

CALCRA News

California
Continuing Care
Residents Association

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FROM THE PRESIDENT

In the last issue Senator Romero and her staff were commended for their efforts on SB 244, a bill that introduces an appeal process to the provider's previously assumed unquestionable authority to transfer CCRC residents to a higher level of care. When the bill was introduced CAHSA, the provider organization, vigorously opposed it and went as far as soliciting letters



Walter P. Rozett

of support to legislators from residents based on misleading information. CALCRA supported the bill and assisted in getting it through the Senate and the Assembly.

We agreed some modification of the bill's language was required and that led to meetings involving CANHR (California Advocates for Nursing Home Reform) the bill's sponsor, CAHSA, Marc Brown and me from CALCRA and several legislative assistants, in Senator Romero's office. The negotiation was handled most professionally by Senator Romero's staff resulting in minor but necessary changes. CAHSA then concluded that its best interests would be served by withdrawing its opposition to the bill. The modified language was approved handily by the Senate and Assembly.

The bill then went to the governor. Since there was no organized opposition and since there were a dozen

organizations including AARP and the Congress of California Seniors supporting it the only problem seemed to be the small number of votes against it in the Senate and Assembly. On October 3, much to his credit, the governor signed the bill and it will become effective January 1, 2006.

It has been an interesting and educational experience. And it is always gratifying to prevail. Looking back on it one must wonder, however, if CALCRA and CAHSA could have achieved the same result much more readily by working together immediately after the bill was introduced.. What should we do differently to encourage such constructive collaboration when the two parties deal with the broader and potentially more contentious issue of governance?

CALCRA's mission is to enhance the financial security and quality of life of CCRC residents with particular concern for provider transparency and accountability. That is where our emphasis will be next year. Since achievement of those objectives would place the entire industry on a much sounder footing, it is our hope that CAHSA will work with us for the benefit of all concerned.

Congratulations to CALCRA'S 2006 Executive Board

Walter P. Rozett, President (University Retirement Community at Davis), Bernard G. Werth, Vice President (San Francisco Towers), Virginia Anderson, Secretary (St. Paul's Towers), William Allewelt (University Retirement Community at Davis), Paul Beckman (Eskaton Village), Denise Fleig (Piedmont Gardens), Stefan Moses (The Village at Hemet), Jerome Kohl (Spring Lake Village), Patricia Wheaton (Air Force Village West).

Ed Washburn (Air Force Village West) is termed out as a director but continues as Treasurer. Barbara Krings who served so well for years as CALCRA's president is termed out as a director. She has our profound gratitude for her many accomplishments and for her willingness to continue to be actively involved.

Executive Board

Walter P. Rozett
President

Bernard G. Werth
Vice President

Virginia Anderson
Secretary

William Allewelt
Paul Beckman

Denise Fleig
Jerome Kohl

Stefan Moses
Patricia Wheaton

Members - At - Large

Ed Washburn
Treasurer

CALCRA

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THE CALIFORNIA CONTINUING CARE ADVISORY COMMITTEE

The Continuing Care Contracts Branch (Branch) of the Department of Social Services (Department) is responsible for licensing, evaluating and monitoring the performance and financial strength of providers entering into continuing care contracts with California's elderly. The Branch is served by the Continuing Care Advisory Committee consisting of nine members, appointed by the Governor, the Senate Rules Committee, the Speaker of the Assembly and two members appointed by the other members. Principally, the Committee provides advice and oversight to the Branch.

At its May 17, 2005 meeting the Advisory Committee asked the Branch to summarize the Committee's responsibilities under the Health & Safety Code (H&SC). The response from Bob Thompson, attorney for the Branch, which follows in a slightly modified form, was reviewed at the August 30, 2005 committee meeting.

The Committee's purpose is to "act in an advisory capacity to the Department on matters relating to continuing care retirement communities." The H&SC lists several responsibilities of the Committee but, as an advisory body, its members are not responsible for any action taken by the Department. The Committee's advisory function takes two forms. First, the H&SC authorizes the Committee to actively review and/or provide recommendations to the Department regarding matters that originate with the Committee itself. This authority applies to four broadly described subject areas:

(1) Reviewing the financial condition and managerial condition of CCRCs and the providers that operate them.

This responsibility applies to all providers but especially those CCRCs that the Committee determines are showing signs of financial difficulty. The Committee is charged with "monitoring" those CCRCs that the Department or Committee Chairperson may request. Similarly, upon request by the Department, the Committee is charged with reviewing new applications for a certificate of authority (COA) regarding the financial, actuarial, and marketing

feasibility of the proposed CCRC.

