

2014

2013-2014 Legislative Summary

Assembly Committee on Aging and Long-Term Care

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Assembly Committee on Aging and Long-Term Care

Mariko Yamada, Chair

2013-2014 Legislative Summary



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2013-2014 LEGISLATIVE SUMMARY

Assembly Committee on Aging and Long-Term Care October, 2014

The following is a summary of legislation referred to, and heard by the Assembly Committee on Aging and Long-Term Care during the 2013-2014 Legislative Session. This summary also includes a list of Informational Hearings conducted by the committee.

LEGISLATION

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AB 140 (Dickinson)

This bill provides in the Elder Abuse and Dependent Adult Civil Protection Act (EADACPA) a new definition of undue influence, which focuses on excessive persuasion that causes another person to act or refrain from action, by overcoming that person's free will, resulting in inequity. This measure provides a list of considerations for a court to utilize in determining whether an action constituted excessive persuasion. AB 140 also makes this new definition of undue influence the operative definition under the Probate Code.

Last Action: Chaptered by Secretary of State - Chapter 668, Statutes of 2013

AB 477 (Chau)

This measure, in the Elder Abuse and Dependent Adult Civil Protection Act (EADACPA), makes a notary public who has observed or has knowledge of elder or dependent adult financial abuse, a mandated reporter of suspected financial abuse of elders and dependent adults; makes a failure by a mandated reporter to report suspected financial abuse of an elder or dependent adult subject to civil penalties currently imposed on other mandated reporters of elder or dependent adult abuse, and makes such penalties payable by the mandated reporter to the party bringing the action; adds these new mandated reporters to the list of other mandated reporters of elder and dependent adult abuse who are immunized from criminal or civil liability for any report required or authorized by law and makes other conforming revisions to EADACPA; exempts financial officers, who are currently mandated reporters

under EADACPA, from the notary public provisions; and, revises the attorney-client privilege provision under EADACPA to provide the privilege for information protected by the attorney-client privilege.

Last Action: Vetoed

To the Members of the California State Assembly:

I am returning Assembly Bill 477 without my signature.

This bill would add notaries public to the list of professionals mandated to report suspected financial abuse of elder and dependent adults.

I am not convinced that notaries, with their very limited interactions, should be placed in the position of being a mandated reporter. Others who are expressly mandated by law to report abuse typically have some level of relationship or more regular contact with the elder or dependent adult, or have some level of training in identifying abuse. For mandated reporting of financial abuse, officers and employees of financial institutions are required to report because of their access to financial information.

Notaries generally have no more than fleeting contact with individuals who request their services. If some transaction or situation should arise that gives them pause or appears suspect, notaries may already make a report without this law.

I believe that voluntary education and outreach efforts to notaries about financial abuse would better suit this class of professionals.

Sincerely,

Edmund G. Brown Jr.

AB 518 (Yamada)

AB 518 was introduced to continue Community Based Adult Services as a Medi-Cal benefit and included as a covered service in contracts with all Medi-Cal managed health care plans following the expiration of a legal settlement and a Medicaid waiver in effect until August 2014. The bill establishes eligibility criteria for Community Based Adult Services; requires an Adult Day Health Center to meet specified staffing standards; and establishes requirements for Community Based Adult Services providers, including a requirement that the Department of Health Care Services certify and enroll as new Community Based Adult Services providers, only those providers that are exempt from taxation under Section 501(c)(3) of the federal Internal Revenue Code, commencing July 1, 2015.

Last Action: Held in Senate Health Committee

AB 663 (Gomez)

This measure requires the Adult Residential Facility (ARF) and Residential Care Facilities for the Elderly (RCFE) administrator training program and ombudsman training program to

include training in cultural competency and sensitivity in issues relating to the aging lesbian, gay, bisexual, and transgender (LGBT) community.

Last Action: Chaptered by Secretary of State - Chapter 675, Statutes of 2013

AB 753 (Lowenthal)

This technical bill repeals and recasts statutes related to the system of caregiver resource centers to conform with the transfer of the program from the former Department of Mental Health (DMH) to the Department of Health Care Services (DHCS).

