



CONSUMER ATTORNEYS OF CALIFORNIA

Seeking Justice for All

Brown vetoes bill to protect abused seniors from unscrupulous nursing homes trying to hide culpability

AB 859 won approval in the Legislature only to die on the governor's desk

SACRAMENTO (October 2, 2017) – Gov. Jerry Brown has vetoed a bill designed to help better protect vulnerable senior citizens from elder abuse when nursing homes intentionally destroy evidence of harm.

[Assembly Bill 859](#), authored by Assemblymember Susan Eggman (D-Stockton) and co-sponsored by Consumer Attorneys of California, the California Alliance of Retired Americans and the Congress of California Seniors, would have changed the burden of proof in civil cases when facilities destroy evidence that would prove their culpability.

Normally a victim of elder abuse must show “reckless neglect” by clear and convincing evidence, a relatively high legal standard. Under AB 859, when a judge determined that a nursing home destroyed evidence to prevent an abused senior from proving their case, the victim’s burden of proof would have the normal preponderance-of-evidence standard.

Brown said that existing law gives judges enough tools to properly sanction nursing homes that destroy evidence. But in numerous cases of abuse, nursing homes have avoided sanctions, even when the proof is clear.

The governor was under pressure to veto by a broad coalition of nursing home and health industry lobbyists.

“We are disappointed that the governor chose to put the bottom-line interests of nursing homes and health industry lobbyists ahead of the protection of abused seniors,” said Greg Bentley, CAOC president. “Many Californians will spend their final days in nursing homes, and as a society we owe them the best possible protection from abuse. By rejecting AB 859, the governor has demonstrated a lack of compassion for our elders.”

Consumer Attorneys of California is a professional organization of plaintiffs’ attorneys representing consumers seeking accountability against wrongdoers in cases involving personal injury, product liability, environmental degradation and other causes.

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