



California Advocates For
Nursing Home Reform
&
Long Term Care Ombudsman
Services of San Luis Obispo County



September 2, 2020

Governor Gavin Newsom
1303 10th Street, Suite 1173
Sacramento, CA 95814

RE: SB 1207 (Jackson) – Urge your signature

Dear Governor Newsom:

As co-sponsors of SB 1207, California Advocates for Nursing Home Reform (CANHR) and Long Term Care Ombudsman Services of San Luis Obispo County strongly urge you to sign Senator Jackson's critically important bill to keep skilled nursing facility residents safe during power outages that threaten their lives.

SB 1207 codifies existing federal standards that require skilled nursing facilities to have an alternative source of power to protect resident health and safety and maintain safe temperatures for 96 hours during any type of power outage.

We need not remind you of the growing dangers to California's most vulnerable citizens. The raging wildfires, intense heat waves, toxic air, and rolling blackouts that have devastated California in recent weeks pose their gravest risks to the very same citizens whose lives have been most ravaged by the coronavirus pandemic: nursing home residents. Over 4,000 California nursing home residents have died from COVID-19 and tens of thousands have been infected. Those who have survived now face the imminent threat of life-threatening evacuations caused by prolonged public safety power shutoffs (PSPS).

Last October, over 100 skilled nursing facilities lost power – sometimes for days – during PG&E's badly mismanaged blackouts that were aimed at preventing destructive wildfires. Another massive round of blackouts may be just around the corner.

Nursing homes without power are a severe threat to their residents. Most residents are extraordinarily vulnerable and some rely on electrical-powered life support systems to stay alive. Unsafe temperatures, unrefrigerated medications and medical devices without power can have deadly consequences.

California must do everything in its power to keep nursing home residents safe in their facilities and out of emergency evacuation sites right now or many more residents will die needlessly. SB 1207 will help save the lives of nursing home residents throughout California by ensuring that facilities have sufficient backup power to maintain safe conditions for at least 96 hours.

California Nursing Homes Are Poorly Prepared for Emergencies

All who have examined this issue have concluded that many California nursing homes are poorly prepared to keep residents safe when the power goes out.

Most notably, a recent investigation by the federal HHS Office of Inspector General (OIG) found that California nursing home residents are at increased risk of injury or death during emergencies due to widespread violations of critical safety standards. Its November 2019 report, *California Should Improve Its Oversight of Selected Nursing Homes' Compliance with Federal Requirements for Life Safety and Emergency Preparedness*, reports that all of the nursing homes it examined in high risks areas of the state had serious violations of these standards.

OIG visited 19 California nursing homes from September to December 2018. It found 188 violations of emergency preparedness requirements and 137 violations of life safety requirements, which it said were caused by inadequate management oversight and high staff turnover. Nine of the 19 facilities did not meet the basic federal standards on emergency power that SB 1207 would codify.

One of OIG's most troubling findings is that the California Department of Public Health (CDPH) failed to ensure that nursing homes complied with federal life safety and emergency preparedness standards. CDPH's ongoing enforcement failures have necessitated SB 1207.

Another remarkable investigation was recently completed by KQED. During the week of August 10, it aired and published the findings of an eye-opening series, *Older and Overlooked*. A central finding is that 78 percent of California nursing homes had been caught violating fire safety and emergency preparedness standards over a two-year period, yet there was little follow-up by CDPH for rules violations.

The California nursing home industry admits that residents are in harm's way from the blackouts. In a June 23, 2019 Mercury News article (*PG&E fire-safety shutdowns: 'We're all freaking out about it'*), a spokesman for the California Association of Health Facilities (CAHF) said "You could kill people right away" during blackouts if backup power isn't immediately available for residents who rely on oxygen, dialysis and other life-sustaining equipment.

SB 1207 is a Commonsense Solution to Keeping the Power on in Nursing Homes

SB 1207 is a very simple bill. It codifies existing federal standards that require skilled nursing facilities to have an alternative source of power to protect resident health and safety and maintain safe temperatures for 96 hours during any type of power outage.

Signing the bill will send a badly needed message to nursing home operators to comply with these standards and to the California Department of Public Health to enforce them.

SB 1207 has broad bipartisan support and is backed by a wide coalition of organizations representing aging and disability advocacy organizations, long term care ombudsman programs, county governments, fire safety officials, professional associations and the solar power industry.

Its only opponent is the nursing home industry, which has concocted costs that are based on the pretense that the federal backup power standards SB 1207 would codify do not exist. The industry certainly knows better. Its trade associations train their members on the federal backup power standards SB 1207 would codify.

The California and federal governments have made extraordinary investments in California skilled nursing facilities. Annual Medi-Cal payments to skilled nursing facilities exceed \$5 billion, with rates and payments more than doubling in the last fifteen years. The same facilities also receive lucrative multi-billion-dollar Medicare reimbursements each year. Additionally, California skilled nursing facilities are receiving a ten percent increase from Medi-Cal throughout the duration of the emergency order, plus their share of nearly \$10 billion in federal relief funds that have been distributed by the Centers for Medicare and Medicaid Services (CMS). Some nursing home chains are reporting record profits during the pandemic.

It is not too much to ask of skilled nursing facilities in California to comply with federal emergency preparedness standards. Nor is it unreasonable to expect the California Department of Public Health to enforce these standards.

Your Leadership is Needed

At this very moment, nursing home residents throughout California are in harm's way. It has never been more apparent that California needs to do a much better job of protecting their lives. SB 1207 is a very important step in that direction. It will help save residents' lives and reduce state costs, both of which are critical needs during this time of crisis.

By signing SB 1207, you will help ensure that skilled nursing facilities have sufficient backup power to keep residents safe during extended outages that are so common today. Residents' lives depend on your action.

Thank you for your consideration.

Sincerely,



Karen Jones
Executive Director/Program Manager
Long Term Care Ombudsman Services of San Luis Obispo County



Patricia L. McGinnis
Executive Director
California Advocates for Nursing Home Reform (CANHR)