Last Action: Chaptered by Secretary of State - Chapter 708, Statutes of 2013

AB 776 (Yamada)

AB 776 defines, for purposes of the Long-Term Services and Supports (LTSS) Integration component of the Coordinated Care Initiative (CCI), the term “stakeholder” to include, but not be limited to, area agencies on aging (AAAs) and independent living centers (ILCs) for purposes of stakeholder consultation requirements. Adds AAAs and ILCs to the list of stakeholders the Department of Health Care Services (DHCS) is required to notify and consult with prior to issuing All Plan Letters (APLs), plan or provider bulletins or similar instructions without taking regulatory action.

Last Action: Chaptered by Secretary of State – Chapter 298, Statutes of 2013

AB 1534 (Linder)

This measure establishes continuous appropriations for the California Department of Aging (CDA) and the Department of Rehabilitation (DOR) for federal funds earmarked for support of area agencies on aging and independent living centers, respectively, in any fiscal year in which the Budget Act is not enacted by July 1 of that fiscal year. It also contains an urgency clause.

Last Action: Held in Assembly Appropriations Committee

AB 1552 (Lowenthal)

This bill requires Community-Based Adult Services to be a Medi-Cal benefit, and to be included as a covered service in contracts with all Medi-Cal managed health care plans, with standards, eligibility criteria, and provisions that are at least equal to those contained in the Special Terms and Conditions of the state’s “Bridge to Reform” Section 1115 Medicaid Demonstration Waiver.

Last Action: Vetoed

To the Members of the California State Assembly:

I am returning Assembly Bill 1552 without my signature.

The bill would codify the Community-Based Adult Services benefit according to provisions stipulated in a settlement agreement reached in 2012.

Currently, this benefit is authorized under an approved waiver by the federal government. The terms of the waiver may change, pending federal review.

This important program will continue to help many thousands of frail adults remain independent. Codifying it now is premature.

Sincerely,

Edmund G. Brown Jr.

AB 1554 (Skinner)

AB 1554 makes numerous changes to the complaint investigation process used by the California Department of Social Services (CDSS) when responding to complaints submitted against Residential Care Facilities for the Elderly (RCFEs). The measure requires CDSS to provide notice to the complainant of specified information regarding the status of the complaint, requiring CDSS to attempt to interview the complainant and subjects of the complaint and permitting the complainant to appeal a decision made by CDSS. Additionally, this bill requires CDSS to conduct an onsite investigation within one working day of the receipt of the complaint if a complaint alleges physical abuse, sexual abuse, or a threat of imminent danger of death or serious harm. This bill further establishes an immediate civil penalty of \$1,000 for interfering with a complaint investigation and for retaliating against residents or staff involved in the complaint investigation. This bill additionally establishes timeframes for conducting a complaint investigation.

Last Action: Held in Senate Appropriations Committee

AB 1572 (Eggman)

This measure requires Residential Care Facilities for the Elderly (RCFE) to assist residents in establishing and maintaining a resident council at the request of two or more residents, instead of at the request of a majority of residents. Additionally, this bill requires facilities to respond to resident council concerns in writing and to promote the resident council. This measure also requires facilities to respond to concerns raised by family councils and to include notice of the family council. Furthermore, it requires facilities to perform other specified actions pertaining to the resident and family councils.

Last Action: Chaptered by Secretary of State – Chapter 177, Statutes of 2014

AB 1744 (Brown)

This bill requires the Department of Aging, upon securing \$200,000 in nonstate funds from private sources for purposes of implementing the bill, to convene a blue-ribbon panel, comprised of at least 13 members, to make legislative recommendations to improve services for unpaid and family caregivers in California. The bill also requires the panel to prepare a report of its findings and recommendations and provide it to the Legislature on or before July 1, 2016.

Last Action: Vetoed

To the Members of the California State Assembly:

I am returning Assembly Bill 1744 without my signature.

The bill would require the California Department of Aging to establish and support a 13-member blue ribbon task force on unpaid family caregiving, using only non-state funds from private sources.

The California State Plan on Aging, the California Plan for Alzheimer's Disease, the significant reports and action plans developed by the 33 Area Agencies on Aging, the Alzheimer's Association, the AARP and so many others have produced ample evidence for knowledgeable and caring people to recommend ways to improve support for family caregivers.

