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March 28, 2017

Honorable Mark Stone
Chair, Judiciary Committee
California State Assembly
Capitol Building, Room 3146
Sacramento, CA 95814

RE: AB 859 (EGGMAN) – SUPPORT

Dear Assembly Member Stone:

Disability Rights California, a non-profit advocacy organization that advances and protects the rights of Californians with disabilities, supports AB 859. This bill is scheduled for hearing in the Assembly Judiciary Committee on April 4, 2017.

This bill would protect seniors and persons with disabilities in nursing homes and discourage the destruction of evidence to avoid accountability. The Elder Abuse and Dependent Adult Civil Protection Act imposes the very high standard of “clear and convincing evidence” on victims alleging “reckless neglect” of elder abuse within a facility. AB 859 would impose a lesser standard of “preponderance of evidence” when the defendant has intentionally destroyed evidence. The higher standard of evidence becomes obviously unfair when evidence is not available to the victim and, importantly, the lower standard serves as an important deterrent to the destruction of evidence and an appropriate sanction when applied to a case where there has been a court finding of destruction of evidence.

Persons with disabilities and seniors who have suffered from both abuse through “reckless negligence” and the illegal conduct of intentionally destroyed evidence will be able to fairly seek redress for their injuries.

For these reasons, Disability Rights California supports AB 859. Please contact me if you have any questions about our position on this bill.

Sincerely,

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 Members, Assembly Judiciary Committee
Leora Gershenzon, Deputy Chief Counsel, Assembly Judiciary
Committee
Honorable Susan Talamantes Eggman, California State Assembly
Erin Rodriguez, Legislative Assistant, Office of Assembly Member
Eggman