



**LEGISLATION AND
COMMUNICATIONS UNIT**

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September 12, 2019

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

RE: AB 506 (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, **sponsors AB 506 and requests your signature.**

AB 506 establishes consistency and conformity in the law by providing a more accurate, updated “causation” definition for determining whether a long-term health care facility is responsible for a resident’s death; and it increases the penalty amounts for facility violations, based on recommendations from the 2018 State Audit report. AB 506 will help protect vulnerable residents of long-term health care facilities.

Current law allows the Department of Public Health (DPH) to issue a Class AA citation when it finds that a long-term health care facility’s violation 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 largest 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“Direct proximate cause” is an outdated term that has created confusion and inconsistency in determining whether a long-term health care facility should be given a Class AA or lower level of citation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 506 similarly seeks to conform the standard now used for determining causation in other actions by replacing “direct proximate cause” with the “substantial factor” standard.

DRC 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.

In addition to the outdated standard, the statute also fails to match penalties with the scope of the danger to residents. Class AA citations can range from \$25,000-\$100,000, while Class A citations, which may still result in death or serious injury, range from \$2,000 to \$20,000. This bill increases penalties consistent with the State Auditor’s recommendations. A Class AA citation would range from \$30,000 to \$120,000 in this bill.

For these reasons, we sponsor and support this bill and request your signature. Please contact me if you have any questions about our position on this bill.

Very truly yours,

A handwritten signature in black ink, appearing to read "Curtis Child". The signature is fluid and cursive, with the first name "Curtis" and last name "Child" clearly distinguishable.

Curtis Child
Legislative Director
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
Sam Miller, Assistant Legislative Deputy, Office of Legislative Affairs