change.

#### *Email Address*

Licensees are required to maintain an email address of record with the CDSS. The licensee is required to provide written notice of their email address to the CDSS and provide written notice of any change in their email address to the CDSS within ten business days. If a licensee has not met this requirement, the LPA shall cite:

- *Health and Safety Code section [1569.15 \(e\)](#)*

### *Civil Penalty Assessment*

The Licensing Program Analyst should cite violation(s) according to established procedures, and if necessary, should work with the licensee to develop a plan of correction. Pursuant to HSC section [1569.15\(f\)\(3\)](#), a material violation of HSC section [1569.15 et seq.](#) may be subject to a civil penalty of \$1,000. If it is determined that a licensee knowingly made a material violation of section [1569.15 et seq.](#), the LPA should work with their enforcement attorney to assess the \$1,000 fine, as specified.

The LIC 421 series notifying licensees of the assessment of civil penalties will be updated to accommodate penalties created by this law.

Regulations will be revised for Section 87155 (Application for License) and 87163 (Denial of License Application), in Title 22 of the CCR. Revisions will also be made in the RCFE Evaluator Manual, including reference material Section 3-0025 (Guide to Processing Applications), and other applicable reference material sections specific to RCFEs. Application (including the LIC 200) and civil penalty forms will be updated to reflect changes made through the passage of this bill.

For legislative information related to this new law see:

[Bill Text – AB 601 Residential care facilities for the elderly: licensing and regulation](#)