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May 22, 2017

The Honorable Lorena Gonzalez Fletcher  
Chair, Assembly Appropriations Committee  
State Capitol, Room 2114  
Sacramento, CA 95814

RE: **AB 859 (Eggman) Elder and dependent adults: abuse or neglect - Support**  
As Amended April 27, 2017

Dear Assemblymember Gonzalez Fletcher:

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.

I respectfully urge your support for AB 859.

Sincerely,

A handwritten signature in black ink that reads "Richard Holober". The script is cursive and fluid, with the first letters of "Richard" and "Holober" being capitalized and prominent.

Richard Holober

Cc: Members and Staff, Assembly Appropriations Committee  
Assemblymember Eggman