(2) Furnishing information to consumers of continuing care. The Committee is to make available consumer information regarding the purchase of continuing care contracts. Specifically, this responsibility relates to "information on the selection of continuing care contracts and necessary contract protections in the purchase of continuing care contracts.

(3) Improving the continuing care statutes and facility management. The Committee is also responsible for advising the Department on improving the statutes applicable to CCRCs as well as improving, generally, the management or operation of CCRCs.

(4) Protecting residents and providers against catastrophic risk. The Committee is charged with providing suggestions to the Department for protecting CCRCs and residents from adverse financial consequences in the event of an earthquake or other disaster.

The second form of the Committee's advisory function relates to matters brought to it by the Department. While the Department may bring any matter to the Committee for its counsel, the H&SC describes certain specific instances where the Committee must be consulted by the Department before the Department may take any action. Upon request by the Department, the Committee must exercise its "consultant" authority and provide its advice (if any) on the following matters:

· Proposed measures to correct financial or managerial problems at a facility.

The Department must consult with the Committee and consider its recommendations when the Department has reason to believe a provider is financially unsound (or unable to fully perform its continuing care contracts) and the Department has disapproved the provider's workout plan or determined that the approved plan has not been implemented.

· Judicial intervention to operate a facility or liquidate a provider.

The Department must consult with the Committee prior to petitioning the superior court for an order appointing a qualified administrator to operate a

CCRC and mitigate a potential crisis situation. Similarly, the Department must seek the Committee's approval to seek a court order to liquidate and dissolve a provider.

· Releasing deposits from escrow.

The Department must consult with the Committee when determining whether an applicant for a certificate of authority has substantially complied with the projected annual financial statements it filed with its application. This determination must be made by the Department before it may release depositors' deposits from escrow.

· Responding to an applicant's failure to meet projected financial performance.

The Department must consult with the Committee before taking action in response to an applicant's failure to substantially equal or exceed the financial and marketing projections (over any six month period) submitted with its application.

· Conditioning, suspending, or revoking a certificate of authority or permit to accept deposits.

The Department "must consult with and consider the recommendations of the Committee prior to conditioning, suspending, or revoking any permit to accept deposits, provisional certificate of authority, or certificate of authority.

The Committee's responsibilities largely focus on evaluating the financial health of the entities operating continuing care retirement communities in California. The Committee does, however, also have very broad oversight responsibilities that define the expansive scope of its consumer protection functions. As the Committee does not have funding, it does not independently identify providers to review or identify the providers in financial distress and does not take action independent of the Department. As a practical matter, the Committee relies on and works in conjunction with the Department to fulfill each of its statutory responsibilities.

At the August 30 meeting the committee decided to discuss one of the four primary responsibilities at each of the next four committee

THE CALIFORNIA CONTINUING CARE ADVISORY COMMITTEE con't

meetings. At the November 2005 meeting the first item, reviewing the financial condition and managerial condition of CCRCs and the providers that operate them, will be the subject. This will provide the opportunity for us to continue pursuit of the governance issue.

Review of the responsibilities of the committee directs attention to the composition of the committee. At present the committee consists of five provider members, an actuary and an accountant, who typically would be employed by providers, and four

resident members. There is reason to believe that the effectiveness of the committee would be improved with an equal number of provider and resident members and with the actuary and accountant in an advisory role being appointed by the provider and resident members. We hope that all Committee members will recognize the benefits of these changes and would welcome their encouraging provider support of our legislative efforts toward implementation.

As discussion of the responsibilities of the committee proceeds we will

also be considering legislative action to continue to upgrade standards of governance of CCRCs through changes in the H&SC and the Corporations Code, with probable emphasis on how they apply to not for profit organizations, the bulk of CCRC providers.

The issues facing the Advisory Committee and CALCRA in the coming year are important and complex. We welcome any input from our members on these matters and will do our best to keep you informed throughout the year.

SB 244 PRESS RELEASE: GOVERNOR SIGNS SENATOR ROMERO BILL

SACRAMENTO, October 3, 2005 – California’s most vulnerable seniors will benefit from stronger protections through legislation signed today by Governor Arnold Schwarzenegger. Senate Bill 244 by Senate Majority Leader Gloria Romero (D-Los Angeles) expands the rights of seniors living in continuing care retirement communities (CCRCs) which provide a range of housing, residential care/assisted living, nursing care, and other health-related services all in one location.

