



CALCRA News

California
Continuing Care
Residents Association

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FROM THE PRESIDENT

Let me start by noting that this newsletter is a bit late primarily because we concluded that the information on the fate of SB 1212, CALCRA's bill this year, was of significant interest to the membership. The delay also provides the opportunity for earlier reporting on CALCRA's annual and board meetings on October 5.



Walter P. Rozett

SB 1212 was signed by the governor on September 28. It deals primarily with the required reporting by providers of all reserves and is another step in the direction of provider transparency and accountability. Residents are entitled to know the amounts accumulated by providers and what they are to be used for. Our intention is to review the reserve information on all of California's CCRCs and compare the differing managerial approaches particularly in relation to how prepared providers are to deal with the uncertainties that tomorrow may bring.

Next year our primary efforts will be concentrated on increasing CALCRA membership. There are about 20,000 residents in the 78 continuing care communities in California. In a number of these communities CALCRA membership exceeds 50% of the residents. Were we able to achieve that level at all communities our voice in Sacramento would be far more powerful. Those communities with the higher levels of membership all have residents who are active in ensuring that everyone is aware of our organization and what we have accomplished. Most have CALCRA chapters with local programs that keep residents informed concerning issues of interest through regular meetings including guest speakers.

We ask each of you to join in our membership expansion effort. Input from every CALCRA member on the subject would be most welcome. Please contact

me by regular mail, email or telephone using the information in the box on the right side of this page with any thoughts you may have on the matter. Your providing the names of friends you may have at other CCRCs who might be interested in assisting in this effort would be of particular value.

CALCRA is not competitive with local resident councils. Councils deal with local issues and provide a vehicle for communication with local management. Many issues impacting residents can only be dealt with effectively on a statewide basis. There is simply no way for a resident council to be fully informed or take effective action on statewide matters. Even if a community operates in a totally satisfactory manner residents have an interest in assuring that their voices are heard in the development of statewide standards for all CCRCs.

Our agenda for 2007 also includes consideration of CCRC governance - essentially the qualifications, responsibilities and evaluation of the performance of provider boards. We believe that standards like those recently introduced for publicly held companies as a result of the Enron, WorldCom and other scandals are the minimum that should be set for not-for-profit provider boards who should be held to an even higher level.

In addition we will, working with CANHR (California Advocates for Nursing Home Reform) and several graduate students, be reviewing all of the financial information submitted by providers to the Department of Social Services to establish priorities, make recommendations as to what should be added or eliminated and develop a method of making the information available to residents and prospective residents.

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CLOSING A CCRC

It is unusual for a CCRC to be closed but as a facility ages without compensating improvements and as standards change, its closure becomes a likely prospect. It is important for residents of any community to be sensitive to what might lead to a closing. In particular, residents need to be concerned if the occupancy rate at their facility, or any other facility operated by their provider, falls below 90%. Continued deterioration of the occupancy rate means that operating costs will be spread over declining numbers of residents, thus producing higher monthly fees or unsustainable losses. Residents of multi-facility CCRCs need to be concerned with the occupancy levels at all of their provider's facilities because any CCRC losing money is likely to be subsidized by fees at the other facilities that are greater than needed to cover their own expenses.

Last April it was announced that Marguerite Terrace, a 42 year old CCRC in San Jose, would be closing. It is operated by the Philanthropic, Educational, Organization, founded in 1869 as a women's pioneer society and commonly known by its initials, P.E.O. It also operates Marguerite Gardens, a CCRC in Alhambra.

Marguerite Terrace was undersized for today's market, accommodating a maximum of only 73 residents, but occupancy had fallen to about 50%. Entry fees had been raised from \$20,000 in 1999 to nearly \$100,000 last year. While raising entry fees was intended to provide additional income, it probably contributed to the closure by reducing the community's attractiveness to prospective residents, particularly so in an aging facility.

P.E.O. finally concluded that even with 100% occupancy Marguerite Terrace would never be fiscally sustainable. Besides, there was a need for costly physical plant renovations since its studio apartments were no longer competitive in today's market. Its small size was also a factor since fixed costs had to be spread over such a small number of residents.

Since Marguerite Terrace had

accumulated \$11 million in losses over the previous ten years it clearly was time to take action. From strictly a business standpoint, it's obvious that action to shut down operations should have been taken much sooner; but presumably the philanthropic nature of P.E.O. prevailed until April. Deciding to close the facility had to be difficult for P.E.O. but it was the right decision and probably would have been better for all concerned if it had been made years earlier.

It is important for residents of all communities to understand that Marguerite Terrace's closure was a decision made solely by the P.E.O. board, not by the Department of Social Services, which has responsibility for oversight of the financial viability of CCRCs. As a charitable organization P.E.O. had the right to continue to subsidize the operation and to operate it despite its low occupancy rate. It is regrettable, however, that residents evidently were not aware of the problem nor given reason to be concerned with how it would be resolved.

