

# CALIFORNIA ADVOCATES FOR NURSING HOME REFORM

## Summary of 2008 California Legislation

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The California Legislature considered many bills related to long term care and elder abuse during 2008. Unfortunately, the Governor vetoed more than a third of the bills enacted by the Legislature, including some important CANHR sponsored bills.

Following is the status of major bills that CANHR sponsored, **supported**, **opposed** or **monitored** during the 2008 session. Unless otherwise specified, new laws signed by the Governor took effect on January 1, 2009.

### **Sponsored By CANHR:**

#### **SB 489 (Steinberg): CCRC Closure Protections**

This bill would impose requirements on a Continuing Care Retirement Community (CCRC) provider faced with closure to ensure residents have adequate time to find new housing. Co-sponsor: California Continuing Care Residents Association (CALCRA).  
Status: Vetoed by Governor Schwarzenegger

#### **SB 535 (Kuehl): Access to Nursing Home Information**

Although DPH has recently established Internet access to consumers to specific information about nursing homes, a great deal of pertinent information has not been included. This bill specifies the comprehensive information that should be made accessible electronically and through consumer information profiles to consumers.  
Status: Vetoed by Governor Schwarzenegger.

#### **SB 1140 (Steinberg): Elder Financial Abuse Protection Bill**

This bill reforms the Elder Abuse and Dependent Adult Civil Protection Act (EADACPA) by making it easier for senior victims of financial elder abuse to seek civil recourse against predators who use undue influence. It creates a four-year statute of limitations for these cases.  
Status: Signed by Governor Schwarzenegger.

### **Supported by CANHR:**

#### **SB 483 (Kuehl): DRA Implementation**

This bill will implement the federal Deficit Reduction Act of 2005 (DRA) provisions on Medi-Cal eligibility, including the home equity limitation, transfer of assets, and the other provisions affecting home and facility care, i.e., nursing home or Medicaid waiver programs.  
Status: Signed by the Governor.

#### **SB 840 (Kuehl): Single-Payer Healthcare Reform Bill**

This bill would have established a Medicare-style universal health care system in California to be overseen by a newly created California Healthcare Agency.  
Status: Vetoed by the Governor.

#### **SB 1136 (Alquist): Elder Financial Abuse**

This bill adds a new subsection to the Consumers Legal Remedies Act by making it unlawful for any person to charge or receive an unreasonable fee to aid an applicant in the procurement of Medi-Cal or other public social services and requires the court to award treble damages whenever it is proven

that an unreasonable fee was charged for those services.  
Status: Signed by the Governor.

**SB 1170 (Alquist): Regulations for ICF/DD– Nursing**

The bill would have required the Department to promulgate long–delayed regulations governing ICF/DD–Nursing facilities by January 1, 2009.  
Status: Did not pass.

**SB 1216 (Scott): Long Term Care Insurance**

This bill would provide that, as to accepted long–term care claims accepted on or after December 1, 2008, interest shall accrue and shall be payable to the claimant at the rate of 10% per annum on the amount of any accepted claim, beginning on the first calendar day after payment of the accepted claim is due, as specified.  
Status: Signed by the Governor.

**SB 1224/SB 1543 (Machado): Elder Financial Abuse**

This bill attempted to regulate the emerging life settlement and stranger originated life insurance (STOLI) market. The bill would have effected transactions involving those with insurable interests and those brokering or soliciting life insurance policies. This bill was originally introduced as SB 1224, but its provisions were later transferred to SB 1543, which was vetoed by Governor.  
Status: Vetoed by the Governor.

**SB 1343 (Battin) Elder Abuse Witness Testimony**

The bill adds crimes against elder or dependent adults (when the prosecuting witness is the elder or dependent adult) to the offenses for which a prosecuting witness may have up to 2 support persons while testifying.  
Status: Signed by the Governor.

