

2017

2017 Mid-Session Legislative Summary

Assembly Committee on Aging and Long-Term Care

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2017

**Mid-Session
Legislative
Summary**

**Assembly Committee on
Aging and Long-Term Care
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Assembly Committee on Aging and Long-Term Care

2017-2018 Mid-Session Legislative Summary

The following is a summary of legislation referred to, and heard by the Assembly Committee on Aging and Long-Term Care during the first year of the 2017-2018 Legislative Session. Informational Hearings conducted by the committee are listed at the end of this summary.

AB-275 (Wood) - Long-term care facilities: requirements for changes resulting in the inability of the facility to care for its residents.

Extends the timeline and notice periods that long-term care (LTC) facilities are required to give residents, their families, the Department of Public Health (DPH), the Department of Health Care Services (DHCS) and the Office of the State LTC Ombudsman when they are planning to close. Clarifies and strengthens requirements to medically and socially assess residents in order to prevent and reduce transfer trauma. Requires LTC facilities, as part of their relocation plans, to provide specific information regarding the number of residents who do not have the capacity to make decisions for themselves, the availability of alternative LTC beds in the community, and the reason for the proposed closure, among other things.

According to the author, last year, Rockport Healthcare Services (Rockport), the owner of the only skilled nursing facilities in the Eureka area of Assembly District 2, announced that it was closing three of its five facilities, which would have displaced more than 100 residents, moving them far from their families. The author notes that only after an outpouring of support for the residents from the community, many meetings with stakeholders, and a lot of media coverage did Rockport relent and change plans, ultimately closing only one facility.

The author states that during those many months, residents and their families were in a state of limbo and it became clear that new, stronger protections need to be put in place to help prevent this from happening to others in the future.

The author concludes that this bill provides longer notice periods to help residents and their families find alternative care, clarifies and strengthens the requirements around medical assessments for residents prior to transfer, and provides specific authority to DPH to reject a closure plan that does not provide adequate protections for residents.

Status: Chapter 185, Statutes of 2017

AB-329 (Cervantes) - Elder and dependent adult abuse.

This bill would make it a felony for a person to commit those acts against a resident of an unlicensed residential care facility for the elderly while operating or an adult resident of an unlicensed community care facility, while owning, managing, or helping to operate that facility. By creating a new crime, this bill would impose a state-mandated local program.

It would additionally make the above specified crime applicable to a person who has a business relationship with an elder or dependent adult. If in the commission of the above-specified offense, the elder or dependent adult is transported from one residential location to another residential location in furtherance of the offense, the bill would make the offense punishable by a fine not exceeding \$20,000, or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment, or by imprisonment in the state prison for 2, 3, or 4 years. By increasing the punishment for a crime, this bill would impose a state-mandated local program.

Status: Held in the Assembly Aging and Long Term Care Committee at the request of the author.

AB-502 (Waldron) - Crime victim compensation: elder or dependent adult financial abuse.

Creates a pilot program in San Diego County permitting the Victims of Crime Program (CalVCP) to reimburse victims of elder and dependent adult financial abuse for costs of financial and mental-health counseling, or supportive services, as specified.

According to the author, Assembly Bill 502 would establish a pilot program for victims of elder and dependent adult financial abuse in San Diego County to be eligible for financial assistance through the California Victims' Compensation program. Elder and dependent adult financial abuse can lead to large costs to victims, families, and society. In 2014-2015, San Diego County's Adult Protective Services confirmed a total of 1,148 unique cases of elder and dependent adult financial abuse.

The San Diego District Attorney estimates approximately 600 elderly and dependent adult victims are served annually, averaging about 50 clients per month.

This bill also gives the state the opportunity to gather essential data for the use of mental health and financial counseling by elderly and dependent adult victims of financial abuse.

Status: Held in Assembly Appropriations Committee

AB-519 (Levine, Ridley-Thomas) - Personal income tax: California Senior Citizen Advocacy Voluntary Tax Contribution Fund.

Authorizes the addition of the California Senior Citizen Advocacy Fund as a voluntary contribution fund on the personal income tax return form to serve as the principal source of funding for the California Senior Legislature.

The author states, that the California Senior Legislature has been an effective tool for senior citizens in California to create meaningful change in their government and their communities. This model of civic education gives individuals a lesson in the legislative process, while also providing a forum to advocate for policy issues to the state and federal government.

The author also acknowledges that participation is imperative to our democracy, and as our population ages, the California Senior Legislature must be able to continue their role of advising the state legislature on policies that affect them.