Seniors in other group settings have a bill of rights promoting the least restrictive setting for long-term care services and providing basic protections in transfers from

independent units to other care levels; SB 244 extends the same rights to seniors in CCRCs.

“Elderly consumers invest most of their life savings into CCRC contracts. It is imperative that they have the strongest consumer protections possible when they are most vulnerable to exploitation or abuse,” said Senator Romero, who also serves on the Senate Committee on Health. “SB 244 safeguards seniors, their finances and their quality of life by ensuring they can no longer be arbitrarily forced out of their living units.

“Current law leaves too much discretion in the hands of CCRC providers who can move their residents

up the continuum of care to more expensive living units without notice or review, and without a process to dispute such a move. SB 244 establishes an appeal procedure that is fair, fast and does not leave CCRC residents at the mercy of management.”

SB 244 is supported by the American Association of Retired Persons, California Advocates for Nursing Home Reform, Association of Caregiver Resource Centers, California Continuing Care Residents Association, Congress of California Seniors, among many others.

The new law takes effect January 1, 2006.

PLEASE JOIN CALCRA!

If you are at one of these three CCRCs with CALCRA chapters, please fill out the Membership form below and place it along with your check in the mailbox indicated:

- Eskaton, Carmichael - Gus Schlick #258**
- Piedmont Gardens, Oakland - Ed Oliveria #1704 (Please add chapter dues of \$6 per person)**
- University Retirement Community, Davis - John Celesia # 3109**

If you are at any other location please fill out the form and return it with your check to:

C.E. Washburn, 21151 Vandenberg Ave., Riverside, CA 92518

CALCRA MEMBERSHIP FORM

NAME: _____ FIRST NAME OF SPOUSE: _____

DATE: _____ NAME OF FACILITY: _____

STREET: _____ APT #: _____

CITY: _____ ZIP: _____ PHONE: _____

EMAIL ADDRESS: _____

WOULD YOU LIKE TO RECEIVE YOUR NEWSLETTER VIA EMAIL? YES NO

Members: \$18 for Singles, \$30 for Couples. Please make your check payable to CALCRA.

CALCRA ANNUAL MEETING

CALCRA's annual meeting was held on October 6 at Canterbury Woods in Pacific Grove. Pat Wheaton of Air Force Village West and Bernard Werth of San Francisco Towers were elected as directors replacing Barbara Krings and Ed Washburn each of whom had served six years on the board and were ineligible for reelection. Both Barbara and Ed, who have done so much for CALCRA in the past, will continue to be actively involved in the future with Ed staying on as treasurer. Walt Rozett was also reelected to the board.

Jack Christy of CAHSA talked about their legislative activities this year that avoided the imposition of some taxes on CCRC skilled nursing facilities, defeated a proposed increase in licensing fees and exempted CCRCs from costly and impractical food delivery requirements. He pointed out that CAHSA's legislative efforts were directed toward keeping CCRCs affordable and attractive. There were

some questions raised concerning CAHSA's original opposition to SB 244 and their failure to support it after it was modified.

Barbara Krings talked about her six years as a director and officer of CALCRA and how it had been a great ride. She noted that CALCRA developed because there was a need for resident voices to be heard and that much has been accomplished through legislation it sponsored. She also noted that every bill that CALCRA proposed and managed to get through the legislative process had been opposed by CAHSA.

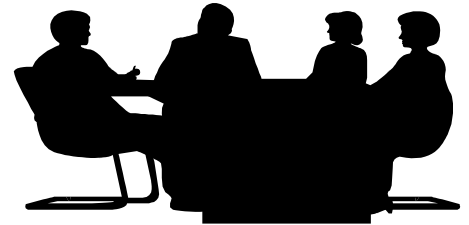
Walt Rozett compared the CAHSA vision with CALCRA's basic purpose of enhancing the financial security and quality of life of CCRC residents. The two are compatible but CAHSA needs to encourage greater provider transparency and accountability and recognize that performance standards need to be compulsory rather than voluntary. Walt also commented on CALCRA's legislative

efforts for 2006 with particular emphasis on governance.

At the subsequent board meeting officers elected were: Walt Rozett, President; Bernard Werth, Vice President; Virginia Anderson, Secretary and Ed Washburn, Treasurer.

The need for increasing membership was discussed along with the value of adding new chapters to offer the opportunity for local residents to discuss issues and provide input to the state level organization. Any members interested in considering forming a chapter should contact Walt Rozett.

The next board meeting will be at Air Force Village West in Riverside in April 2006.



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

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