



**LEGISLATION AND
COMMUNICATIONS UNIT**

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September 8, 2021

Honorable Gavin Newsom
Governor of California
Capitol Building, 1st Floor
Sacramento, CA 95814

RE: AB 323 (KALRA) – REQUEST FOR SIGNATURE

Dear Governor Newsom:

Disability Rights California (DRC), a non-profit advocacy organization that advances and protects the rights of Californians with disabilities, **supports AB 323 and request your signature.**

AB 323 strengthens and improves oversight of California's nursing homes by:

- Adopting the California State Auditor's recommendation on skilled nursing facility citation amounts to improve quality-of-care deficiencies in nursing homes.
- Improving the California Department of Public Health's (CDPH) enforcement ability by clarifying the confusing causation standard for "AA" citations, imposed in nursing home deaths, by replacing the "direct proximate cause" test with the "substantial factor" test.

Under current law, the "direct proximate cause" standard for AA citations is confusing and unclear. According to CDPH, it is undefined, which makes it difficult for the department to secure appropriate penalties in cases of nursing home deaths. The California Supreme Court rejected the

“proximate cause” causation standard and concluded that “substantial factor” is the proper causation standard in determining negligence.

Disability Rights California conducted a comprehensive review of nursing home deaths, culminating in our report, [Keeping Nursing Home Residents Safe](#). We reviewed hundreds of citations involving nursing home deaths, and concluded that several deaths in these facilities were inappropriately classified as Class A violations, even in cases of severe neglect. We also concluded that the confusion created by the “direct proximate cause” standard prevented CDPH from issuing the more appropriate Class AA citation.

These lower penalty Class A deaths included:

- Untreated pressure sores
- Catching on fire while smoking unsupervised
- Severe, untreated dehydration
- Punctured G-tubes and septic shock
- Choking to death

During the COVID-19 pandemic, consistent application of citation standards has been shown to be even more needed. COVID-19 has not only disproportionately affected nursing home residents, it has revealed underlying problems such as understaffing and mismanagement that existed before the pandemic. AB 323 will allow for more consistent oversight of nursing homes by creating a clear legal standard with which to hold nursing homes accountable for deaths caused by negligence and poor care.

For these reasons, DRC supports this bill and requests your signature on AB 323. Please contact me if you have any questions about our position or if I can provide any further information.

Sincerely,

A handwritten signature in black ink that reads "Gregory Cramer". The signature is written in a cursive, flowing style.

Gregory Cramer
Senior Legislative Advocate

Disability Rights California

cc: Honorable Ash Kalra, California State Assembly
Ryan Guillen, Legislative Director, Office of Assembly Member Kalra
Tam Ma, Deputy Legislative Secretary, Office of Legislative Affairs
Anthony Pham, Legislative Assistant, Office of Legislative Affairs