**AB 2100 (Wolk): Elder Abuse**

This bill requires local long term care ombudsman programs to report instances of known or suspected physical or financial abuse of a resident to their local district attorney.  
Status: Signed by the Governor

**AB 2137 (Saldana): Rescission of Long Term Care Insurance**

In order to reduce the number of unjustified rescissions of long–term care coverage by insurance providers, this bill requires insurers to provide reasons for rescissions in annual reports to the Insurance Commissioner.  
Status: Signed by the Governor.

**AB 2150 (Berg): Elder Financial Abuse**

This bill allows insurance agents to use various marketing designations on their business cards so long as the Insurance Commissioner approves them.  
Status: Signed by the Governor.

**AB 2229 (Huffman): Dental Exams for LTC Residents**

This bill sought to restore annual dental examinations for Medi–Cal residents in long term care facilities.  
Status: Did not pass.

**AB 2370 (Bass): Residential Care Facilities for the Elderly**

This bill requires licensees of Residential Care Facilities for the Elderly (RCFEs) to disclose prior year rate increases.  
Status: Signed by the Governor.

**AB 2614 (Houston): Liability for State Hospital Costs**

The bill sought to eliminate the liability of relatives for the care costs of a patient in a state hospital for the mentally disordered if the person has become a patient pursuant to the provisions of the penal code.

Status: Did not pass.

**AB 2947 (Eng): Waiver of Rights for Elder Abuse in RCFEs**

The bill would have prohibited a residential care facility for the elderly (RCFE) from requiring elders or their representatives to waive their legal rights to sue the facility for elder abuse or neglect. It would have made arbitration agreements unenforceable if they were established in violation of its terms.

Status: Vetoed by the Governor.

**Opposed by CANHR:****AB 1022 (Berg): Continuing Care Contracts at Home**

The bill sought to establish a category of continuing care home programs in which services are provided to elderly persons in their own residences by continuing care retirement communities (CCRCs), and exempt the residences from licensing provisions applicable to residential care facilities. Note: CCRCs are already under-regulated and severely lacking in accountability to their current residents. This is a terrible bill and would do nothing but provide yet more money to already over-paid corporate entities, with no safeguards for consumers.

Status: Vetoed by the Governor.

**AB 2464 (Duvall): Annuity Sales**

This bill would have created a disclosure requirement on certain types of annuities while excluding others from the requirements.

Status: Did not pass.

**AB 2465 (Duvall):**

This bill extends an exception insurance companies have from making disclosures required under the Insurance Replacement Act to entities which claim "corporate affiliation."

Status: Signed by the Governor.

**Of Interest:****SB 491 (Alquist): Alzheimer's Disease and Related Disorders**

Advisory Committee.

The bill expands California's Alzheimer's Disease and Related Disorders Advisory Committee by adding two members who have been diagnosed with Alzheimer's disease and strengthens the committee's duties.

Status: Signed by the Governor.

**SB 1196 (Runner): Coroners**

The bill specifies the circumstances for coroner investigations of deceased hospice patients. It also authorizes coroners to perform an autopsy on a decedent for which an autopsy has already been performed, if requested by the next of kin.

Status: Signed by the Governor.

**SB 1268 (Denham): Nursing Home Administrators**

This bill would permit the Department of Public Health to waive certain educational requirements for persons applying to take the nursing home administrator licensing examination if the applicant is a member of a recognized church or religious denomination that operates a faith-based skilled nursing

facility and historically prohibits the acquisition of the formal education that would otherwise be required for the applicant to take the licensing examination.

Status: Signed by the Governor.

**SB 1729 (Migden): Skilled Nursing Facilities – Training on Sexual Orientation**

The bill requires all RNs, LVNs, and CNAs to participate in a prescribed training program that focuses on preventing and eliminating discrimination based on sexual orientation and gender identity.

Status: Signed by the Governor.

**AB 225 (Beall): Elder Abuse Protection; Family Members & Conservators**

This bill expands the scope of elder abuse protection orders to protect an elder's family members or conservator upon a showing of good cause.