Establishing another task force in state law simply isn't necessary.

Sincerely,

Edmund G. Brown Jr.

AB 1751 (Bloom)

This measure requires Continuing Care Retirement Community (CCRC) providers to make specified financial statements available to residents on a quarterly basis, rather than semi-annually. Additionally, this bill requires CCRC providers that have governing bodies in the state to include at least one resident, or two residents if the facility has more than 21 members, as voting members of the facility's governing body. The measure requires that providers whose governing bodies administer multiple CCRCs provide specified information to the residents' association of any facility that does not have voting representation on the governing body. Furthermore, this bill provides that the residents' association or a committee of residents shall nominate prospective residents for the governing body's approval.

Last Action: Chaptered by Secretary of State – Chapter 699, Statutes of 2014

AB 1899 (Brown)

AB 1899 provides that a license that is forfeited or revoked following abandonment of a Residential Care Facilities for the Elderly (RCFE) shall not be eligible for reinstatement on or after January 1, 2015. RCFEs, commonly referred to as assisted living facilities, are licensed

retirement residential homes, and board and care homes, that accommodate elders and other's with similar restrictions, provide services to meet the varying, and at times, fluctuating health care needs of individuals who are 60 years of age and over, and persons under the age of 60 with compatible needs. Licensed by the Department of Social Services Community Care Licensing Division (CCLD), they can range in size from residential homes with six or less beds to more formal residential facilities with 100 beds or more.

Recently, a series of events has drawn attention to the adequacy of RCFEs and the Department of Social Services ability to comply with existing oversight and enforcement requirements to help ensure the health and safety of individuals who receive services within CCLD-licensed facilities.

AB 1899 addresses the abandonment of residential care facilities and the need to have an efficient and centralized system of obtaining accurate information to prevent violators from repeatedly violating health and safety codes with impunity.

Last Action: Chaptered by Secretary of State – Chapter 700, Statutes of 2014

AB 2171 (Wieckowski)

This bill establishes a bill of rights for residents of Residential Care Facilities for the Elderly (RCFE) in order to strengthen a resident's right to make choices about his or her care, treatment, and daily life in the facility, ensure that the resident's choices are respected, and protect residents from physical or mental abuse, neglect, restraint, exploitation, or endangerment. This measure also includes discrimination and retaliation protections for residents in the bill of rights.

AB 2171 authorizes a private right of action by a current or former resident against the RCFE for violations and authorizes damages of \$500 per violation, attorney's fees, and costs, and injunctive relief. This bill provides a three-year statute of limitations beginning when the violation has been discovered. The measure also allows the RCFE to cure a violation before an action can be filed.

Last Action: Chaptered by Secretary of State – Chapter 702, Statutes of 2014

AB 2623 (Pan)

This measure requires Peace Officer Standards and Training (POST) training on the legal rights and remedies available to victims of elder or dependent adult abuse, including emergency protective orders, simultaneous move-out orders, and temporary restraining orders.

AB 2623 also requires POST to consult with local adult protective services offices and the Office of the State Long-Term Care Ombudsman when producing new or updated materials for elder and dependent adult abuse training.

Last Action: Chaptered by Secretary of State – Chapter 823, Statutes of 2014

AJR 7 (Bonta)

This resolution requests the President and the United States Congress to exclude Social Security, Medicare, and Medicaid from being a part of any legislation to reduce the federal deficit, expresses the Legislature's opposition to cuts to those programs, and calls on California's representatives in the United States Congress to vote against cuts to these programs and instead to consider improving those systems in ways that would strengthen their protections.

Last Action: Chaptered by Secretary of State – Resolution Chapter 35, Statutes of 2013

AJR 29 (Brown)

AJR 29 memorializes the Congress and President of the United States to restore federal funding cuts, due to sequestration, to senior nutrition programs, and to declare senior nutrition services and programs exempt from further budget cuts.

Last Action: Chaptered by Secretary of State – Resolution Chapter 13, Statutes of 2014

SB 609 (Wolk)

This bill increases fines for willfully interfering with the Long-Term Care Ombudsman Program's lawful actions from a maximum of \$1,000 to a maximum of \$2,500, and makes other minor and technical changes.

