

May 24, 2020

Senator Richard Pan, Chair
Senate Budget Subcommittee 3 on Health and Human Services
State Capitol, Room 5019
Sacramento, CA 95814

RE: DHCS AB 1629 Reauthorization Proposal – Oppose

Dear Senator Pan:

CANHR is writing in strong opposition to the Administration's budget proposal to give a major rate increase to nursing homes while decimating vital programs that help people avoid the skilled nursing facilities that have proven to be so deadly and dangerous during this pandemic.

The Administration proposes to reauthorize and extend the AB 1629 rate system for skilled nursing facilities through 2024 with immediate new general fund costs of \$92.8 million in the coming fiscal year and hundreds of millions of dollars in additional new costs in years to come.

Californians who need long term care are desperate to stay out of nursing homes, where more than 1,500 residents have already died from COVID-19. Yet the Administration is proposing to terminate the very programs, including CBAS and MSSP, and slash others, such as IHSS, that help them stay at home.

Nursing homes have been ground zero for coronavirus outbreaks in California, where the pandemic has exposed terrible conditions in many facilities. Dozens of residents are suffering and dying alone every day in crowded, understaffed facilities with long histories of violating infection control standards. Countless family members of residents have contacted us with heartbreaking concerns about tragic situations involving their loved ones.

At the very least, these tragedies call for extensive investigations and reflection on what went wrong and what needs to change to prevent future disasters.

Under the circumstances, it is incomprehensible that California would extend the AB 1629 system for another five years and expend vast new sums on substandard nursing home care that will come at the direct expense of home and community-based services that Californians prefer.

AB 1629 is a failed system. Its stated aims are to ensure individual access to appropriate long-term care services, promote quality resident care, advance decent wages and benefits for nursing home workers, support provider compliance with all applicable state and federal requirements, and encourage administrative efficiency. None of these goals have been met. Instead, it has produced billionaire owners, scandalously poor care, explosive growth in complaints, widespread understaffing, and rampant discrimination against Medi-Cal beneficiaries.

We understand that the Administration advised the Budget Subcommittee that it has been seeking consensus with stakeholders on reauthorizing AB 1629. That is certainly not true for us or any other consumer advocacy organizations.

Last fall, we sent the attached report to the Administration calling for it to reform the AB 1629 rate system and made specific recommendations that would improve staffing, care and accountability. Its officials told us they were negotiating a plan with the nursing home industry and that our recommendations would not be acceptable to industry representatives. We did not receive the proposed trailer bill language until yesterday evening, hours before today's hearing. It does not address any of our recommendations.

There is no "reform" in the Administration's reform proposal. It mostly maintains the current system with only minor tweaks to quality incentives that have, at best, marginal connections to quality due to widespread manipulation of self-reported data by operators. As is the case with the current system, nearly all of its payments would be made to nursing facilities no matter how terrible their care is or how many violations and complaints they have received.

The AB 1629 rate system has been a magnet for bad actors seeking to profit at residents' and Medi-Cal's expense. It allows wealthy operators to siphon off vast amounts of Medi-Cal funds intended for care and staffing through self-dealing schemes. As the California State Auditor noted in her 2018 report – *Skilled Nursing Facilities: Absent Effective State Oversight, Substandard Quality of Care Has Continued* – state officials consider it to be perfectly legal for nursing home operators to loot the Medi-Cal program through related party transactions.

It is time to start over and create a reimbursement system that does not rely on blind trust with California's disreputable nursing home chains.

We urge you to reject this proposal and recommend that it be replaced with a one-year extension of the current AB 1629 system at current rates for facilities, along with a directive to DHCS to engage all stakeholders in establishing a real reform proposal to be presented to the Legislature before the end of this year that will ensure accountability, quality of care and resident safety.

The substantial savings should immediately be invested in maintaining the CBAS, MSSP, IHHS and other programs that are helping persons needing long term care stay out of nursing homes.

Thank you for considering our concerns and recommendations.

Sincerely,



Patricia L. McGinnis
Executive Director

Cc: Members, Senate Budget Committee

Attachment: Bad Deal, Bad Care: It's Time to Stop Dumping Money Into California's Nursing Home Chains