Status: Chapter 443, Statutes of 2017

AB-550 (Reyes) - State Long-Term Care Ombudsman Program: funding.

This bill would increase the base allocation for local ombudsman programs to \$100,000 per fiscal year. The bill would appropriate \$2,250,000 from the General Fund to the California Department of Aging for the purpose of increasing base allocation funding for that purpose.

According to the author, the current funding allocation for the LTC Ombudsman organization was established in 1989, and the existing formula has not been updated for inflation in 27 years. It does not reflect the growing cost of conducting business in California.

In order to serve the current need and to increase services for the growing population of seniors in long-term care, it is critical that a realistic base funding allocation be put in place.

Status: Held in Assembly Appropriations Committee

AB-611 (Dababneh) - Mandated reporters of suspected financial abuse of an elder or dependent adult: powers of attorney.

Authorizes a mandated reporter of elder financial abuse (an officer or employee of a financial institution) to refuse to honor a power of attorney as to an attorney-in-fact if the mandated reporter has made a report that the principal may be subject to elder financial abuse by the person exercising the power of attorney.

According to the author, this bill provides additional protection for elders and dependent adults by preventing financial abuse before it occurs.

Officers and employees of financial institutions can stop financial transactions if they have filed, or know of anyone else that has filed, a financial abuse report on an individual, even if that individual has a power of attorney. The individual with the power of attorney may appeal the action to a Judge.

Status: Chapter 408, Statutes of 2017

AB-614 (Limón) - Area agency on aging: Alzheimer's disease and dementia: training and services.

This bill requires each Area Agencies on Aging (AAA) to maintain an Alzheimer's and dementia specialist to provide information, assistance, referrals, and options counseling to families.

The author states, Area Agencies on Aging (AAAs) are on the front line to connect constituents with services. Since AAAs are already the experts on local community resources it's a natural fit for them to provide assistance and referrals as well as options counseling. Information, assistance, as well as counseling about Alzheimer's services will fill a much needed gap for family members and caregivers and help individuals with Alzheimer's disease and related dementia to live in the community.

Alzheimer's is the 5th leading cause of death in California and the only one in the top ten without a proven cause, preventative action or cure. According to the Alzheimer's Association, the number of Alzheimer's cases is growing rapidly across the entire United States population, and could nearly triple by 2050 to 13.8 million.

Status: Held in Senate Appropriations Committee

AB-713 (Chu) - Continuing care retirement facilities: transfers of residents.

Allows a resident of a Continuing Care Retirement Community (CCRC) to dispute a transfer decision, and requires the Continuing Care Contracts Branch of the Department of Social Services (DSS) to review a disputed transfer and determine if the transfer was appropriate and necessary.

According to the author's office, CCRCs provide an attractive "age in place" model for seniors, guaranteeing a long-term care contract that provides housing, residential services, and nursing care in one location and usually for the resident's lifetime. In return, residents pay an entry fee and an adjustable monthly fee based on the services used that month. California's aging population, and the attractiveness of the CCRC model, has led to a high

demand in retirement living and a growth in the CCRC industry. This bill ensures that high demand and financial interests of the retirement community are not putting pressure on providers to accelerate the transfer process for current residents.

Without a requirement for the CCRC to conduct an assessment of the resident, prior to an involuntary transfer, there is no documented justification for the necessity and appropriateness of that transfer. An assessment ensures that the provider is putting the resident's wellbeing and health ahead of any other consideration for the involuntary transfer. If disputed, it is essential that the department is able to consider all of the factors weighing the provider's decision for the transfer, including whether or not the residents physical or cognitive condition warrants an involuntary transfer that will result in reduced independence and higher fees to the resident.

Status: Chapter 613, Statutes of 2017

AB-853 (Choi) - Continuing care retirement communities.

This bill expands the definition of a "repayable contract" to not only mean a continuing care contract that includes a promise to repay all or a portion of an entrance fee that is conditioned upon re-occupancy or resale of the unit previously occupied by the resident, but also based on the sequential order of termination of all the repayable contracts at the facility.

According to the author, as California's senior population grows larger the demand for senior housing will also grow and Continuing Care Retirement Communities (CCRCs) will play an increasing role in accommodating the demand for senior housing that at the same time provides for their medical needs.

AB 853 authorizes CCRCs to offer their residents an alternative form of "repayable contract", called a "pooling contract", which provides that designated beneficiaries of residents are placed into a pool in a sequential order for subsequent payment of the entry fee as any unit within the same CCRC is resold, rather than the actual unit in which the resident lived is resold. This method of paying designated beneficiaries eliminates the potential for a long delay in that payment if there is a delay in the resale of that unit. The pooling method smooths out that variation between the time it takes to resell units and thus the time it takes to make the entry fee payment to the designated beneficiary.

