

September 16, 2009

The Honorable Arnold Schwarzenegger
Governor of California
State Capitol
Sacramento, CA 95814

RE: SB 303 (Alquist) – Urge your signature

Dear Governor Schwarzenegger:

On behalf of California Advocates for Nursing Home Reform (CANHR), I strongly urge you to sign SB 303 (Alquist), a landmark bill to protect nursing home residents that has received bipartisan support. SB 303 will help prevent the excessive use of psychoactive drugs, one of the most serious problems facing nursing home residents today.

Drugging of nursing home residents has reached epidemic proportions in California. Nearly 60 percent of California nursing home residents are given psychoactive drugs, a 30 percent increase since 2000. These drugs are often used to sedate and restrain residents and as a substitute for needed care. Each day, 25,000 California nursing home residents are given powerful antipsychotic drugs despite FDA black box warnings that these drugs are likely to cause their deaths.

California nursing home residents are dying due to misuse of these drugs. This point was most recently made during Assembly floor debate on SB 303 when Assembly Member Diane Harkey (R – Dana Point) stated that her mother died prematurely after being excessively drugged in a nursing home without consent. Her experience mirrors what happened at Kern Valley Healthcare District, where 22 residents were overmedicated with psychoactive drugs despite no informed consent having been given. Three residents were killed as a result of the medications, spurring Attorney General Jerry Brown to file criminal elder abuse charges against the facility's administrator, director of nurses, pharmacist, and medical director.

Antipsychotic drugs don't just significantly increase a patient's risk of death, they often turn elders with dementia into people their own families barely recognize by dulling their memories, sapping their personalities and crushing their spirits. Strikingly, the dangers these drugs pose is exacerbated by the fact that they sometimes actually *worsen* the patient's agitation and other behaviors they are prescribed to treat.

Notwithstanding the potentially fatal risks and current regulations requiring informed consent, doctors often fail to inform nursing home residents or their representatives of risks before these drugs are used.

The use of mind-altering drugs without consent violates perhaps our most precious and fundamental human right: the right to control what goes into our bodies and the freedom to make our own decisions. Informed consent lies at the heart of residents' ability to ultimately direct the course of their health care treatment and SB 303 ensures that their choices will be appropriately honored.

SB 303 enhances the current informed consent requirements in two ways. First, it requires doctors to provide any pertinent black box warnings issued by the FDA. Black box warnings are the FDA's sternest warning label, telling consumers that the prescribed drugs will increase their risk of death. Nursing home residents never see black box warnings. Their drugs are received by nursing home staff who discard the packaging, leaving residents ignorant of the important message it conveys. SB 303 mandates the provision of black box warnings to residents by their doctors, guaranteeing that consent for antipsychotic drugs is truly informed.

Second, SB 303 requires the nursing home to verify consent by asking the resident or representative to confirm consent. This simple check is very little to ask of nursing homes, but it is an important protection and a legitimate role for nursing home staff. A survey conducted by the Senate Appropriations Committee found that many California nursing homes already take this step as part of their routine informed consent process.

SB 303 will save lives and save California the expense of paying for the unnecessary and unwanted use of very expensive antipsychotic drugs. Your signing SB 303 will send a strong message that California will not tolerate the rampant drugging of nursing home residents and help ensure that they are treated with dignity, respect, and consideration of their right to direct their health care treatment.

Thank you for considering our views. We look forward to working with you and your administration to implement this vital legislation.

Sincerely,

Patricia McGinnis
Executive Director