



**LEGISLATION & PUBLIC  
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April 6, 2017

Honorable Ash Kalra  
Chair, Assembly Aging and Long-Term Care Committee  
California State Assembly  
Capitol Building, Room 5160  
Sacramento, CA 95814

RE: AB 1335 (KALRA)-SPONSOR LETTER

Dear Assembly Member Kalra:

Thank you for authoring AB 1335. AB 1335 establishes consistency and conformity in the law by providing a more accurate, updated “causation” definition in determining if a long-term health care facility is responsible for a resident’s death, and increases the penalties for repeated violations, where appropriate. AB 1335 will ensure that vulnerable residents of long-term health care facilities are fully protected.

Current law allows the Department of Public Health to issue a Class AA citation when it finds that a long-term health care facility’s violation of a regulation is a “direct proximate cause” of a patient’s death. Class AA is the highest citation level and serves to hold a nursing facility accountable by requiring the greatest financial penalty amount, and potentially leading to a license suspension or revocation if a facility incurs multiple AA citations.

“Direct proximate cause” is an outdated term that has created confusion and inconsistency in determining whether a long-term health care facility should be given a Class AA or lower level of citation in the case of a resident’s death. In 1991, the California Supreme Court rejected the “proximate cause” term and replaced it with the “substantial factor” standard for determining causation in civil actions. AB 1335 similarly seeks to conform the standard now used for determining causation in other actions by replacing “direct proximate cause” with “substantial factor.”

Disability Rights California conducted a comprehensive review of nursing facility deaths, culminating in our 2017 report, *Keeping Nursing Home Residents Safe* (<http://www.disabilityrightsca.org/pubs/703101.pdf>). We reviewed citations issued between 2000 and 2014; 259 Class AA citations and 1,774 Class A citations, of which 287 involved resident deaths. We concluded that deaths in these facilities were inappropriately classified as Class A violations, even in cases of severe neglect. In some cases, the confusion created by the “direct proximate cause” standard may have prevented DPH from issuing a Class AA.

AB 1335 would also require the Department of Public Health, for repeat Class A violations where a death occurred but does not meet the requirements for a Class AA violation because causation is not established, to consider suspending or revoking a license for a second violation in a 12 month period; for a third or subsequent violation in an 18 month period, to begin proceedings to suspend or revoke the violator’s license.

We believe this bill is a step in the right direction to ensure that the Department of Public Health will properly impose Class AA citations when warranted by clarifying the causation standard, thereby safeguarding nursing home and other long-term health care facility residents by enforcing the appropriate citations for negligent care resulting in death.

We are proud to sponsor this legislation and appreciate your authoring this bill.

Very truly yours,



Curtis Child  
Legislative Director  
Disability Rights California

cc: Honorable Members, Assembly Aging and Long Term Care  
Committee  
Ryan Guillen, Legislative Director, Office of Assembly Member Kalra  
Barry Brewer, Chief Consultant, Assembly Aging & Long-Term Care  
Committee