

## ACTION REQUIRED

### ASSEMBLY BILL 1523 (Atkins), Chapter 205, Statutes of 2014

**This law becomes effective July 1, 2015.**

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

**Subject:** Residential care facilities for the elderly: liability insurance

**Summary:** [Assembly Bill \(AB\) 1523](#), effective July 1, 2015, added [Section 1569.605](#) to the Health and Safety Code.

This bill requires all RCFEs, except those facilities that are part of a continuing care retirement community, to maintain liability insurance covering injury to residents or guests in the amount of at least \$1,000,000 per occurrence and \$3,000,000 in the total annual aggregate to cover injury to residents or guests caused by the negligent acts or omission to act of, or neglect by, the licensee or its employees.

#### Licensees

Licensees will be required to submit proof of liability insurance, which meets the requirement stated above, to their local Regional Office by July 1, 2015. Licensees are required to maintain a copy of current proof of liability insurance at the facility for review by the Licensing Program Analyst during visits. Examples of proof of liability insurance may include a declaration or certificate of insurance. The licensee is required to send to their local Regional Office proof of current liability insurance when the liability insurance policy has been renewed, revised, or a new liability insurance policy is obtained.

#### Applicants/Newly Licensed

If possible, applicants should submit proof of liability insurance, which meets the requirement stated above, during the application process. If this is not possible, submission of proof of liability insurance to their local Regional Office is required within 60 days of licensure. A copy of the proof of liability insurance shall be maintained at the facility for review by the Licensing Program Analyst. The licensee is required to send to their local Regional Office proof of liability insurance when the liability insurance policy has been renewed, revised, or a new liability insurance policy is obtained.

#### Licensing Program Analysts

Inspection – Prior to conducting the inspection, the Licensing Program Analyst will check the facility's file to determine if the licensee has sent in proof of liability insurance meeting the requirements of the statute. During the visit, the Licensing Program Analyst will review the licensee's proof of insurance to verify the liability insurance covers injury to residents and guests in the amount of at least \$1,000,000 per occurrence and

\$3,000,000 in the total aggregate and that the policy is current.

Complaint Visit – Unless the complaint is related to insurance coverage, injury to residents and guests or an act of negligence by the licensee or its employees, the Licensing Program Analyst is not required to review the licensee's proof of insurance.

The Licensing Program Analyst will cite those licensees who do not provide proof of insurance or whose insurance policy does not meet the requirements noted above under Health and Safety Code section 1569.605. This violation may be considered a Type B or Type C violation depending on the level of risk the violation represents. For example, a potential Type B violation may include situations where the licensee does not have liability insurance and it is indicative of financial distress of the licensee or a history of non-compliance. An example of a potential Type C violation would include situations where the licensee's policy on file with the local Regional Office expired and the licensee is waiting for an updated copy of the renewed policy. Please see Evaluator Manual, Reference Material Facility Evaluation/Visit section 3-4200, Facility Evaluation for additional information on Type A, B and C violations and assessing the risk of violations.

When citing a Type B violation, the plan of correction shall include a reasonable timeframe (due date) for the licensee to come into compliance with the required liability insurance requirement. Approval for extensions to the plan of correction due date may be granted to the licensee by the Licensing Program Analyst if the licensee demonstrates the following:

- The licensee has attempted to obtain liability insurance and can demonstrate these attempts. This may include, but is not limited to, denial letters from insurance carriers.
- The licensee is under the approval process through an insurance carrier and can demonstrate the status of this process through written documentation from the insurance carrier.

Additional reasons for an extension of a plan of correction due date may be considered on a case-by-case basis.

Civil penalties shall be assessed when the licensee fails to correct the violation to Health and Safety Code Section 1569.605 following any appropriate extensions to the plan of correction due date. Please see Evaluator Manual, Reference Material Enforcement Actions section 1-0060, Civil Penalties Assessed for Failure to Meet Plan of Correction Due Date for additional information. Repeat violations shall be assessed civil penalties if the violation occurred within 12 months of the last violation. Please see Evaluator Manual, Reference Material Enforcement Actions section 1-0065, Civil Penalties for Repeat Violations for additional information.

Regulations will be revised for Sections 87155 – Application for License in Title 22 of the CCR and in the Evaluator Manual for RCFE. Revisions in the Reference Materials –

Enforcement Actions, sections 1-0060 (Civil Penalties Assessed for Failure to Meet Plan of Correction Due Date) and 1-0065 (Civil Penalties for Repeat Violations) are anticipated. Revisions in the Reference Materials – Facility Evaluation/ Visit, section 3-4200 (Facility Evaluation) are also anticipated. Application instructions for a Facility License (LIC 281) will be revised, as well.

**For legislative information related to this new law:**

[Bill Text - AB-1523 Residential care facilities for the elderly: liability insurance.](#)