

## CONCURRENCE IN SENATE AMENDMENTS

AB 1309 (Reyes)

As Amended August 28, 2023

Majority vote

**SUMMARY**

This bill requires nursing homes, within 48 hours of giving a required written notice of an involuntary transfer or discharge, to provide the resident with a copy of certain discharge related documents, including a description of specific needs that cannot be met and the facility's attempts to meet those needs when the basis of the transfer or discharge is because the resident's needs cannot be met in the facility.

**Senate Amendments**

Recent amendments are clarifying in nature moving the provisions of this bill to a different section of law that already contains related requirements about discharge notifications in order to consolidate discharge notification requirements in one section of law.

**COMMENTS**

Current federal regulations require nursing homes to create the documentation that this bill is mandating be provided. Under federal requirements, a facility is required to have a discharge summary, and requires the summary to include a recapitulation of the resident's stay that includes diagnoses and course of treatment, a final summary of the resident's status, reconciliation of all pre-discharge medications with post-discharge medications, and a post-discharge plan of care that is developed with the resident or resident's representative that is required to indicate where the individual will reside and what arrangements have been made for the resident's care.

Additionally, federal regulations requires, when a facility transfers or discharges a resident under any of the allowed circumstances (42 Code of Federal Regulations Section 483.15(c)), that the facility document in the resident's medical record the basis for the transfer, and in the case of not being able to meet a need, what that specific need is and the facility's attempts to meet the need and the service available at the receiving facility that will meet the need.

However, while facilities are required to include the reason for the transfer or discharge as part of the required notice of transfer or discharge, it doesn't explicitly require that the specific need that the facility claims it is unable to provide be part of the notice provided to residents, nor what steps were taken to attempt to meet the resident's needs, despite this information being required to be documented in the medical record. According to the author and sponsor, the goal of this bill is to provide resident's and their representatives with a level of detail that the facility is already required to produce, in order for the resident to have all the information necessary in the event they wish to appeal an inappropriate transfer or discharge.

**According to the Author**

"AB 1309 requires that notices to nursing home residents regarding reasons for their transfer or discharge include additional details, and specific facts to permit determination of the date, place, witnesses, and circumstances concerning the reason for their transfer or discharge. One of the most common complaints received by California's Long-Term Care Ombudsman programs is related to evictions. Due to the vulnerability of our nursing home residents, it is completely unacceptable for them to not know why they are being turned away from care, because this leaves them and their loved ones unable to fight for their ability to stay. This bill is intended to

discourage facilities from pursuing unwarranted evictions, prompt residents to appeal their evictions, and enhance the quality of resident appeals."

### **Arguments in Support**

The California Advocates for Nursing Home Reform (CANHR), the sponsor of AB 1309 writes, "Nursing homes provide vital housing and care to about 450,000 residents each year, many of whom are medically fragile and disabled. There are only about 100,000 nursing home beds in California, which means there are roughly 350,000 evictions annually. Because of the extensive and complex care needs of nursing home residents, moving them out requires careful advance planning and coordination to ensure they end up in a place that is safe, appropriate, and stable. Bad evictions are those that are not careful or coordinated or end with the resident in an unsafe, inappropriate, or unstable place. These evictions sometimes mean residents with significant care needs are dumped into motels, homeless shelters, or the streets."

### **Arguments in Opposition**

None on file.

## **FISCAL COMMENTS**

The California Department of Public Health (CDPH) anticipates minor and absorbable costs.

## **VOTES:**

### **ASM AGING AND LONG-TERM CARE: 7-0-1**

**YES:** Bains, Ta, Alvarez, Haney, Stephanie Nguyen, Reyes, Blanca Rubio

**ABS, ABST OR NV:** Joe Patterson

### **ASM APPROPRIATIONS: 15-0-1**

**YES:** Holden, Megan Dahle, Bryan, Calderon, Wendy Carrillo, Dixon, Mike Fong, Hart, Lowenthal, Mathis, Papan, Pellerin, Robert Rivas, Sanchez, Ortega

**ABS, ABST OR NV:** Weber

### **ASSEMBLY FLOOR: 76-0-4**

**YES:** Addis, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Lackey, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Rendon

**ABS, ABST OR NV:** Aguiar-Curry, Kalra, Mathis, Papan

## **UPDATED**

VERSION: August 28, 2023

CONSULTANT: Elizabeth Fuller / AGING & L.T.C. / (916) 319-3990

FN: 0001759