

# 30 Years of Advocacy

1984-2014

## Long Term Care/Elder Abuse Reform Bills Sponsored or Co-sponsored by CANHR

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### Residential Care for the Elderly (RCFE) Reform Act of 2014

#### **RCFE Liability Insurance • AB 1523 (Atkins)**

Effective July 1, 2015, each Residential Care Facility for the Elderly, as a condition of licensure, will be required to obtain and maintain liability insurance. Each facility must maintain liability insurance in the amount of one million dollars per occurrence and three million in the annual aggregate to cover injury to resident or guests caused by the negligent.

(Sponsored by CARR, San Diego)

#### **Resident & Family Councils • AB 1572 (Eggman)**

This bill amends current laws to enhance the rights of resident councils and family councils in RCFEs. Effective January 1, 2015.

#### **Forfeiture of License • AB 1899 (Brown)**

This bill would prohibit a person whose license has been revoked or forfeited for abandonment of the facility permanently ineligible for reinstatement of a license. Effective January 1, 2015.

#### **RCFE Staffing Requirements • AB 2044 (Rodriguez)**

This bill requires an administrator or facility manager or designated substitute to be on premises 24/7, and for sufficient staff to be on premises 24/7 to carry out required responsibilities. This bill also requires at least one staff member with CPR and first aid training to be on premises at all times. This bill would also require staff to be trained on building and fire safety and responding to emergencies. Certain provisions are effective in 2015 and others in 2016.

#### **Statutory Residents' Bill of Rights • AB 2171 (Wieckowski)**

This bill creates a statutory, comprehensive bill of rights for residents of RCFEs. Rights codified in the bill will have to be enforced by the Department of Social Services (DSS). Effective January 1, 2015.

#### **Increased Penalties • AB 2236 (Stone & Mainschein)**

This bill includes an enormously complicated civil penalty system for all categories of facilities; imposes a \$10,000 fine against RCFEs for physical abuse or serious bodily harm; imposes a \$15,000 fine for deaths due to violations; and creates four levels of appeal for RCFE providers to appeal the fines. Effective July 1, 2015.

#### **RCFE Suspension/Revocation of Licenses (formerly SB 894) and Inspections/Evaluations of RCFEs (formerly SB 895) • SB 895 (Corbett)**

These bills have been substantially amended and combined into one bill which variously requires facilities to correct deficiencies within 10 days unless otherwise specified and requires the DSS to post online instructions on how to obtain inspection reports offline, design an informational

poster on reporting complaints and emergencies for display in RCFEs and notify the State Ombudsman Office when it plans to issue a temporary suspension or revocation of a facility license. Effective January 1, 2015.

**Training and Qualifications of RCFE Staff • SB 911 (Block)**

This bill increases the qualifications and training requirements for RCFE administrators from 40 hours to 80 hours and require facilities who accept and retain residents with restricted or prohibited health conditions to employ trained medical personnel as appropriate. Effective January 1, 2016.

**Ban on Admissions • SB 1153 (Leno)**

This bill creates new penalties for non-compliance, including authorizing the DSS to suspend the admission of new residents in facilities where there is a substantial probability of harm. Effective January 1, 2015.

**Increase in RCFE Fees • SB 1382 (Block)**

This bill increases the initial and annual licensing fees for RCFEs for every sized facility and makes legislative findings that it is imperative that DSS be given adequate resources to support its mandate to provide consumer protection. Effective January 1, 2015.

## 2011-2013

**Elder Financial Abuse – Undue Influence • AB 140 (Dickinson)** In determining whether the outcome was produced by undue influence, the vulnerability of the victim, the influencer’s apparent authority, the actions or tactics used by the influencer, and the equity of the result shall be considered. Effective January 1, 2014.

**Military Endorsements Advertising – Elder Financial Abuse • SB 272 (Corbett)** prohibit any nongovernmental entity to use a seal or emblem to imply any connection or endorsement of any federal or state military, veteran or Veterans Service Organization (VSO), without approval, for the purpose of financial gain. This applies to advertising or promotion of events or products, without permission. Effective January 1, 2014.

