

**2015 California Bill of Rights Extension
Analysis by Hanson Bridgett Attorneys
G. AB 2171 (Wieckowski) – Effective January 1, 2015**

Codifies a “Resident’s Bill of Rights” which includes and expands existing resident rights enforceable by Department of Social Services.

Requires facilities to personally advise residents and residents' representatives of the rights and include a written copy of resident rights enumerated in new Section 1569.269 of the Health and Safety Code and in existing Section 87468 of Title 22 of the California Code of Regulations, which must be signed and dated by each resident and kept in the resident's record. A copy of the residents' rights must be posted prominently in an area accessible by residents and their representatives. Rights must be posted in English and any other language in which five percent or more of the residents can only read that language. Requires initial and on-going training for all members of staff to ensure residents' rights are fully respected and implemented.

The new statute identifies 30 paragraphs of residents' rights, plus several additional provisions, which largely reiterate rights set forth in the 18 paragraphs of the current regulation, and in other parts of the RCFE law. However, the new law establishes new rights and adds embellishments to existing rights, including the following:

1. Prohibits admission contracts, and other documents presented as a condition of admission, from requiring a resident to waive any rights or benefits under federal or state law or regulation. This was intended by the authors to prohibit mandatory arbitration, which involves a waiver of the right to a jury trial.
2. Expands a resident's right to participate in planning care to include the right to "involve persons of their choice in the planning process" and to "direct the process to the maximum extent possible."
3. Requires a provider to fully inform the resident, and obtain the resident's written acknowledgement, prior to or at the time of admission, of "all rules governing residents' conduct and responsibilities."

4. Requires admission agreements to include "a comprehensive description of the method for evaluating residents' service needs and the fee schedule for the items and services provided."
5. Requires providers to inform residents 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.
6. Entitles a resident 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. Establishes a resident right 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."
8. Permits residents to select their own "privately paid personal assistants," and other 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."
9. Requires licensees to "take prompt actions to respond to residents' grievances."
10. Requires reasonable accommodation of resident preferences concerning room and roommate choices and 30 days written notice of room changes unless the request for a change is agreed to by the resident, required to fill a vacant bed, or necessary due to an emergency.
11. Establishes a right of residents to have prompt access to review all of their records and to purchase photocopies, which must be provided within two business days.

Impact: Restates many existing rights in new and expansive language that is likely to require changes in RCFE policies and procedures over time. These include the right of a resident to "direct" the care planning process, to select a private assistant, and to have all their needs and preferences reasonably accommodated. Requires more written notices at the time of

admission of facility rules, assessment procedures, and service limitations. Expanded rights language may also be used by advocates to allege a higher standard of care for providers.

Implementation: Licensees must advise residents of their expanded rights, give them copies, obtain their signatures, and train staff on the rights. Immediate changes should be made to admission agreements to provide a comprehensive description of the method for evaluating resident service needs and a written description provided of retention limitations set by the state or licensee. All rules regarding resident conduct and responsibilities will need to be distributed at the time of admission. Licensees will also need to determine whether to require residents to sign arbitration agreements or make them optional. Policies and procedures may need to be developed or amended to address resident rights regarding care planning, private aides, reasonable accommodation of resident preferences, room and roommate assignments, and staffing criteria.