

SENATE THIRD READING  
SB 1189 (Valladares)  
As Amended June 4, 2026  
Majority vote

## SUMMARY

Removes the provision in existing law permitting a "patient advocate" in lieu of an "ombudsman" to witness the advance health care directive of a person in a skilled nursing facility, leaving an ombudsman designated by the California Department of Aging as the only permissible witness for this purpose.

## Major Provisions

## COMMENTS

California law allows individuals to provide instructions for their health care treatment through an advance health care directive in the event that they lose the capacity to do so in the future. (*See generally* Probate Code Section 4600 *et seq.*) An advance health care directive can provide instructions for serious life-altering decisions, including a decision to discontinue life-sustaining treatments. Accordingly, existing law sets out specific witnessing requirements before an advance health care directive can become effective. (*See, e.g.,* Probate Code Section 4673.) For residents of skilled nursing facilities, the law adds an additional layer of protection by requiring additional witnesses, an ombudsman or patient advocate. (*See* Probate Code 4675.) However, the author and supporters argue that the term "patient advocate" in the existing statute is undefined, ambiguous, and has generated some confusion.

*Advance Health Care Directives & the Long-Term Care Ombudsman Program.* Among other things, existing law requires that a written advance health care directive be acknowledged before notary public or signed by at least two witnesses that satisfy specified requirements. (Probate Code Section 4673.) Those witnesses must be adults, and cannot be the patient's health care provider, an operator or employee of a community care facility or residential care facility for the elderly, nor the patient's agent, where the advance directive is a power of attorney for health care. (Probate Code Section 4674.)

Because residents of skilled nursing facilities are among the most vulnerable populations in the state, often elderly, with limited mobility, cognitive impairment, or reduced capacity to self-advocate, existing law imposes a special witnessing requirement for an advance health care directive involving these residents. (Probate Code Section 4675.) As mentioned above, Probate Code Section 4675 specifically requires a "patient advocate or ombudsman, as may designated by the Department of Aging" to sign the advance directive as a witness or in addition to notarization.

According to the sponsor, though the statute includes the term "patient advocate," it has been widely understood that only an ombudsman designated by the Department of Aging through its Long-Term Care Ombudsman program may serve as special witnesses in this role. The Office of the State Long-Term Care Ombudsman has stated that the Long-Term Care program has performed an average of 1,500 advance health care directives over the last five years, making this one of its core functions. Further, the State's Long-Term Care Ombudsman has specified that

ombudsman are required to complete "an additional two hours of specialized training and field shadowing- above and beyond the program's rigorous 36-hour training- to be able to witness an [advance health care directive]." By contrast, the term patient advocate is not defined, and there are no equivalent training requirements for patient advocates under existing law.

This bill removes the term "patient advocate" from the statute altogether, making it clear that only an ombudsman designated by the Department of Aging may serve in this important role. Because this appears to be one of the core functions of the Long-Term Care Ombudsman program, limiting the statute to allowing only ombudsman to serve as special witnesses for this purpose should not alter current practice nor increase ombudsman workload. Furthermore, the required training and oversight by the department should ensure that skilled nursing facility residents continue to have qualified individuals witnessing these important and potentially life-altering documents.

### **According to the Author**

SB 1189 amends Probate Code Section 4675 to remove the term "patient advocate" and replace [it] with "ombuds[man]," as designated by the Department of Aging. By removing the ambiguous "patient advocate" term, the bill ensures that only the [Long-Term Care] LTC Ombudsman, the sole entity designated for this purpose by the Department of Aging, can serve as the required special witness for AHCDs executed in skilled nursing facilities. This eliminates the risk of unauthorized individuals serving in that role and ensures the protective intent of the statute is fulfilled. SB 1189 is a technical cleanup bill that brings the statute into alignment with how it has been implemented in practice.

### **Arguments in Support**

The bill's sponsor, California Advocates for Nursing Home Reform, the California Long Term Care Ombudsman Association, and the Office of the State Long-term Care Ombudsman generally contend that this bill eliminates legal ambiguity by removing the reference to "patient advocates" within existing law. Specifically, the sponsor states:

Although the statute lists both "patient advocate" and "ombudsman," the Long-Term Care Ombudsman is generally understood to be the required witness, as they are designated by the Department of Aging to advocate on behalf of nursing home residents. Recently, however, a misunderstanding occurred where an individual who believed themselves to be the patient's "advocate" witnessed the execution of an AHCD without the ombudsman present. The misunderstanding not only subjected the resident to an invalid AHCD, it exposed the risk of the statute's reference to a patient advocate position that does not exist. Others may similarly misinterpret the statute's special witnessing requirement, potentially bypassing ombudsman involvement and creating AHCDs that could later be deemed invalid.[...]

The bill's proposed change would not alter current practice or increase the ombudsman workload because they have long served as the witnesses for AHCDs executed in nursing homes. Ombudsman are assigned to each licensed nursing home in the state and conduct regular visits to address issues related to daily care, health, and safety of nursing home residents. Witnessing the execution of AHCDs is, therefore, part of their normal routine. In just the last five years, the ombudsman across the state witnessed an annual average of 1,514 AHCDs. Because no other entities currently serve in this role, the ability of nursing home residents to complete AHCDs would remain the same. SB 1189 simply updates the Probate

Code to reflect current practice and stop further misunderstanding that any self-proclaimed patient advocates can witness nursing home residents' AHCDs.

**Arguments in Opposition**

None on file

**FISCAL COMMENTS**

None

**VOTES****SENATE FLOOR: 38-0-2**

**YES:** Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Grove, Hurtado, Jones, Laird, Limón, McGuire, McNERney, Niello, Ochoa Bogh, Padilla, Pérez, Reyes, Richardson, Rubio, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener

**ABS, ABST OR NV:** Menjivar, Seyarto

**ASM JUDICIARY: 12-0-0**

**YES:** Kalra, Macedo, Bauer-Kahan, Bryan, Connolly, Dixon, Harabedian, Pacheco, Papan, Sanchez, Stefani, Zbur

**ASSEMBLY FLOOR: 77-0-2**

**YES:** Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Castillo, Chen, Connolly, Davies, DeMaio, Dixon, Elhawary, Ellis, Flora, Fong, Gabriel, Garcia, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Kalra, Krell, Lackey, Lee, Lowenthal, Macedo, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schultz, Sharp-Collins, Solache, Soria, Stefani, Ta, Tangipa, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas

**ABS, ABST OR NV:** Johnson, Schiavo

**UPDATED**

VERSION: June 4, 2026

CONSULTANT: Kristian Wright / JUD. / (916) 319-2334

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