

Timely Investigations of Nursing Home Complaints

AB 348 (Brown)

The Problem

Abuse and neglect are a fact of life for far too many of the more than 300,000 Californians who reside in nursing homes each year. Thousands of nursing home residents suffer each year from preventable bedsores, dehydration, malnutrition, falls, avoidable injuries, unnecessary restraint, physical and sexual abuse, hospitalization and sometimes death.

An effective complaint investigation system is the foremost public safeguard against abuse and neglect of nursing home residents. Most residents are very vulnerable, highly dependent on their caregivers and often afraid to complain about mistreatment. Complaints that are filed must be treated as a warning signal and investigated quickly and thoroughly.

California's complaint investigation system is a disgrace. The state agency charged with investigating complaints, the California Department of Public Health, often takes years to investigate complaints of abuse and neglect, allowing nursing home residents to continue suffering mistreatment long after it is reported.

In October 2014, the California State Auditor issued a highly critical report on the Department's investigation system, finding that it had a backlog of more than 11,000 complaints that had remained open for an average of nearly a year. The audit found that the Department is slowest to act on the most serious complaints involving immediate jeopardy to residents, some of which had been open for more than three years.

The Department's failure to investigate nursing home complaints in a timely manner is extraordinarily well documented. It is the subject of an earlier investigation by the California State Auditor, a 2014 investigation by the Los Angeles County Auditor-Controller, scathing reviews and sanctions by the federal Centers for Medicare and Medicaid Services (CMS), a Department funded consultant report in 2014, two major lawsuits, oversight hearings by the California Legislature in 2014 and 2015, and a litany of reports by state and federal watchdog agencies and the media.

Nursing home residents suffer when complaints about their care are not investigated in a timely manner. When state investigators finally show up, they often take no action because witnesses are gone, evidence is compromised, memories have faded and residents have died or moved elsewhere.

Proposed Legislation

AB 348 is a very simple but powerful bill that would require the California Department of Public Health (DPH) to complete investigations of nursing home complaints in a timely manner. Part of the bill, dealing with complaints made by the public, has already been enacted through a separate budget bill – SB 75 – which sets a 60-day timeline for completing investigations of complaints made by the public, effective July 1, 2018.

However, the timeline enacted through SB 75 will not apply to incidents of abuse and neglect reported by nursing homes, which number about 20,000 per year. Many of these reports deal with residents who have been harmed or died due to neglect or abuse. This is simply unacceptable. **AB 348, as it is being amended, will require DPH to complete investigations of facility-reported incidents of abuse and neglect within the same timelines.**

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