



**AB 849 (Reyes):  
Deterring and Remediating Violations of Nursing Home Residents' Rights**

**SUMMARY:**

Would state that the statutory damages for violations of a nursing home resident's rights is \$500 per violation.

**THE PROBLEM:**

Under Health and Safety code section 1430(b), a current or former nursing home resident may bring a civil action against a skilled nursing or intermediate care facility that violates any specified rights as set forth in the Patients' Bill of Rights (Section 72527 of Title 22 of the California Code of Regulations), or any other right provided for by federal or state law or regulation. Since 1982, the law states that facilities have to pay up to \$500 to residents for violations of their rights.

In 2020, the California Supreme Court held that the maximum a victim could recover was \$500 per lawsuit, regardless of how many of these violations the resident suffered. (*Jarman v. HCR Manorcare*, 10 Cal. 5th 375).

The purpose of the 1430(b) was to empower residents to enforce their own rights critical to their dignity and well-being at a time when state enforcement was in decline. Forty years later, state enforcement has never been worse and complaints against facilities are at an all-time high.

For example, **Rawland Melvin Crawford**, an 83-year-old veteran, resided at Whitney Oaks Care Center for over six months. He was left alone, lying in bed, and in soiled diapers for long periods of time in violation of multiple rights as a nursing home resident. As a result of these repeated insults to his

dignity as a human being, he suffered multiple falls, unexplained abrasions, pressure ulcers, dehydration, and a severe urinary tract infection that led to sepsis and ultimately, to his death.



His family filed an action against Whitney Oaks Care Center pursuant to Health and Safety Code section 1430(b). In response to the complaint, the nursing home immediately offered the family \$501.00 on the basis that "the California Supreme Court recently affirmed that the maximum recovery under Section 1430(b) is no more than Five Hundred Dollars (\$500)." The extra dollar was likely added to ensure that the offer was deemed "reasonable."



Another example is **Trina Oliver**, who suffers from Multiple Sclerosis. Ms. Oliver



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was a resident at a skilled nursing facility in Fremont for approximately two months and frequently experienced discrimination due to her size and her medical conditions. While there, she received only one shower because the facility did not have the equipment or staff trained to provide showers to a bariatric resident. Although they knew she was a bariatric resident at the time the decision was made to admit her, the facility frequently did not have gowns or adult briefs in a size that would fit her. She also was repeatedly left waiting for staff to assist her, sometimes up to two hours, with tasks that would provide her with basic hygiene and dignity including incontinence care, because she required the assistance of two staff with many basic tasks.

As Justice Cuéllar wrote in his *Jarman* dissent, capping damages at \$500 regardless of the number or severity of violations is “*plainly insufficient to fulfill the statute’s purpose to deter and remedy violations of nursing home patients’ rights.*”

### THE SOLUTION:

AB 849 restores fairness to a nursing home residents’ private enforcement action for violations of the Patients’ Bill of Rights by clarifying that up to \$500 in damages can be awarded per violation.

### SUPPORT:

Consumer Attorneys of California  
California Advocates for Nursing Home Reform (CAHNR)

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