



CALCRA News

California
Continuing Care
Residents Association

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From The President

In this day and age it is a bit unusual to read something complimentary about the State of California's government. So, read on.

For several months we have been working on Senate Bill 244 introduced by Majority Leader Gloria Romero that, principally, involves the introduction of an appeal process to replace the unilateral authority now assumed by providers to make transfers of CCRC residents from independent living to higher levels of care (assisted living, skilled nursing or special care). Initially, we were inclined to remain neutral on the bill because it seemed more appropriate to include its objectives within our broader governance efforts.

Prior to the Senate hearing on the bill, however, we determined that it was an expeditious step in the right direction and I testified in favor of the bill at the hearing. I cited my personal experience several years ago resisting the provider's effort to transfer my wife to skilled nursing. CAHSA and the providers took a vigorous stand against the bill alleging that its requirements would increase costs and convert independent living to a skilled nursing environment.



Walter P. Rozett

Through the efforts of Senator Romero's staff in lengthy negotiations that included CAHSA, California Advocates for Nursing Home Reform (CANHR) and CALCRA, modification of the wording has lead to CAHSA's withdrawal of its objections to the bill. The wording concerned with the appeals process, however, remains intact.

Senator Romero is to be commended for introducing the bill, bringing appropriate attention to an issue of significant importance to many seniors. About one thousand CCRC residents in California are transferred to higher levels of care each year. Her bill will assure all residents of a fair hearing on an important quality of life matter and will encourage providers to reexamine and improve their transfer procedures. She is also to be commended for surrounding herself with a professional and dedicated staff that is fully capable of dealing with the complexities involved in bringing disparate parties together. Through all of this the Senator brings to reality that ideal of a government "of the people, by the people, for the people."

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DIRECTOR NOMINATIONS

"At large" director nominations will be accepted from July 1 through August 14, 2005.

If you know of a CALCRA member in good standing who would like to become a member of the board Please follow the instructions in our bylaws:

1. Obtain the qualification, experience and consent statement of the nominee.
2. Send the information to CALCRA Secretary, Virginia Anderson, 100 Bay Place #2001, Oakland, CA 94610 by August 17, 2005.



CCRC GOVERNANCE

An article in the last issue of CALCRA News discussed the reasons CCRC governance requires immediate attention. Resident members of the Advisory Committee have been frustrated over the past year in attempting to stimulate discussion with provider representatives on this fundamental concern of residents. However, we finally began to see some tangible progress at the May 17 Advisory Committee meeting with a presentation by Anne Burns Johnson, president of CAHSA, of a draft CAHSA statement on CCRC Transparency, Accountability and Governance. It is a promising first step toward meaningful dialogue on this critical subject.

The CAHSA draft begins with a statement of guiding principles followed by listings of the elements of commitments to Transparency, Quality and Ethical Governance and Accountability:

"The Continuing Care Retirement Community members of the California Association of Homes and Services for the Aging are committed to the highest ethical and quality standards in performing their duties and responsibilities to their residents, employees, sponsors and communities, now and in the future. The members and their Boards, individually and collectively, espouse and demonstrate a commitment to integrity, responsibility, openness and honesty in all aspects of their operations."

"A Commitment to Transparency

- The CEO signs IRS Form 990.
- There is an audit committee and it conforms to the requirements specified in SB 1262.
- Audit partners are changed every five years.
- Form 990's and annual audits are available to review at each member

community or upon request

- Correspondence addressed to the Board or individual directors at the administrative office or corporate offices will be forwarded to them
- Unaudited quarterly financial statements are available for resident review in the community at a location convenient to residents.
- The governing Board or its designated committee reviews and approves the overall compensation package for the CEO and CFO, affirms compliance with IRS and state laws and regulations, and ensures compensation supports the mission, and is prudent and competitive.
- The organization's investment policies are clearly articulated and are available upon request

"A Commitment to Quality, Ethical Governance

- The Board will adopt and enforce a conflict of interest policy.
- Whistleblower policies and procedures shall be in place.
- The majority of Board members will be "independent" as defined in the California Corporation Code.
- The full Board of Directors shall engage the auditors and receive the audit report.
- The full Board will receive ongoing financial orientation and education.
- Document retention policies shall be adopted.
- The organization will have a compliance officer who is responsible for the organization's adherence to regulatory requirements and

who monitors the organization's liability.

- The Board will adopt travel reimbursement guidelines for Board members and staff.
- The Board will systematically review its bylaws.
- The Board's nominating committee will be composed of independent directors.
- The Board periodically evaluates its functioning and oversight of the organization, including a review of the organization's charitable mission.
- The Board shall have donor accountability policies.

"A Commitment to Accountability

- The organization maintains community involvement by encouraging employees to have on-going and regular involvement in community groups, religious organizations, and other social enterprises.
- Members of the organization's Board periodically meet with residents' elected representatives, receive reports and respond to questions. The organization's management meets with residents at least quarterly and answers questions from the attendees.
- The organization's most recent licensing, inspection and/or survey report are available in a location accessible and convenient."

Much of this came from the reforms introduced by Federal legislation that followed disclosures of governance failures in companies like Enron, WorldCom, Tyco, and the Arthur Anderson accounting firm.

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CCRC GOVERNANCE con't...