Last Action: Chaptered by Secretary of State – Chapter 521, Statutes of 2013

SB 894 (Corbett)

SB 894 increases the responsibilities of the California Department of Social Services (DSS) when issuing a temporary suspension order (TSO) or when revoking the license of a Residential Care Facilities for the Elderly (RCFE). It also establishes a private right of action for RCFE residents when a facility is alleged to have violated the law.

Last Action: Dropped by Author, Incorporated into SB 895 (Corbett) – Chapter 704, Statutes of 2014

SB 911 (Block)

This measure increases training requirements for licensees and staff of Residential Care Facilities for the Elderly (RCFE) from 40 hours to 80 hours, which includes increasing the number of hours of classroom instruction from 40 to 60 hours, and adds nonpharmacologic, person-centered approaches to dementia care, resident admission, retention and assessment procedures, and resident rights to the list of items covered in the RCFE licensee certification

training program. The bill also increases the continuing education requirement for administrators from 20 hours to at least 40 hours during each two-year certification period, and increases the number of hours of instruction for RCFE staff certification training from 10 hours to 40 hours, which includes a requirement that 24 hours be conducted in a classroom setting. Furthermore, it also requires DSS to develop jointly with the Department of Aging requirements for a uniform core of knowledge for the required initial certification and continuing education for administrators, and their designated substitutes, and for recertification of administrators of RCFEs.

Last Action: Chaptered by Secretary of State – Chapter 705, Statutes of 2014

SB 1127 (Torres and Pavley)

Existing law establishes a “Silver Alert” notification system, operated by the California Highway Patrol (CHP) to issue and coordinate alerts when a person age 65 or older is missing. This bill adds to the list of individuals who may be the subject of a Silver Alert anyone who is developmentally disabled, or cognitively impaired, and deletes the existing sunset date, making the program permanent.

Last Action: Chaptered by Secretary of State – Chapter 440, Statutes of 2014

SB 1153 (Leno)

SB 1153 authorizes the Department of Social Services (DSS) to order a suspension of new admissions prohibiting a Residential Care Facilities for the Elderly (RCFE) from admitting new residents if the facility has failed to pay a fine assessed by DSS or, if DSS finds that the facility has violated applicable laws and the violation presents a direct or immediate risk to the health, safety, or personal rights of a resident and is not corrected immediately; and authorizes a licensee to appeal the suspension, as well as requires DSS to adopt regulations that specify the appeal procedure.

Last Action: Chaptered by Secretary of State – Chapter 706, Statutes of 2014

SJR 4 (Monning)

This resolution memorializes the President and Congress of the United States to enact appropriate legislation reauthorizing the federal Older Americans Act (OAA) of 1965.

The OAA established grants to states for community planning and social services, research and development projects, and personnel training, in the field of aging. The law also established the Administration on Aging to administer the newly created programs and to serve as the federal focal point on matters concerning older persons.

Older people may receive services under a range of other federal programs (i.e.: Medicare, Social Security, etc.). The OAA authorizes funding for critical services that keep older adults

healthy and independent, and is considered the impetus for the coordination of social and nutrition services to beneficiaries, their caregivers and their communities. It authorizes a wide array of programs through a national network of state agencies on aging, California Department of Aging (CDA), area agencies on aging (AAA), and native populations' agencies. Well known for home delivered meals and the Ombudsman program, the OAA is also responsible for community service employment opportunities for low-income older Californians; training, research, and demonstration activities in the field of aging; as well as the development of a state plan, and a community level "area plan" to support the needs of local and state planners, service providers and policy makers.

Over the decades, the OAA has been adapted to meet the changing needs of the aged population, the changing role of family supports, and expanding research and technological advances. On September 19, 2012, Senator Bernie Sanders (I-VT) introduced a comprehensive Older Americans Act reauthorization bill, along with fourteen other Senators as original co-sponsors. This legislation was not considered by Congress during the 112th Congress, and no further action has been taken in the current 113th Congress to reauthorize this crucial law.