**Prohibition of Gag Orders in Elder Abuse Settlement Agreements • AB 2149 (Butler)** provides that an agreement to settle a civil action for physical abuse, neglect, or financial abuse of an elder or dependent adult shall not include any provision that, among other things, prohibits contact or cooperation with the county adult protective services agency, the long-term care ombudsman or any governmental entity. The bill would provide that any such provision is void as against public policy. Effective January 1, 2013.

**VA Benefit Scams/Senior Insurance • SB 1170 (Leno)** expands the definition of advertisement related to the sale and marketing of insurance products to seniors; add veterans organizations and the Department of Veterans Affairs to the list of those entities that cannot be used in deceptive or misleading advertising; and add the term “veteran” to those words deemed a senior designation. Effective January 1, 2013.

**Veterans Benefits/Senior Insurance • SB 1184 (Corbett)** prohibits an insurance broker or agent from participating in, being associated with, or employing any party that participates in, or is associated with, the obtaining of veterans benefits for a senior, unless the insurance agent or

broker maintains procedural safeguards designed to ensure that the agent or broker transacting insurance has no direct financial incentive to refer the policyholder or prospective policyholder to any government benefits program. Effective January 1, 2013.

**VA Pensions • SB 180 (Corbett)** prohibits a person from charging or receiving an unreasonable fee to prepare, aid, or advise individuals in obtaining or maintaining VA benefits and pensions. Effective January 1, 2012.

## 2008-2011

**The RCFE Residents Foreclosure Protection Act of 2011 • SB 897 (Leno)** requires RCFE licensees to notify the Department of Social Services and the facility residents and their representatives when the facility is in financial distress such as foreclosure or bankruptcy. It provides for civil penalties and loss of licensure when a facility fails to notify residents and a resident is subsequently relocated and suffers transfer trauma. Effective January 1, 2012.

**The RCFE Eviction Protection Act • SB 781 (Leno)** strengthens eviction protections by requiring RCFEs to notify residents in writing of their rights when faced with an eviction and requires facilities to provide a list of resources available to identify alternative housing and care options. Effective January 1, 2010.

**The Reverse Mortgage Elder Protection Act of 2009 • AB 329 (Feuer)** prohibits any person who participates in the origination of a reverse mortgage from referring the borrower to anyone for the purchase of other financial products. It requires the lender to provide the prospective borrower with a list of not fewer than 10 HUD approved nonprofit counseling agencies and requires the lender or mortgage counselor to provide the borrower a suitability checklist specifying issues the borrower should discuss with a counselor before the loan application is approved. Effective January 1, 2010.

**Long Term Care Ombudsman Funding • AB 392 (Feuer/Jones)** appropriates \$1.6 million for local long term care ombudsman programs in California. On a one-time basis, it partially restored a \$3.8 million cut to the ombudsman programs made by the Governor in September 2008. Effective Immediately.

**CCRC Closure Protections • AB 407 (Beall)** requires a Continuing Care Retirement Community (CCRC) provider faced with a permanent closure to ensure residents have adequate time to find new housing and to ensure that residents receive adequate compensation should they be required to move. Effective January 1, 2010.

**Continuing Care Retirement Contracts (CCRCs) • AB 1169 (Ruskin)** increases transparency in financial reporting by CCRCs and establishes limits on the transfer of CCRC funds. Effective January 1, 2010.

**Financial Abuse of Elder or Dependent Adults • SB 1140 (Steinberg)** ensures that victims of elder financial abuse can seek civil recourse and makes certain that abusers are held accountable for their actions. Effective January 1, 2009.

## 2003-2007

**Elder Financial Restitution Act • SB 611 (Steinberg)** extends the ability to freeze the assets of a perpetrator of financial abuse against an elder or dependent adult in order to create an opportunity for the victim to regain property. Effective January 1, 2008.

**RCFE Relocation Protection Act • AB 949 (Krekorian)** provides relocation protections for residents when a Residential Care Facility for the Elderly closes such as 60 day notice, individualized relocation plan, plan approval by licensing for facilities with 7 or more beds, refund of some preadmission fees, and a private right of action. Effective January 1, 2008.

**Nursing Home Residents' Rights • SB 1248 (Alquist)** guarantees equal rights for California nursing home residents by requiring all California nursing homes to comply with residents' rights established under federal law. Effective July 1, 2007.

