

## Proposed Bill Would Increase Skilled Nursing and Intermediate Care Facility Citations and Penalties

On February 13, 2019, Assembly Member Ash Kalra, District 27 (San Jose), introduced AB-506. If passed, AB-506 would amend California Health and Safety Code Sections 1423, 1424, and 1424.5 to grant the Department of Public Health the authority to issue more citations and higher penalty amounts. As written, AB-506 modifies the standard for issuing class "AA" citations, changes the scope of harm for the issuance of class "B" level citations, allows the Department to issue more than one B citation on a particular violation, and increases the penalty ranges available for each class of citation. The proposed language also provides for an annual inflation adjustment of the penalties.

Currently, to issue a class "AA" citation, the Department must find that a given violation was the "direct proximate cause" of the resident's death. AB-506's proposed language would instead require the Department to find the violation was a "substantial factor" in the resident's death. A "substantial factor" is defined in the proposed language as "more than a remote or trivial factor." The Department would not, however, be required to find that the violation was the "only cause of harm."

The current version of California Health and Safety Code Section 1424 also prohibits the Department from issuing more than one class "B" citation per incident, unless a resident or guest has incurred harm. AB-506 would redefine harm to include a violation of Title 22, California Code of Regulations, Sections 72527 and 73524, which are both included as part of the Resident Bill of Rights in the Standard Admission Agreement. AB-506 would further grant the Department the authority to issue a separate citation for each resident who suffered harm.

Finally, AB-506 would raise the potential penalties for class "AA," "A," and "B" citations. The Bill proposes an increase in penalty ranges for class "AA" citations to \$35,000-\$150,000, class "A" citations to \$5,000-\$30,000<sup>1</sup>, and class "B" violations to \$200-\$3,000. This proposed scheme makes a class "AA" citation subject to an additional \$50,000 potential penalty, a class "A" to an additional potential penalty of \$10,000, and a class "B" to an increased potential penalty of \$1,000. In addition to these increases, AB-506 would allow annual penalty adjustments to account for inflation.



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AB 506 may be heard in committee on March 16, 2019.

<sup>1</sup> The range for a Willful Material Falsification ("WMF") citation would be the same as that proposed for a class "A."

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