



1107 9th Street, Suite 625 • Sacramento, CA 95814 • (916) 498-9608 • mail@consumercal.org

March 27, 2017

The Honorable Mark Stone
Chair, Assembly Judiciary Committee
State Capitol, Room 5155
Sacramento, CA 95814

RE: AB 859 (Eggman) Elder and dependent adults: abuse or neglect - Support
As Introduced February 16, 2017
Assembly Judiciary Committee - April 4, 2017

Dear Assemblymember Stone:

The Consumer Federation of California (CFC) strongly supports Assembly Bill 859, authored by Assemblymember Eggman, which will protect seniors abused in nursing homes and discourage facilities from intentionally destroying legal evidence in violation of the law.

California's elder abuse statute, the Elder Abuse and Dependent Adult Civil Protection Act (EADACPA), was enacted to deter elderly and dependent adults from experiencing abuse. The statute defines civil elder abuse to mean physical or financial abuse, neglect, isolation, abandonment, abduction, or other treatment resulting in physical harm, pain, or mental suffering (Welfare & Institutions Code § 15610.07). However, aside from financial elder abuse, these claims all require clear and convincing evidence to prove elder abuse; a standard of evidence that is very difficult to demonstrate.

Proving elder abuse is especially difficult when the defendant intentionally destroys evidence in the case. Normally, to show elder abuse, the victim must show "reckless neglect" by clear and convincing evidence. However, to deprive victims of exactly that evidence, some defendant nursing homes intentionally destroy that very evidence. A senior, or their family, is still forced to prove abuse at the higher evidentiary standard, but often cannot as the needed evidence was intentionally destroyed by the wrongdoer facility.

AB 859 will rectify this problem by lowering the evidence standard in physical elder abuse cases from clear and convincing evidence to preponderance of evidence when the defendant has intentionally destroyed evidence. This will make it easier for seniors to seek justice as proving the high clear and convincing evidence standard is difficult when the defendant nursing homes strip them of this very proof.

If you or your staff has any questions, please contact Aaron Lewis, CFC Legislative Advocate, at (916) 498-9616.

I respectfully urge your "Aye" vote on AB 859.

Sincerely,

A handwritten signature in black ink that reads "Richard Holober". The signature is written in a cursive, flowing style.

Richard Holober
Executive Director

cc: Members and Committee Staff, Assembly Judiciary Committee
Assemblymember Eggman