**CCRC Residents' Rights • SB 244 (Romero)** strengthens the rights of residents, including the rights to address concerns without retaliation, file complaints, manage personal finances, and the right to written notice and objective criteria in transfers from independent living units to higher care levels. Effective January 1, 2006.

**RCFE Refunds of Pre-admission Fees • SB 141 (Soto)** provides residents of RCFEs with a full or partial refund of pre-admission fees under certain circumstances, while allowing fair compensation to providers for costs of pre-admission fee services. Effective January 1, 2006.

**RCFE Rate Increases for Level of Care • SB 1662 (Soto)** requires licensees to issue a written notice of a rate increase due to a change in the level of care, including an itemization of additional costs within two business days of the change. Effective January 1, 2005.

**Subacute Facilities Resident Protections • AB 1201 (Berg)** establishes protections from evictions and transfers of residents of subacute facilities whose Medi-Cal contacts have been terminated or suspended. Effective January 1, 2004.

**Elder Abuse Disclosure • AB 634 (Steinberg)** establishes a statewide policy against non-disclosure in lawsuits involving elder abuse. Effective January 1, 2004.

**Elder Financial Abuse • SB 620 (Scott)** establishes provisions and penalties to protect seniors from insurance, annuity and other financial scams. Effective January 1, 2004.

## **2001-2003**

**RCFE Special Services • SB 540 (Soto)** requires a facility that advertises or promotes special care, programming or environments for residents with a health related condition to provide an accurate narrative description of these programs and services. Effective January 1, 2004.

**RCFE Admission Agreements • SB 211 (Dunn)** requires all RCFE admission agreements to include detailed explanations of fees and services, explanations of billing and payment, information regarding residents' rights, and makes copies of the agreement available to the public. Effective January 1, 2004.

**Nursing Home Patient Transfers • SB 339 (Ortiz)** increases relocation protections prior to the transfer of nursing home residents, in order to reduce incidents of transfer trauma. Also allows residents to remain in a facility past the 30 day notice if adequate placement has not been made, and requires DHS to request that the Attorney General seek injunctive relief when facilities fail or refuse to provide appropriate relocation services. Effective January 1, 2003.

**Residential Care for the Elderly/Pre-Admission Fees • SB 1898 (Soto)** requires 60 days notice prior to an increase in the basic rate and prohibits an RCFE from charging security or damage deposits. Effective January 1, 2003.

**Medi-Cal Notice Regarding Principal Residence • SB 1633 (Soto)** requires the Department of Health Services to provide any aged, blind or disabled Medi-Cal applicant a notice explaining in clear and simple language the circumstances under which an interest in a home may be transferred without affecting Medi-Cal eligibility. Effective January 1, 2003.

**Elder Death Review Teams • SB 333 (Escutia)** establishes an interagency team to review deaths of elders with the goal of identifying and preventing elder abuse. Effective January 1, 2002.

**Nursing Home Staffing Ratios • AB 1075 (Shelley)** requires DHS to develop regulations that establish staff-to-patient ratios in skilled nursing facilities. Also requires facilities to post information about staffing levels. Effective January 1, 2002.

**Discharge Planning/Relocation Guidelines • SB 587 (Soto)** provides that acute care hospitals must establish specific discharge planning protocols prior to the discharge of a patient. Effective January 1, 2002.

## 1997-2000

**Senior Fraud Protection Act of 2000 • AB 2107 (Scott)** establishes duty of honesty, good faith and fair dealing for insurance transaction involving elders; establishes protections from the sale and marketing of annuities for the purposes of long term care planning; and amends the fiduciary abuse laws to protect elders and dependent adults. Effective January 1, 2001.

**Medi-Cal Rights • SB 2194 (Soto)** conforms state statutes with federal laws regarding the transfer of property by Medi-Cal applicants or beneficiaries. Effective January 1, 2001.

**Family Councils • SB 1551 (Dunn)** increases the rights and protections for family councils in California nursing homes; provides for penalties for violations by facilities. Effective January 1, 2001.

**Medi-Cal Notices • AB 1161 (Soto)** requires that Medi-Cal offices and nursing homes provide specific notice of Medi-Cal rights, including circumstances under which the beneficiary may transfer property. Effective January 1, 2000.

