RN1521824 **SP 8**

**SENIOR SENATOR LEPEILBET**

(COAUTHOR: SENIOR ASSEMBLY MEMBER PEREIRA)

Legislative Counsel’s Digest

SP 8: RESIDENTIAL CARE FACILITIES FOR THE ELDERLY: TERMINALLY ILL PATIENTS.

UNDER EXISTING LAW, THE CALIFORNIA RESIDENTIAL CARE FACILITIES FOR THE ELDERLY ACT, A RESIDENTIAL CARE FACILITY FOR THE ELDERLY (RCFE) MEANS A HOUSING ARRANGEMENT CHOSEN VOLUNTARILY BY A PERSON 60 YEARS OF AGE OR OVER, OR HIS OR HER AUTHORIZED REPRESENTATIVE, WHERE VARYING LEVELS AND INTENSITIES OF CARE AND SUPERVISION ARE PROVIDED, AS SPECIFIED. EXISTING LAW GENERALLY PROHIBITS A RESIDENT FROM BEING ADMITTED TO OR RETAINED IN AN RCFE IF THE RESIDENT REQUIRES 24-HOUR SKILLED NURSING OR INTERMEDIATE CARE, OR IF THE RESIDENT IS BEDRIDDEN, OTHER THAN FOR A TEMPORARY ILLNESS OR FOR RECOVERY FROM SURGERY. EXISTING LAW AUTHORIZES AN RCFE TO OBTAIN A WAIVER FROM THE STATE DEPARTMENT OF SOCIAL SERVICES FOR THE PURPOSE OF ALLOWING THOSE INDIVIDUALS TO REMAIN, OR BECOME, A RESIDENT OF THE FACILITY IF CERTAIN CONDITIONS ARE MET. EXISTING LAW ALSO GENERALLY REQUIRES THE TRANSFER OF A PATIENT FROM AN RCFE IF DIAGNOSED WITH CERTAIN PROHIBITED HEALTH CONDITIONS.

THIS MEASURE WOULD MEMORIALIZE THE LEGISLATURE AND THE GOVERNOR TO ENACT LEGISLATION THAT WOULD ALLOW A HOSPICE-CERTIFIED, TERMINALLY ILL PATIENT WHO HAS BEEN DIAGNOSED WITH A PROHIBITED HEALTH CONDITION TO REMAIN IN AN RCFE, UNDER SPECIFIED CIRCUMSTANCES. THE MEASURE WOULD FURTHER MEMORIALIZE THE LEGISLATURE AND THE GOVERNOR TO ENACT LEGISLATION THAT WOULD AUTHORIZE AN RCFE’S STAFF TO ADMINISTER CERTAIN PALLIATIVE CARE MEDICATIONS TO A PATIENT WHO IS INCAPABLE OF SELF-ADMINISTERING MEDICATION, UNDER SPECIFIED CIRCUMSTANCES.

VOTE: MAJORITY.

SP 8: RELATING TO RESIDENTIAL CARE FACILITIES FOR THE ELDERLY

WHEREAS, SECTION 1569.73 OF THE HEALTH AND SAFETY CODE, AND SECTION 87455 OF TITLE 22 OF THE CALIFORNIA CODE OF REGULATIONS (REGULATIONS) SPECIFICALLY ALLOW FOR THE ACCEPTANCE OR RETENTION OF HOSPICE-CERTIFIED, TERMINALLY ILL PATIENTS TO RESIDENTIAL CARE FACILITIES FOR THE ELDERLY (RCFE) WITH A HOSPICE CARE WAIVER; AND

WHEREAS, HOWEVER, SECTION 87758 OF TITLE 22 OF THE REGULATIONS DEEMS IT A “SERIOUS DEFICIENCY” OF AN RCFE’S LICENSE TO ACCEPT OR RETAIN A PATIENT WHO HAS BEEN DIAGNOSED WITH CERTAIN DELINEATED AND PROHIBITED HEALTH CONDITIONS; AND

WHEREAS, SECTION 87615 OF TITLE 22 OF THE REGULATIONS ENUMERATES THOSE PROHIBITED HEALTH CONDITIONS, INCLUDING BED SORES OR STAPH INFECTIONS, AND SECTION 87637 OF TITLE 22 OF THE REGULATIONS REQUIRES THE TRANSFER OF A PATIENT WHO HAS BEEN DIAGNOSED WITH THOSE PROHIBITED HEALTH CONDITIONS; AND

WHEREAS, UNFORTUNATELY, IT IS NOT UNCOMMON FOR A TERMINALLY ILL PATIENT TO BE DIAGNOSED WITH THOSE TYPES OF HEALTH CONDITIONS, WHICH REQUIRE ADDITIONAL CARE, AND AT TIMES RESULT IN THE PHYSICAL DETERIORATION OF THE TERMINALLY ILL PATIENT; AND

WHEREAS, THAT DIAGNOSIS VIOLATES THE REGULATIONS PROHIBITING AN RCFE FROM TREATING THAT PATIENT, THEREBY RESULTING IN A SERIOUS DEFICIENCY OF THE RCFE’S LICENSE AND REQUIRING THE TRANSFER OF THE PATIENT FROM THE RCFE; AND

