



CALIFORNIA ADVOCATES FOR NURSING HOME REFORM

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September 1, 2022

The Honorable Gavin Newsom
Governor, State of California
State Capitol, First Floor
Sacramento, CA 95814

Submitted via facsimile to (916) 558-3160

Re: AB 1502 (Muratsuchi) – **REQUEST FOR VETO**

Dear Governor Newsom:

California Advocates for Nursing Home Reform (CANHR) regretfully and vigorously opposes AB 1502. CANHR initially wrote, sponsored, and fought for AB 1502 for 18 months. Sadly, amendments adopted in the Senate mean that the bill will harm nursing home residents.

For nearly 40 years, CANHR's mission has been to ensure that nursing home residents are treated with dignity and given high quality care. During this time, resident outcomes have been significantly diminished by a state ownership and licensing system that has stubbornly resisted reform and continues to invite the worst operators to take over our nursing homes and harm more and more residents.

AB 1502 was a direct response to exceptional reporting by [CalMatters](#), [LAist](#), and other nonprofit newsrooms in California on nursing home ownership scandals. Their reporting exposed longstanding failures by the California Department of Public Health (CDPH) to prevent chain operators with terrible performance histories from expanding their operations.

AB 1502 was supposed to reform California's nursing home licensing system by: a) requiring operators to demonstrate their suitability to run a nursing home and receive approval before they begin operations and b) creating strong, mandatory enforcement consequences for operators who begin operations before they have received state approval.

The devastating Senate amendments written by CDPH nullify AB 1502 by diminishing its suitability standards, trashing its enforcement measures to the point of impotency, and creating a loophole that nullifies all meaningful vetting of prospective nursing home operators. The amendments:

1. Stripped language setting minimal standards for applicants to prove their suitability to operate a nursing home. Eliminating these standards invites our worst operators to expand their nursing home chains. The amendments deleted dozens of suitability provisions, including the requirement that operators have:

the character, abilities, education, experience, performance history, financial resources, and other necessary qualifications to operate a freestanding skilled nursing facility in full compliance with all applicable federal, state, and local statutes and regulations.

Dropping this very basic suitability standard reveals that AB 1502 is no longer meant to ensure that nursing homes are run by decent operators. Astonishingly, the CDPH amendments replaced much-needed criteria for operators to demonstrate their basic fitness to run a nursing home with the old, completely undefined “reputable and responsible” standard that has led to our ownership crisis in the first place.

2. Replaced strong enforcement measures to prevent unlawful nursing home operations with discretionary, weak enforcement that invites non-compliance. All of the meaningful enforcement measures have been wiped out in favor of a Class B penalty of \$2,000, the lowest state penalty category. What kind of misguided message will a tiny fine send to billionaire nursing home operators who receive hundreds of millions of dollars from Medicare and Medi-Cal each year?
3. Most notably, limit the state’s vetting process to “applicants,” therefore excluding the actual people who own and operate nursing homes. Applicants will invariably be shell companies, created just for the purpose of seeking State approval, with no track records to examine. This is critical to understand. While AB 1502 requires the applicant to include information about parent companies and chains in its application, nearly all of the actual vetting (proposed Health and Safety Code Section 1253.3(g)) is limited solely to “the applicant.” The Senate amendments erased the additional vetting of “associated persons or entities” that was at the heart of ownership reform. Limiting vetting to applicants means the performance histories of parent companies, chains, and the people behind them do not matter. What’s left of AB 1502 is totally undermined by this gaping loophole.

Instead of the major reform that the nursing home licensing system needs, AB 1502 cements the current system, a system that has nourished the most dangerous operators in the state. The bill opens our nursing home doors even wider for the “predatory owners and operators who seek to maximize their profits at the expense of vulnerable resident’s health and safety” cited by President Biden in his February 28 [statement to America](#). California will continue to be a beacon to the kinds of nursing home operators who have given it record-setting numbers of nursing home complaints and thousands of federal deficiencies annually.

At a [Governor Candidate Forum](#) hosted by the National Union of Healthcare Workers (NUHW) on October 17, 2017, you were asked about nursing home ownership.

“As governor, what would you do to ensure that companies committing violations cannot buy up more nursing homes and that when conditions get bad enough, they are stopped from doing business in California?”

You responded that as governor you would make sure that bad actors are called out and that they and oversight officials are held accountable. You said:

“Look, it’s all about accountability, it’s all about transparency and making sure that, look, if there’s a bad actor, you got to call that out. You obviously don’t want to replicate those kinds of conditions in subsequent investments. That’s common sense.”

“It’s a question of enforcing the laws on the books and making sure that the folks that are appointed to these positions of oversight are doing their job.”

AB 1502 does not hold bad actors to account - it invites them to take care of some of our most vulnerable and dependent residents. Moreover, it empowers oversight officials at the disgraced CDPH to give fast-tracked, rubber stamped licenses to unfit, unqualified, and unscrupulous nursing home operators.

After experiencing the two worst years in the history of California nursing homes and after 10,000 residents have died of COVID, the last thing California nursing home residents need is for its Governor to endorse the licensing system that dangerously unfit operators have exploited for so long. They deserve much better than this.

We urge you to veto AB 1502.

Sincerely,

A handwritten signature in cursive script that reads "Patricia L. McGinnis".

Patricia L. McGinnis
Executive Director