Status: Assembly-In Committee Process - Aging and Long Term Care

AB-940 (Weber) - Long-term health care facilities: notice.

If a resident is notified in writing of a facility initiated transfer or discharge from a long-term health care facility, other than an emergency transfer to a hospital, the facility must also send a copy of the notice to the local long-term care ombudsman at the same time.

According to the author, complaint investigations conducted by Local Long-Term Care Ombudsman Programs for improper, unsafe and illegal discharges are a recently growing problem all across the state. In 2016 local programs investigated 1,504 complaints regarding discharge and evictions, a 68% increase since 2012.

Many residents when faced with discharge are not aware of their options. AB 940 ensures California residents of skilled nursing facilities will be afforded a greater opportunity for timely intervention from their local Long-Term Care Ombudsman Program.

Status: Chapter 274, Statutes of 2017

AB-1200 (Cervantes) - Aging and Disability Resource Connection program.

Establishes an Aging and Disability Resource Center (ADRC) program to provide information to consumers and their families on available long-term services and supports (LTSS) programs, and to assist older adults, caregivers, and persons with disabilities in accessing LTSS programs at the local level.

California's long-term services and supports (LTSS) system is plagued by fragmentation of programs at the state, regional, and local levels. In many communities, multiple agencies administer LTSS and have complex, splintered, and often duplicative intake, assessment, and eligibility functions. This results in a lack of access to coordinated services. As a result, consumers and their families struggle to identify and access necessary home and community-based services, resulting in increased likelihood of hospitalization and institutional placements.

In 2003, the Federal Administration on Aging (AoA) and the Centers for Medicare & Medicaid Services (CMS) established the ADRC initiative to streamline access to long-term services and supports to assist older adults, persons with disabilities, families, and caregivers. ADRCs build on the strength of existing community agencies, such as Area Agencies on Aging (AAA) and Independent Living Centers (ILC), to provide a single coordinated system of information and access for all persons seeking long-term services and support. ADRC programs provide objective information, advice, counseling and assistance, and ensure that individuals are able to make informed decisions about their services.

The ADRC initiative focuses on delivering person centered planning by improving access to LTSS so that an individual can receive the right services at the right time and in the right place. Initially, CMS provided small grants to fund the development of four ADRCs in California with minimal dollars for operations. With a lack of continuous funding only two of the four are functional today. Through local efforts and resources other ARDCs have come into existence. There are currently seven in existence including the two initially funded by CMS grants. They are located in San Diego, Riverside, Orange County, Ventura, Nevada, San Francisco, and Alameda.

Although federal and state agencies encourage local networks to collaborate on developing ADRCs, there is no statutory authority to do so.

Status: Chapter 618, Statutes of 2017

AB-1335 (Kalra) - Long-term health facilities.

This bill redefines a class “A” violation issued by the Department of Public Health by replacing the causal connection that must exist between the violation and the death of a patient from direct “approximate” cause, to “substantial factor.”

According to the author, AB 1335 establishes consistency and conformity in the law by providing a more accurate, updated definition in determining if the actions of staff or the long-term care facility substantially contributed to the death of a resident. This will allow the Department to properly impose Class AA citations when warranted, thereby safeguarding nursing home and other long-term health facility residents by enforcing higher citations for negligent care resulting in death.

Reoccurring Class A violations resulting in resident death must also be taken seriously because if ignored could lead to further incidents of harm or death that could have been prevented.

This bill sets forth a process for the Department to suspend or revoke a facility’s license when multiple and continuous Class A violations occur that is similar to actions taken in repeated Class AA involving a resident death.

Status: Senate-In Committee Process - Health

AB-1437 (Patterson) - California Residential Care Facilities for the Elderly Act: licensing.

This bill stipulates that an individual with a current criminal record clearance who is employed at a residential care facility for the elderly (RCFE) does not need to transfer his or her clearance to an RCFE operated by the same licensee, and exempts an individual with a current license as a certified RCFE administrator from having to complete the licensure certification program when applying for licensure of a facility.

According to the author’s office, AB 1437 is needed to streamline regulations in a manner that allows employee flexibility and sensible management of facilities for the elderly without compromising important consumer protections. With an aging populations and an

increasing retirement population, 6 bed facilities play an important role in allowing elderly Californian's to live in a home within the community next to neighbors, family and friends.

It's important that California takes steps to ensure that there is safe and affordable quality care available for California seniors and disabled adults in a home-like environment. AB 1437 makes it easier for quality care to be delivered.

