

Date of Hearing: April 23, 2013

ASSEMBLY COMMITTEE ON AGING AND LONG-TERM CARE

Mariko Yamada, Chair

AB 663 (Gomez) – As Amended: April 22, 2013

SUBJECT: Residential Care Facilities for the Elderly administrators and Long-Term Care Ombudsman: training requirements

SUMMARY: Would require lesbian, gay, bi-sexual and transgender cultural training for Administrators of Adult Residential Facilities (ARFs), Residential Care Facilities for the Elderly (RCFE) and Long-Term Care Ombudsman. Specifically, this bill: Requires administrators of ARFs, RCFEs and the Office of the State Long-Term Care Ombudsman to provide training of cultural competencies and sensitivities toward the needs of lesbian, gay, bisexual, and transgender issues.

EXISTING LAW

- 1) Establishes the California Community Care Facilities Act (CCFA) to provide a comprehensive statewide service system of quality community care for people who have a mental illness, a developmental or physical disability, and children and adults who require care or services by a facility or organization.
- 2) Requires administrators of CCFs to successfully complete a minimum of 35 hours of classroom instruction from a California Department of Social Services (DSS) approved certification program, as specified.
- 3) Establishes the California Residential Care Facilities for the Elderly (RCFE) Act to provide for the housing, social and service needs of older persons that can provide a homelike environment for older persons with a variety of care needs.
- 4) Defines a RCFE as a facility that provides personal care and supervision, protective supervision or health related services for persons 60 years of age or older who voluntarily choose to reside in that facility, and requires RCFEs to be licensed by DSS.
- 5) Requires administrators of RCFEs to successfully complete a minimum of 40 hours of classroom instruction from a DSS approved certification program, as specified.
- 6) Provides for the Mello-Grandlund Older Californians Act that reflects the policy mandates and directives of the Older Americans Act of 1965, as amended, and sets forth the state's commitment to its older population and other populations served by the programs administered by the California Department of Aging (CDA).
- 7) Provides for the Office of the State Long-Term Care Ombudsman to encourage community contact and involvement with elderly patients or residents of long-term care facilities or residential facilities through the use of volunteers and volunteer programs, protecting and advocating for the rights and health and safety of long-term care facility residents, and in providing leadership, direction, and support to local long-term care ombudsman programs.

FISCAL EFFECT: Unknown

BACKGROUND:

- 1) COMMUNITY CARE FACILITIES ACT: The CCFA provides a system of nonmedical community care, to extend care and supervision to persons with developmental and mental health needs, as well as dependent children and adults. Under the CCFA, ARFs provide residentially-based custodial supports and services for adults age 18-59, who are unable to provide for their own daily needs. ARFs typically serve those whose health needs or developmental disabilities prevent them from living at home safely on their own. CCF administrators undergo 35 hours of instruction to provide training on a uniform core knowledge. According to DSS, as of February 6, 2013 there were 77,243 licensed CCFs in California with a capacity to serve 1,395,577 residents.
- 2) RESIDENTIAL CARE FACILITIES FOR THE ELDERLY: RCFE licensure provides a system of residential support and service for older persons to "age in place" as independently as possible. Commonly referred to as assisted living facilities, retirement homes and board and care homes, RCFEs provide services to individuals who are 60 years of age and over and persons under the age of 60 with compatible needs. RCFE administrators undergo 40 hours of classroom instruction. According to DSS, as of February 6, 2013 there are 7,613 licensed RCFEs in California with a capacity to serve 173,333 residents.
- 3) OFFICE OF LONG-TERM CARE OMBUDSMAN: As established by the Older American's act and authorized in California by the Mello-Granlund Older Californians Act, the LTC Ombudsman serves as an independent entity within the CDA. California's Ombudsman program began in 1979 in response to federal efforts to improve conditions for residents of nursing homes and other long-term care facilities. Long-term care ombudsmen are advocates for residents of nursing homes, board and care homes and assisted living facilities. The office endeavors to resolve complaints made by, or on behalf of, individual residents in long-term care facilities. Thirty-five local Ombudsman offices support a paid staff as well as a cadre of several hundred volunteers, each of whom undergo 40 hours of individual certification training. The CDA and the Office of the State Ombudsman host twice yearly training for the 35 program administrators.
- 4) NEED FOR BILL: Significant demographic shifts signal unprecedented growth of the aging population. California's 65+ population is expected to increase 44% in the decade between 2010 and 2020, and by 2035, the 65+ population will comprise 20% of the population in California. By 2035 the 85+ population in California will have grown by 125% to 2,713,000 people¹. This will result in longer periods of retirement for seniors, and increased reliance upon housing, and community based supports and services. Parallel to the increase in the nation's senior population is the emergence, and the growing awareness of barriers confronting the aging Lesbian, Gay, Bisexual and Transgender (LGBT) population. LGBT seniors encounter a range of legal, social, health, housing, and mental health challenges that if left unaddressed lead to negative outcomes, or circumstances that can create barriers to services that help keep people independent of public social services longer. For instance a 2004 report² notes that LGBT elders are less likely to have children than their heterosexual

