RN1620826 **SP 9**

**INTRODUCED BY SENIOR SENATOR PEABODY**

Legislative Counsel’s Digest

SP 9: DOCUMENTS: EXECUTION BY PATIENT IN A SKILLED NURSING FACILITY.

UNDER EXISTING LAW, AN ADVANCE HEALTH CARE DIRECTIVE EXECUTED BY A PATIENT IN A SKILLED NURSING FACILITY MUST BE WITNESSED BY AN OMBUDSMAN OR PATIENT ADVOCATE DESIGNATED BY THE CALIFORNIA DEPARTMENT OF AGING.

THIS MEASURE WOULD MEMORIALIZE THE LEGISLATURE AND THE GOVERNOR TO ENACT LEGISLATION THAT WOULD REQUIRE THAT A DOCUMENT EXECUTED BY A PATIENT IN A SKILLED NURSING FACILITY THAT REQUIRES A CERTIFICATE OF PARTIES PRESENT, KNOWN AS A JURAT, OR AN ACKNOWLEDGMENT TAKEN BY A NOTARY PUBLIC ALSO BE WITNESSED BY A PATIENT ADVOCATE OR OMBUDSPERSON.

VOTE:   MAJORITY.

SP 9: RELATING TO DOCUMENTS EXECUTED BY A PATIENT IN A SKILLED NURSING FACILITY

WHEREAS, A PATIENT IN A SKILLED NURSING FACILITY IS VULNERABLE TO INCIDENTS OF FINANCIAL ABUSE; AND

WHEREAS, A PATIENT IN A SKILLED NURSING FACILITY WHO SIGNS A POWER OF ATTORNEY OR OTHER DOCUMENT REQUIRING A JURAT, WHICH IS A SIGNED AND DATED CERTIFICATE OF PARTIES PRESENT, OR ACKNOWLEDGMENT OF A NOTARY PUBLIC MAY HAVE ONLY HIS OR HER IDENTITY VERIFIED, BUT A PARTY WHO SIGNS THE JURAT OR A NOTARY PUBLIC MAY NOT BE PRIVY TO MEDICAL RECORDS OF THE PATIENT, MAY NOT HAVE INFORMATION REGARDING THE PATIENT’S CAPACITY TO EXECUTE DOCUMENTS, AND MAY NOT HAVE INFORMATION ABOUT A THIRD PERSON WHO MAY HAVE SIGNED THE JURAT OR REQUESTED THE SERVICES OF THE NOTARY PUBLIC; AND

WHEREAS, AN OMBUDSPERSON OR PATIENT ADVOCATE IS KNOWN TO AND KNOWS THE PATIENT, HAS ACCESS TO THE PATIENT’S MEDICAL RECORDS TO DETERMINE WHETHER THE PATIENT HAS THE CAPACITY TO EXECUTE A POWER OF ATTORNEY OR OTHER DOCUMENT, AND MAY HAVE KNOWLEDGE OF THE FAMILY HISTORY OF THE PATIENT; AND

WHEREAS, THE OMBUDSPERSON’S OR PATIENT ADVOCATE’S WITNESSING AND BEING PRESENT FOR THE EXECUTION OF NOTARIZED DOCUMENTS CAN HELP DETER POSSIBLE CRIMINAL ATTEMPTS TO OBTAIN A PATIENT’S ASSETS; AND

WHEREAS, THERE IS A CRITICAL NEED FOR PATIENTS IN A SKILLED NURSING FACILITY TO BE PROTECTED FROM FINANCIAL ELDER ABUSE; NOW, THEREFORE, BE IT

RESOLVED, BY THE SENIOR SENATE AND THE SENIOR ASSEMBLY, JOINTLY, THAT THE SENIOR LEGISLATURE OF THE STATE OF CALIFORNIA AT ITS 2016 REGULAR SESSION, A MAJORITY OF THE MEMBERS VOTING THEREFOR, HEREBY PROPOSES THAT A DOCUMENT EXECUTED BY A PATIENT IN A SKILLED NURSING FACILITY FOR WHICH A JURAT IS TO BE EXECUTED OR AN ACKNOWLEDGMENT TAKEN BY A NOTARY PUBLIC, TO BE EFFECTIVE, SHALL BE WITNESSED BY A PATIENT ADVOCATE OR OMBUDSPERSON DESIGNATED BY THE CALIFORNIA DEPARTMENT OF AGING; AND BE IT FURTHER

RESOLVED, THAT THE SENIOR LEGISLATURE OF THE STATE OF CALIFORNIA RESPECTFULLY MEMORIALIZES THE LEGISLATURE AND THE GOVERNOR OF THE STATE OF CALIFORNIA TO ENACT APPROPRIATE LEGISLATION THAT WOULD ADDRESS THE CONCERNS SET FORTH IN THIS MEASURE; AND BE IT FURTHER

RESOLVED, THAT A COPY OF THIS MEASURE BE TRANSMITTED TO THE PRESIDENT PRO TEMPORE OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, AND THE GOVERNOR OF THE STATE OF CALIFORNIA.