**RCFE Consumer Information • SB 1630 (Rosenthal)** requires RCFEs to post the last survey results and requires Department of Social Services to make facility information available to the public. Effective January 1, 1999.

**RCFE Care Plan • AB 2155 (Keeley)** requires RCFEs to have a written service plan for each resident and that residents and residents representatives be informed of the plan. Effective January 1, 1999.

**Citation Reform • AB 1133 (Gallegos)** eliminates the automatic waiver of Class B penalties; reduces from 50% to 35% the reduction of fines in lieu of not appealing citation; allows consumer attorney representative at the Citation Review Conference. Effective January 1, 1999.

**Nursing Home Admission Agreements • SB 1061 (Vasconcellos)** mandates a standardized admission agreement to be promulgated by DHS to be used by all nursing homes in California. Effective January 1, 1998; to be implemented January 1, 2000.

## **1988-1996**

**Nursing Home Ownership Disclosure • SB 1649 (Mello)** amends the law to require nursing home ownership disclosure changes to be disclosed at the annual renewal and makes this information available to the public. Effective January 1, 1997.

**Liens on Homes of Nursing Home Residents and Surviving Spouses • SB 412 (Marks)** eliminates the ability to impose liens on the homes of nursing home residents or the surviving spouses of deceased residents who received Medi-Cal. Effective January 1, 1996.

**Citation Reform • SB 560 (Mello)** shifts the burden of going forward on judicial appeal for adverse Citation Review Conference decisions to the licensee. Effective January 1, 1995.

**Elder Abuse • SB 679 (Mello)** allows pain and suffering damages to survive the death of the victim in elder abuse cases. This “Elder Abuse and Dependent Adult Civil Protection Act” was effective January 1, 1992.

**Spousal Impoverishment • SB 1413 (Maddy)** implements the spousal impoverishment provisions of the new federal laws. Allows at-home spouse to keep a minimum resource and income level. Effective January 1, 1990.

**Family Councils in RCFEs • SB 1102 (Roberti)** allows for the organization of family councils in Residential Care Facilities for the Elderly. Effective January 1, 1990.

**Disclosure of Ownership • SB 1525 (Mello)** requires applicants and current licensees of nursing homes to submit complete disclosure of ownership information and provides for suitability of ownership requirements. Effective January 1, 1990.

**Family Councils • AB 4319 (Connelly)** defines family councils, permits the formation in nursing homes and requires facilities to provide space for meetings. Effective January 1, 1989.

**Long Term Care Insurance • SB 170 (Mello)** a consumer protection bill for the sale and issuance of long term care insurance, prohibits certain practices and specifies certain consumer protections for the sale and issuance of long term care insurance in California. Effective January 1, 1989.

## **1985-1988**

**Medi-Cal Notice • SB 69 (Mello)** requires nursing homes to provide every resident or applicant and their representative a notice of spousal impoverishment and Medi-Cal rights. Effective January 1, 1988.

**Transfer Trauma • AB 2196 (Friedman)** establishes policies to reduce transfer trauma when nursing home residents are being transferred to another facility. These policies must include a medical assessment of the patient's condition, counseling services, evaluation of relocation needs, 30 day advance notice, and appropriate arrangements for future medical care. Effective January 1, 1988.

**Medi-Cal Eviction • AB 688 (Isenberg)** prevents the eviction or transfer of current or potential Medi-Cal patients when a facility withdraws from the Medi-Cal program. Effective January 1, 1987.

**CNA Wage Pass-Through • AB 4172 (Agnos)** requires facilities to pass through a certain percentage of rate increases to direct care staff for wage and benefit increases. Effective January 1, 1986.

**Division of Community Property • AB 987 (Margolin)** establishes protections for division of community property when one spouse enters a nursing home to prevent spousal impoverishment. Effective January 1, 1986.

**Nursing Home Reform • SB 53 (Mello) and AB 180 (Isenberg)** includes most of the provisions of the Nursing Home Patients Protection Act of 1984, including increasing penalties and protection of residents from eviction for conversion to Medi-Cal status. January 1, 1985.

**Nursing Home Reform • AB 2257 (Agnos)** establishes notice and appeal rights for those who file complaints against nursing homes; establishes protections for residents and employees against retaliation; and expands the role of the long term care ombudsman. Effective January 1, 1985.