Under sequestration, the OAA authorized approximately \$126,614,000 of funding for home and community-based supportive services, home delivered and congregate nutrition programs, preventative health and wellness activities, the Long-Term Care Ombudsman program, and the Family Caregiver Support Services program in FFY 2013. This represents the 5 percent sequester cut for non-defense discretionary programs and 5.1 percent for non-defense mandatory programs at spending levels established in 2006 when the OAA was last re-authorized.

Last Action: Chaptered by Secretary of State – Resolution Chapter 36, Statutes of 2013

SJR 11 (DeSaulnier)

SJR 11 urges the President of the United States and the U.S. Congress to support “housing with services” models which combine federally subsidized housing programs with supportive services that enable residents to age in their residency.

Last Action: Chaptered by Secretary of State – Resolution Chapter 84, Statutes of 2013

BILL HEARD PURSUANT TO JOINT RULE 77.2

77.2. If the analysis of an amendment adopted on the floor discloses that the amendment makes a substantial substantive change to a bill as passed by the last committee of reference, the bill, as amended, may be referred by the Speaker to the appropriate committee.

AB 1565 (V. Manuel Pérez)

This bill authorizes the Director of the California Department of Aging (CDA) to initiate a process to seek proposals for grants to non-profit organizations experienced in providing culturally competent services and training, for three categories of services: outreach to elder lesbian, gay, bisexual, and transgender (LGBT) veterans; referrals to agencies, individuals, and

other entities that provide services to LGBT elders; and, provides coordinated training, outreach, and education to agencies, individuals and entities such as county veteran services offices and congressionally authorized veterans' service organizations, that serve LGBT veterans, to the extent funds are appropriated for the purpose.

Last Action: Vetoed

To the Members of the California State Assembly:

I am returning Assembly Bill 1565 without my signature.

I appreciate the author's desire to focus on the needs of lesbian, gay, bisexual or transgender veterans, but creating a new grant program without a funding source is premature.

If any funding is identified in the future for such a program, the California Department of Veterans Affairs would be a better entity for its administration.

Sincerely,

Edmund G. Brown Jr.

2013-2014 INFORMATIONAL HEARINGS

February 19, 2013

A Matter of Life and Death: What are the Choices?

The Assembly Committee on Aging and Long-Term Care held a hearing on this topic in order to offer timely and important insight into an aspect of life most people avoid until it is too late. Given the rapid increase in the population of people who will be aged, and therefore nearer to death, understanding how end-of-life choices are managed and addressed can have a significant impact upon the development of better public policy.

March 19, 2013

Safe at Home? Caring for Someone at Home in California

The Assembly Committee on Aging and Long-Term Care held this hearing to assess the rapid expansion of home care providers and consumers in California. Options with regards to balancing safety, security and affordability were explored.

May 7, 2013

Paying the Price for a Long Life: What's Next for Long-Term Care Insurance?

The Assembly Committee on Aging and Long-Term Care held this hearing which was intended to bring clarity to a range of concerns identified by consumers, constituents, and organizations representing retired individuals, and to give voice to those constituents and consumers. It is intended that the result will be a constructive path of open dialogue and creativity. Great frustration underlies the vast network of concerns and related questions.

May 21, 2013

Aging and Mental Health: A Toolkit for the 21st Century Workforce

The Assembly Committee on Aging and Long-Term Care held this hearing to provide a snapshot of what our state is doing to prepare for the growth in mental and behavioral health needs of our rapidly aging population. Studies of prevention, translation of findings from bench to bedside, large-scale intervention trials with meaningful outcome measures and health services research were partial areas of exploration in this hearing.

January 21, 2014

Department of Public Health Licensing and Certification Division

The Assembly Committee on Aging and Long-Term Care held a Joint Hearing with the Assembly Committee on Health.

Recent family, media, and advocate communication, and testimony from the Department of Public Health during budget hearings, raised speculation that the complaint process, an essential component of quality standards enforcement, had been compromised due to poor administration.

An accumulation of backlogs, cursory investigations, stale evidence, and assertions of "unsubstantiated findings" being used as code for "dismissal," contributes to a gap in the accountability of about \$7 billion public dollars annually, and deprives a supremely vulnerable population of justice. This hearing was designed to extend oversight to the Department of Public Health to encourage the administration to comply with state and federal laws that protect vulnerable, often voiceless disabled residents of long-term health care facilities.