Some proposed reforms came from existing California law. These standards must be seen as a good beginning. But, if CAHSA is to meet its "highest ethical and quality standards" and a "commitment to integrity, responsibility, openness and honesty" more is needed. In particular, there is a need to review and incorporate standards of governance now required of all companies listed on the New York Stock Exchange. These would include:

- compensation committee to consist solely of independent directors. (SB 1262 requires that the audit committee consist solely of independent directors, CAHSA proposes that the nominating committee consist solely of independent directors);
- adoption and disclosure of governance guidelines and a code of business conduct for directors, officers and employees;
- director qualification standards
- a clearly stated definition of director responsibilities;
- director access to management and independent advisors;

- a management succession plan;
- prohibition of the extension of credit to any executive officer or director;
- executive sessions of independent directors at each board meeting; and
- a written charter and an annual performance evaluation of the nominating, audit and compensation committees.

Since CCRC residents must commit substantial entry fees in consideration for promises by providers of future services and the concomitant impact that provider decisions have on residents' financial security and quality of life, it needs to be accepted that CCRC governance standards must exceed those for publicly held companies. At a minimum, standards for CCRC directors should also include a trusteeship for the benefit of residents, a duty to actively represent the interests of residents and to provide oversight of management to ensure that operational standards are met. Beyond that, consideration must be given to requiring that the Application for Tax Exemption, all tax returns, quarterly financial information and the comparative

compensation information for the CEO and CFO be posted on the provider website. The practice of many providers of making monthly financial information available should also be a feature of CCRC governance standards. And, the Board and individual directors should be required to respond to, or at a minimum acknowledge receipt of, correspondence from residents.

Finally, there is the fundamental question of whether governance standards should be voluntary, as advocated by CAHSA, or compulsory to require compliance by every CCRC licensed by the state of California. It is well and good that CAHSA encourages its members to pledge to abide by these standards and CALCRA certainly endorses those efforts. Nevertheless, if these standards remain only voluntary, CCRC residents will continue to be as vulnerable if they reside in a community where management elects not to abide by CAHSA's pledge or is not even a member of CAHSA. The terrible consequences of just one such failure to dependent residents, and its negative impact on the industry as a whole, are justification enough to require universal compliance to needed governance standards. This remains CALCRA's objective.

OVERSIGHT OF CALIFORNIA'S CCRCs

There are seventy six CCRCs currently operating in California with about 18,000 residents and having community assets of about \$5 billion. Seven new CCRCs and expansion of six existing CCRCs are in the licensing process with development, marketing, construction and start-up costs estimated at almost \$1 billion.

The Continuing Care Contracts Branch of the Department of Social Services oversees the licensing and oversight of California CCRCs. Application fees and annual fees paid by CCRCs in operation provide revenue of about \$840,000 per year to support the seven employees and other expenses of the Branch. The basic responsibilities of the Branch,

set forth in the Health and Safety Code, are to evaluate the economic and marketing feasibility of all new developments, assessing each provider's financial condition

annually including monitoring reserve requirements, reviewing resident contracts for statutory compliance and ensuring that basic information about providers is distributed.

AN INVITATION TO OUR ANNUAL MEETING



All members are cordially invited to attend CALCRA's annual meeting on Thursday, October 6, 2005 at 10:00 AM at Canterbury Woods in Pacific Grove.

Senate Bill 244 Status

Senate Bill 244, as amended, was approved unanimously by the Assembly Human Services Committee on Tuesday, June 28. It will go to the Assembly Appropriations Committee in July or August, and, presumably, will then proceed to enactment.

There is much support and no opposition to the bill. In addition to its sponsor, California Advocates for Nursing Home Reform, its supporters include CALCRA, AARP, Alzheimer's Association, Congress of California Seniors, Gray Panthers, several Ombudsman Associations, Older Women's League, California Alliance of Retired Americans, Association of California Caregivers Resource Centers, and Piedmont Gardens Next Generation.

Before the vote, the bill had a number of modifications of language, all of which were endorsed by CALCRA. Its single

important feature, and CALCRA's primary interest - to provide an appeal process for provider decisions to transfer residents to higher levels of care - remains intact as originally drafted. CAHSA has withdrawn its initial opposition, citing its approval of the amendments. Previously it had expended a substantial effort in opposition, including requesting residents to sign a form letter to be forwarded to legislators.

As presently written the bill should entail no added burden on providers that already base transfer decisions on objective, professionally guided appraisals of the resident's needs for additional care. However, implementation of the appeal process should stimulate all to review their transfer procedures, and make adjustments when warranted.

There is an important lesson to be learned from CAHSA's

regrettable attempt to exploit the trust of residents asking them to oppose the position that CALCRA held to successfully. Residents should keep in mind that CAHSA's basic purpose is to represent the interests of its provider members; and that CALCRA is the only entity dedicated exclusively to representing resident interests. Commonly, the two will be allied and act in concert on many issues. But when their views differ, it is important that residents be fully informed, avoid participating in self-serving provider lobbying and support actions that are in the best interests of residents.

Although the governor has no reason to not sign the bill once it is passed by the legislature, a letter writing effort by residents may become necessary to ensure his support. We'll keep you informed as the bill progresses.

WWW.CALCRA.ORG
We're on the Web!!!

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