Status: Signed by the Governor.

**AB 572 (Berg): Adult Day Health Care Services**

The bill makes several changes to licensing requirements for adult day health care centers.

Status: Signed by the Governor.

**AB 749 (Wolk): RCFE Disaster Preparedness Plans**

Effective March 1, 2009, the bill requires residential care facilities for the elderly to have an emergency plan that includes specified provisions and that is available to residents and local emergency responders. The bill also requires the Department of Social Services to confirm that the plan is on file during licensing inspections.

Status: Signed by the Governor.

**AB 759 (Karnette): RCFE Fire Protection**

The bill would have required annual fire inspections of residential care facilities for the elderly with 6 or fewer residents and required the inspecting agency to charge and collect a fee on all inspections after the initial inspection.

Status: Vetoed by Governor

**AB 978 (Benoit): Care Facilities**

The bill requires the Department of Social Services (DSS) to assess an immediate civil penalty for certain violations that are considered serious and requires DSS to expend the collected fines for specified purposes. The bill applies to residential care facilities for the elderly and other care facilities licensed by DSS.

Status: Signed by the Governor.

**AB 1183 (Committee on Budget): Medi-Cal & Health Facilities**

A companion to the budget act, this bill contains dozens of provisions concerning Medi-Cal, health services and health facilities. It extends the lucrative Medi-Cal rate system for skilled nursing facilities through 2011, provides a maximum 5 percent increase for skilled nursing facilities during fiscal years 2009–10 and 2010–11, and establishes a stakeholder process to make recommendations on needed changes in the reimbursement system. The bill also amends 2006 legislation that re-established regular licensing inspections of nursing homes by requiring the Department of Public Health to use consistent inspection, investigation and enforcement practices throughout the state.

Status: Signed by the Governor.

**AB 2105 (DeSaulnier): Mandated Reporters; Financial Abuse**

The bill would have expanded the list of mandated reporters of suspected financial elder and dependent adult abuse to include all financial lending institutions and their employees engaged in

lending or servicing activities. It also would have added courses to detect signs of financial and elder abuse and reporting requirements to the list of consumer protection courses or programs required for real estate license renewal.

Status: Vetoed by the Governor.

**AB 2128 (Emmerson): Nursing Home & Hospital Dietitians**

The bill changes educational requirements for dietetic service supervisors working in nursing homes and hospitals, and permits limited exemptions from the requirements for persons who have already worked in this capacity for 5 years or more.

Status: Signed by the Governor.

**AB 2149 (Berg): Elder Abuse; Financial Advisors**

Effective July 1, 2009, the bill prohibits investment advisers, broker-dealers or their representatives from using a senior-specific certification, credential, or professional designation indicating or implying that he or she has a special certification or training in advising or servicing senior citizens or retirees in such a way as to mislead any person.

Status: Signed by the Governor.

**AB 2747 (Berg): End-of-Life Care**

The bill requires that when a health care provider makes a diagnosis that a patient has a terminal illness, the health care provider shall, upon the patient's request, provide the patient with comprehensive information and counseling regarding legal end-of-life options.

Status: Signed by the Governor.

**AB 2842 (Berg): Medicare Health Plan Solicitation**

The bill makes it an unfair business practice for health insurance agents and others engaged in selling health plans to engage in cold lead advertising when marketing a Medicare product. It also outlaws using an appointment made to discuss a particular Medicare product to solicit the sale of another Medicare product or other health insurance.

Status: Signed by the Governor.

**AB 3000 (Wolk): Health Care Decisions; Life Sustaining Treatment**

This bill creates a new process – called a Physician's Order for Life Sustaining Treatment (POLST) – that allows individuals to provide specific instructions for end-of-life care that are in the form of a doctor's order and are to be honored by all health care providers. To the extent of any discrepancy between an individual's advance health care directive and a POLST, the most recent order or instruction shall be effective.

Status: Signed by the Governor.