

Date of Hearing: June 20, 2017

ASSEMBLY COMMITTEE ON AGING AND LONG-TERM CARE

Ash Kalra, Chair

SB 413 (Morrell) – As Introduced February 15, 2017

**SENATE VOTE:** 36-0

**SUBJECT:** Dementia: major neurocognitive disorder.

**SUMMARY:** This bill replaces references to the term “dementia” with the term “major neurocognitive disorders” in existing law with regard to licensure and operation of residential care facilities for the elderly and conservatorships. This bill also makes technical, non-substantive changes to these provisions.

**EXISTING LAW:**

- 1) Establishes the California Community Care Facilities Act, which provides regulatory structure for coordinated and comprehensive statewide system of care for people who are mentally ill, developmentally and physically disabled, and children and adults who require care or services provided by licensed community care facilities.
- 2) Establishes a regulatory structure for licensed Residential Care Facilities for the Elderly (RCFE).
- 3) Defines dementia to include Alzheimer’s disease and related disorders, diagnosed by a physician, that increase the tendency to wander and that decrease hazard awareness and the ability to communicate.
- 4) Authorizes the adoption of building standards to provide for locked and secured perimeters in residential care facilities for the elderly that care for persons with dementia.
- 5) Requires the California Department of Social Services (CDSS) to adopt regulations that ensure that staff for secured-perimeter facilities receive appropriate and adequate training in the care of residents with dementia.
- 6) Requires CDSS to adopt regulations to allow RCFEs that care for people with dementia to utilize secured perimeter fences or locked exit doors, as specified.
- 7) Encourages RCFEs that serve residents with Alzheimer’s disease and other forms of dementia to include information on sundowning as part of the training for direct care staff and to include information on sundowning within the RCFEs plan of operation.
- 8) Establishes the California Conservatorship Jurisdiction Act in the Probate Code, which sets standards and procedures for appointing a conservator and provides specified limitations for conservatees with dementia.
- 9) Specifies the powers and duties of a conservator and the powers and rights retained by a conservatee subject to a conservatorship.

- 10) Authorizes the conservator to establish the residence of the conservatee at any place within California without the permission of the court, and requires the conservator to select the least restrictive appropriate residence that is available and necessary to meet the needs of the conservatee, that is in the best interests of the conservatee.
- 11) Makes legislative findings and declarations with regard to conservatorships for people with dementia. Also authorizes a conservator to place a conservatee in a secured perimeter residential care facility for the elderly, or to authorize the administration of certain prescribed medications upon a court's finding that, among other things, the conservatee has dementia and a functional impairment.

**FISCAL EFFECT:** This bill is keyed non-fiscal by Legislative Counsel.

**COMMENTS:**

**Author's Statement:** "In 2013, the American Psychiatric Association replaced the term "dementia" with "major neurocognitive disorder" in the latest published edition of the Diagnostic and Statistical Manual of Mental Disorders, also known as the DSM-5. Because numerous California statutes continue to refer to "dementia," and "dementia as defined in the latest published edition of the DSM-5," it is important that terminology in statute align with the manual itself, otherwise, those turning to the manual will not find clear diagnostic support when interpreting statutes at issue. SB 413 addresses this problem by updating these Health and Safety and Probate Code sections to replace dementia with major neurocognitive disorder."

**Major Neurocognitive Disorder (NCD):** The DSM-5 is a reference manual used by clinicians and researchers to diagnose and classify mental disorders published by the American Psychiatric Association in 2013. Prior editions of the DSM referenced dementia as a diagnosis. The DSM-5 no longer references "dementia." Instead, DSM-5 uses the terms minor and major neurocognitive disorders (NCDs), which are broader terms that indicate a decline in mental ability severe enough to interfere with independence and daily life. Subtypes of major and minor NCDs include NCD due to Alzheimer's disease; vascular NCD; NCD with Lewy bodies; NCD due to Parkinson's disease; frontotemporal NCD; NCD due to traumatic brain injury; NCD due to HIV infection; substance/medication-induced NCD; NCD due to Huntington's disease; NCD due to prior disease; NCD due to another medical condition; NCD due to multiple etiologies; and unspecified NCD. All of these diseases are included under the NCD heading, and dementia is not used to describe any particular disease or subtype.

According to the publisher of the DSM-5, "while the term dementia is most often associated with older individuals, major neurocognitive disorder is widely used for conditions affecting younger individuals, such as secondary impairment to traumatic brain injury or HIV infection."

**Conservatorships:** Existing law, the California Conservatorship Jurisdiction Act, generally establishes the standards and procedures for appointing a conservator, and provides that these provisions apply to a conservatee with dementia subject to specified limitations. Existing law authorizes the conservator to place a conservatee in a secured perimeter residential care facility for the elderly, or to authorize the administration of certain prescribed medications upon a court's finding that among other things, the conservatee has dementia and a functional impairment.

**Residential Care Facilities for the Elderly (RCFEs):** RCFEs are regulated by the Community Care Licensing Division (CCLD), which is the regulatory and enforcement program within CDSS. CCLD has the responsibility to protect the health and safety of children and adults residing in, or spending a portion of their time in, out-of-home care.

RCFEs are sometimes called assisted living or board and care facilities. They are non-medical facilities that provide a level of care that includes assistance with activities of daily living, such as meals, housekeeping, supervision, storage and distribution of medication and personal care assistance with basic activities like hygiene, dressing, eating and bathing. RCFEs are intended to care for people who are 60 years of age and older and unable to live by themselves, but who do not need 24-hour nursing care.

There are special requirements for RCFEs who serve people with Alzheimer's or dementia because this clientele may have a tendency to wander off the premises, which could be dangerous. Therefore, RCFEs that serve people with Alzheimer's or dementia are specifically permitted to operate locked secured facilities.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

Conference of California Bar Associations – Sponsor  
National Association of Social Workers, California Chapter (NASW-CA)  
Professional Fiduciary Association of California

##### **Opposition**

None on file.

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