WHEREAS, ANOTHER ISSUE PERTAINING TO HOSPICE-CERTIFIED, TERMINALLY ILL PATIENTS IN RCFES RELATES TO SELF-MEDICATION PROCEDURES UNDER EXISTING REGULATIONS, A PATIENT IN AN RCFE MUST BE ABLE TO PERFORM HIS OR HER OWN GLUCOSE TESTING WITH BLOOD OR URINE SPECIMENS, AND BE ABLE TO ADMINISTER HIS OR HER OWN MEDICATION, WHETHER ORALLY OR THROUGH AN INJECTION; AND

WHEREAS, REGARDING COMMON SCHEDULE II-V CONTROLLED MEDICATIONS, SECTION 87633 OF TITLE 22 OF THE REGULATIONS ONLY AUTHORIZES FACILITY STAFF TO ASSIST HOSPICE RESIDENTS WITH SELF-MEDICATION; AND

WHEREAS, THESE PROVISIONS OPERATE TO PRECLUDE ADEQUATE SYMPTOM RELIEF AT THE VERY END OF LIFE WHEN SELF-MEDICATION IS IMPOSSIBLE AND WHERE LAY PERSONS OR FAMILY MEMBERS WOULD ADMINISTER MEDICATIONS UNDER HOSPICE DIRECTION IF THE PATIENT WERE IN A PRIVATE DWELLING INSTEAD OF AN RCFE; AND

WHEREAS, ALTHOUGH SECTION 87616 OF TITLE 22 OF THE REGULATIONS PROVIDES A METHOD FOR A PATIENT TO SUBMIT A WRITTEN EXCEPTION REQUEST WITH REGARD TO MEDICATION AND HIS OR HER HEALTH CONDITION, THAT METHOD IS CURRENTLY TOO CUMBERSOME FOR TERMINALLY ILL PATIENTS WHO REQUIRE EXPEDIENT ACTION AND ALLEVIATION OF SUFFERING IN A TIMELY MANNER; AND

WHEREAS, SECTION 87637 OF TITLE 22 OF THE REGULATIONS MANDATES THE RELOCATION OF AN RCFE RESIDENT WHO HAS ANY DEFICIENCIES OR CARE NEEDS; AND

WHEREAS, THE DESIRE OF TERMINALLY ILL PATIENTS TO DIE IN THE LOCALE OF THEIR CHOICE AND FAMILIARITY IS, THEREFORE, THWARTED BY EXISTING LAW; NOW, THEREFORE, BE IT

RESOLVED, BY THE SENIOR SENATE AND THE SENIOR ASSEMBLY, JOINTLY, THAT THE SENIOR LEGISLATURE OF THE STATE OF CALIFORNIA AT ITS 2015 REGULAR SESSION, A MAJORITY OF THE MEMBERS VOTING THEREFOR, HEREBY PROPOSES THAT WITH REGARD TO HOSPICE-CERTIFIED, TERMINALLY ILL PATIENTS THAT RESIDE IN OR ARE ACCEPTED INTO AN RCFE THAT POSSESSES A VALID HOSPICE-CARE WAIVER, THAT MANDATORY TRANSFERS FOR INEVITABLE, BUT CURRENTLY PROHIBITED HEALTH CONDITIONS, BE SUMMARILY PROHIBITED, IF ACCEPTED MEDICAL STANDARDS OF PALLIATIVE CARE CAN BE PROVIDED AT THE RCFE WITH HOSPICE DIRECTION; AND BE IT FURTHER

RESOLVED, THAT RCFE STAFF, WITH HOSPICE TRAINING AND DIRECTION, BE PERMITTED TO CONTINUE THE ADMINISTRATION OF PALLIATIVE CARE, SYMPTOM-RELIEF, AND TERMINAL CARE MEDICATIONS DESIGNED SOLELY TO ALLEVIATE END-OF-LIFE SUFFERING, BY ADMINISTERING THEM IF A PATIENT’S CONTINUED DETERIORATION PRECLUDES SELF-ADMINISTRATION OF THOSE MEDICATIONS; AND BE IT FURTHER

RESOLVED, THAT THE SENIOR LEGISLATURE OF THE STATE OF CALIFORNIA RESPECTFULLY MEMORIALIZES THE LEGISLATURE AND THE GOVERNOR OF THE STATE OF CALIFORNIA TO ENACT APPROPRIATE LEGISLATION THAT WOULD RESPECT THE WISHES OF THE PATIENT FOR A DEATH WITH DIGNITY THROUGH PALLIATIVE CARE IN FAMILIAR SURROUNDINGS, WITH LOVED ONES, AND ADDRESSES THE CONCERNS SET FORTH IN THIS MEASURE; AND BE IT FURTHER

RESOLVED, THAT A COPY OF THIS MEASURE BE TRANSMITTED TO THE PRESIDENT PRO TEMPORE OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, AND THE GOVERNOR OF THE STATE OF CALIFORNIA.