Status: Senate-In Floor Process

AB-1500 (Maienschein) - Elders Living with Dignity, Empathy, Respect, and Serenity (ELDERS) Bond Act of 2018.

This bill would provide for submission to the voters of the Elders Living with Dignity, Empathy, Respect, and Serenity (ELDERS) Bond Act of 2018. The bill would provide that, if enacted by the people, the state would be authorized to issue and sell general obligation bonds in the aggregate amount of \$____. The proceeds of these bonds would be placed in a fund, which would be appropriated to the Controller, without regard to fiscal years, for allocation, at the request of the Director of the California Department of Aging.

It would provide that money in the fund would be allocated to public or private nonprofit agencies for the purposes of acquiring, renovating, or constructing, or purchasing equipment for, specialized day services centers for dementia, funding startup costs of programs, or program expansion of eligible facilities, as specified. The bill would provide for submission of the bond act to the voters at the general statewide election occurring on November 6, 2018.

This measure would also declare that it is to take effect immediately as an urgency statute.

According to the author, the Department of Finance and the Legislative Analyst Office both project significant growth in California's older adult population by the year 2025. With that growth comes increased rates of individual disability and cognitive impairment, as well as negative impacts on family caregivers and stress on fragile systems of care.

In anticipation of this unprecedented demographic shift, California needs to plan now to expand capacity and build infrastructure to meet the consumer demand. Not only will advance planning benefit thousands of individuals and families, but also the State General Fund by offering more low-cost, community based options as alternatives to high cost institutional care.

Status: Will be heard in the Assembly Aging and Long Term Care Committee on January 9, 2018

SB-219 (Wiener) - Long-term care facilities: rights of residents.

This bill enacts the Lesbian, Gay, Bisexual and Transgender (LGBT) Long-Term Care Facility Resident's Bill of Rights and makes it unlawful for any long-term care facility to take specified actions on the basis of a person's actual or perceived sexual orientation, gender identity, gender expression, or human immunodeficiency virus (HIV) status.

According to the author, SB 219 would help protect LGBT seniors in long-term care facilities from discrimination, and will make these seniors more aware of their rights. LGBT seniors have a heightened need for care provided by long-term care facilities, and often lack traditional family support networks available to non-LGBT seniors.

While California has sought to protect the rights and dignity of its LGBT senior population, the State has not detailed specific actions deemed discriminatory nor made residents fully aware of their rights in order to hold long-term care facilities more accountable.

Status: Chapter 483, Statutes of 2017

SB-255 (Mendoza) - California Partnership for Long-Term Care Program.

This bill would require a policy, certificate, or rider as described, to instead be called a home care, community-based services, and residential care facility only policy, certificate, or rider.

It would delete assisted living facility services from the list of required minimum services to be provided, and also would clarify that those required minimum services include care in a residential care facility, and delete the policy definitions. The bill also would make conforming name changes and various technical non-substantive revisions. This bill would declare that it is to take effect immediately as an urgency statute.

Status: Assembly-In Committee Process – Insurance

SB-413 (Morrell) - Dementia: major neurocognitive disorder.

This bill replaces references to the term "dementia" with the term "major neurocognitive disorders" in existing law with regard to licensure and operation of residential care facilities for the elderly and conservatorships. This bill also makes technical, non-substantive changes to these provisions.

According to the author, in 2013, the American Psychiatric Association replaced the term "dementia" with "major neurocognitive disorder" in the latest published edition of the Diagnostic and Statistical Manual of Mental Disorders, also known as the DSM-5.

Because numerous California statutes continue to refer to “dementia,” and “dementia as defined in the latest published edition of the DSM-5,” it is important that terminology in statute align with the manual itself, otherwise, those turning to the manual will not find clear diagnostic support when interpreting statutes at issue. SB 413 addresses this problem by updating these Health and Safety and Probate Code sections to replace dementia with major neurocognitive disorder.

Status: Chapter 122, Statutes of 2017

2017 Informational Hearings

Consequences of Federal Policy Changes on California's Seniors
Wednesday, November 15, 2017
Sheraton Gateway Los Angeles Hotel
Grand Ballroom Salon D and E
6101 West Century Boulevard, Los Angeles, CA

Services for Seniors to Age at Home
October 25, 2017
Talmadge Gateway
Community Room
4422 Euclid Avenue, San Diego, CA

Financing Long-Term Care Services and Supports
September 21, 2017
Santa Clara County Board of Supervisors Chambers
70 West Hedding Street, San Jose, CA