Panelists included the Department of Public Health (DPH), resident advocates, industry representatives, and consumers. Discussion focused upon the current consumer complaint processing system and the legislative and budget solutions to address the quality of investigations involving licensed long-term care facilities and their employees.

February 3, 2014

Keeping Water Rates Affordable

The Assembly Committee on Aging and Long-Term Care held a Joint Hearing with the Assembly Committee on Utilities and Commerce.

Water affordability is critically important to impoverished and underprivileged Californians. However, declining infrastructure and reduced demand for water are prompting investor-owned water utilities to request the California Public Utilities Commission (CPUC) approve water rate increases of 7-45 percent. In some cases, water bills have spiked over 300 percent since 2006. These rate hikes may prove unaffordable to disadvantaged and/or aging populations, thus limiting their access to clean and reliable water.

This informational hearing examined water rates and their effects on aging populations; water rate assistance criteria: affordability vs. income; CPUC oversight of water utilities and possible CPUC actions to maintain water affordability in California; Low-Income Water Rate Assistance Programs; and, other mechanisms that may help maintain water affordability in California.

August 12, 2014

**Moving California Toward an Ideal Long-Term Care System:
Recommendations/Next Steps**

The Assembly Committee on Aging and Long-Term Care held a Joint Hearing with the Senate Select Committee on Aging and Long-Term Care.

California is the most populous state in the nation with just over 38.3 million residents. It is anticipated that this number will increase by 27 percent in the next 20 years, in part due to the size and longevity of the aging population. In 2011, the largest generation in history – the Baby Boomers – started turning 65, resulting in a rapid increase in the number of older Americans in the United States. In California, the number of individuals age 65 and older is projected to increase almost 100 percent in the next 20 years, from 4.41 million in 2010 to 8.4 million in 2030. In addition to the aging population, the number of working-age adults between the ages of 18-64 with disabilities is expected to grow by approximately 20 percent in the next 20 years. All told, the increase in both the aging population and the working-age adults with disabilities compounds the need for a comprehensive system of long-term care services. Not only is the California population aging, but it is also becoming more racially and ethnically diverse. At the time of the 2000 census, 70 percent of seniors were white, 13 percent were Latino, 10 percent were Asian, and 5 percent were African-American. By 2020, white seniors will be 50 percent of the aging population, with Latinos at 27 percent, Asians at 15 percent, and African-Americans at 5 percent.

This joint hearing, the second of a series of hearings conducted by the Senate Select Committee on Aging and Long-Term Care, continued a focused discussion on the strategies necessary to establish a system to efficiently accommodate the growing needs of a rapidly growing and diversifying aged population in California.

FACES OF AGING HEARING SERIES

The Assembly Committee on Aging and Long-Term Care conducted an informational hearing series to explore the convergence of California's rapidly aging population and its increasing diversity. The series identified a range of specific population groups whose care into the future will require a wide range of cultural competencies to assure safe and efficient care, support and protection.

California is aging as it becomes a "majority-minority" state. While the United States is slated to be majority-minority by 2042, and to double the size of its older population by 2029, California will have achieved this milestone much sooner; California's Majority-Minority status occurred in 2010, and by early 2014, Latinos became the most populous race exceeding 37 percent of California's total population.

The "Faces of Aging" series explored questions asking what lessons can California learn from these transformations and impart to the nation as a whole? How can California improve services while demonstrating best practices for other states? And what planning and proactive measures must our state pursue as it responds to its aging and diversity?

The Faces of Aging hearing series, comprised of seven separate legislative exercises to draw-out perspectives, experiences and best-practices of academic experts, services providers and consumers in the field of aging and long-term care, are listed here:

Faces of Aging Hearing Series:

1. *February 18, 2014* *African Americans and Aging*
2. *March 4, 2014* *Aging as a Women's Issue*
3. *April 1, 2014* *Aging and the Latino Community*
4. *May 6, 2014* *Aging and the Asian Pacific Islander Community*
5. *June 10, 2014* *Aging and the LGBT Community*
6. *September 16, 2014* *Role Reversals: When Men Become the Caregivers*
7. *Fall, 2014* *Aging in the Native American Community
(Background Paper Only)*