¹ California Department of Finance Demographic Research Unit

² Funders for Lesbian and Gay Issues, "Aging In Equity: LGBT Elders in America," (2004).

counterparts. Since life partners and children play an important role in caregiving, many LGBT elders become reliant on formal caregiving services sooner than elders who can turn to family members and partners for informal support. Older LGBT people face discrimination from families, and society alike. After a lifetime of indignities, discrimination, and abuse, older LGBT people may tend to seek anonymity to avoid further conflict. This could impair necessary communication, a hallmark of quality care. Though tricky for individuals, LGBT couples face more complex issues when hospital visitation, decision making, federal programs, private pensions, tax regulations, and a host of other issues are considered. According to a recent study³; "Over the course of their lifetime, most LGBT older adult participants have faced serious adversity: 82% have been victimized at least once because of their perceived sexual orientation or gender identity, and 64% have been victimized three or more times. Many LGBT older adults have encountered discrimination in employment and housing, impacting economic security. Experiences of discrimination are linked with poor health outcomes, such as depression among both chronically ill LGBT older adults and their informal caregivers. Nearly four out of ten LGBT older adult participants have contemplated suicide at some point during their lives. More than one in ten LGBT older adults (13%) who participated in the project have been denied healthcare or provided with inferior care. Fifteen percent of LGBT older adults fear accessing healthcare outside the LGBT community, and 8% fear accessing healthcare inside the community." Health and social service providers must go beyond their usual procedures and practices to confront homophobia or discomfort, and make themselves aware of LGBT needs and resources within their communities to assure scarce personal and public funds available to support the needs of an aging population are not misappropriated due to irrational and unfounded fears or biases.

- 5) **SUPPORT:** AARP states that the LGBT community has made incredible strides battling social discrimination. They shouldn't be forced back into hiding in the late stages of life. Increasing training in cultural competence regarding LGBT seniors is necessary to enable these individuals to live lives of dignity and autonomy.
- 6) **COMMENTS:** As amended, AB 663 appropriately expands its purview to include training to residential care facilities for the elderly and the Ombudsman. However, the author may wish to accept an amendment to modernize some of the terms used to describe underserved or underrepresented communities.

Recommended Amendment #1:

In 15621 (c)(1)(J) replace the word "or" with the word "and"; and replace the word "minority" with "underserved"

This bill passed out of Assembly Human Services on April 16th with a vote of 5-2.

³ Fredriksen-Goldsen, K. I., Kim, H.-J., Emlert, C. A., Muraco, A., Erosheva, E. A., Hoy-Ellis, C. P., Goldsen, J., Petry, H. (2011). The Aging and Health Report: Disparities and Resilience among Lesbian, Gay, Bisexual, and Transgender Older Adults. Seattle: Institute for Multigenerational Health.

RELATED LEGISLATION:

AB 2920 (Chapter 829, Statutes of 2006) Requires the California Department of Aging (CDA) to ensure equal access to programs and services funded through the Older Americans Act, and that all programs administered by CDA and the Area Agencies on Aging account for the needs of lesbian, gay, bisexual, and transgender (LGBT) elders.

AB 1729 (Chapter 550, Statutes of 2008) Requires Registered Nurses, Certified Nurse Assistants, Licensed Vocational Nurses, and physicians working within a skilled nursing facility or congregate living facility to participate in training provided by the Department of Public Health focused on eliminating homophobia.

REGISTERED SUPPORT / OPPOSITION:

Support

Equality California (EQCA) – **Sponsor**

California Assisted Living Association (CALA)

Opposition

None on file.

Analysis Prepared by: Robert MacLaughlin / AGING & L.T.C. / (916) 319-3990