With the decision to close, P.E.O. offered residents a choice: either they could move to companion Marguerite Gardens in southern California or P.E.O. would buy out their contracts. The buyout arrangement offered residents the opportunity to move to another CCRC or a lump sum settlement based on the entry fee amount and expected monthly rent, projected according to life expectancy. Most accepted a buyout, six transferred to Marguerite Gardens.

Three of the 16 residents in the skilled nursing facility died soon after moving to other facilities. Another has died since then. Other residents reported insomnia, ulcers and diabetic attacks as they struggled with the emotional and financial upheaval of finding a new place to live. Transfer trauma is real and can be devastating. The three deaths prompted an investigation by the Department of Health Services and resulted in a \$20,000 citation for P.E.O.'s failure to have an adequate team assess the residents medical and psychological conditions before they were transferred. P.E.O. is reportedly

appealing the citation.

Since this has been the first closure of a CCRC in California in 15 years there has not been a great deal of experience to go on. Whatever knowledge is gained from this tragic occurrence should be used by anyone who may be involved in future closings to improve the process.

Unfortunately, the potential closing of a CCRC is not adequately covered in the California Health and Safety Code and, therefore, resident contracts are unclear as to the specific obligations of a provider under such circumstances. The Code does now require continuing care contracts to include a statement of the terms and conditions under which the contract may be terminated, including any resident health or financial conditions. It does permit providers to unilaterally terminate the contract if the provider can set forth good and sufficient cause. These requirements were apparently written to cover only terminations of individual residents, without full consideration of closing an entire CCRC. Because of this, differences between P.E.O. and the Marguerite Terrace residents concerning the closure may have to be resolved by litigation.

Some residents are refusing to leave the facility and two attorneys are now representing these residents and a number of others who have moved elsewhere but have not signed transfer agreements. The handling of the closure of Marguerite Terrace is obviously a matter of great concern for the residents directly impacted and merit's the interest of all residents who possibly could get involved in similar situations in the future. Because of this confusion and its potential for wasteful litigation, there is good reason for CALCRA to consider legislation to protect all CCRC residents in the event of future closures. As yet CAHSA/Aging Services has not evidenced any interest in seeking legislation to prevent recurrence of the uncertainties posed by future closures and alleviate the distress to the residents affected.

CAHSA, WHAT'S IN A NAME?

CAHSA, the provider organization, recently changed its name to "Aging Services of California". It announced this name change as reflecting a broadening of its mission to include services to the elderly in their own homes.

Such "aging in place" is indicated to be preferred by Baby Boomers (the first of which turned 60 this year) because it is expected to be much less expensive than continuing care retirement communities. Frugality is likely to be prevalent for Boomer retirees since many of them have not made adequate provisions for retirement. In any event demand for retirement services will be huge. In California alone, 6.5 million Boomers are expected to retire by 2020. By then the state's population aged 60 or older will have nearly doubled since 2000 and those over 85 will have increased 75%

CAHSA was formed in 1961 with the principal objective of protecting the tax exempt status of its members. It now has over 400 members, the large majority of which are nursing homes, with CCRCs numbering about 50. CAHSA/Aging Services' multi-million dollar budget is financed by provider dues paid for by residents in their monthly fees.

Although clearly organized to benefit providers, the policy makers and management of CAHSA/Aging Services oftentimes attempt to convey the impression it also represents the best interests of the residents of its members. This claim becomes ludicrous when related to its having vigorously opposed every CALCRA initiative to advance and protect the rights of CCRC residents. If its opposition had prevailed residents would have been denied the following rights won by CALCRA:

- Providers must hold regular informational meetings with residents.
- Providers must hold a special meeting to explain the basis of monthly fee increases.
- Resident have access to documents filed by providers with the Department of Social Services.
- Residents have the right to organize resident associations.
- Residents have the right to appoint representatives to provider boards of directors.
- Resident representatives receive all of the information for board members and have the right to speak and participate in all board meetings.
- Financial statements are available to residents; for multi-facility operations, financial statements are to be supplied for each facility.
- Each CCRC must have a disaster preparedness plan.
- Residents have the right to appeal provider decisions to transfer them to higher levels of care.
- Providers must report all reserves to the Department of Social Services.

Always remember: none of these resident rights would exist if the opposition of CAHSA/Aging Services had succeeded.

Whenever it has not been plausible for CAHSA/Aging Services to walk both sides of the street in claiming it represents residents as well as providers, it usually attempts to deflect

attention from its singular purpose by characterizing CALCRA as an insignificant special interest group. While the significance of CALCRA can be judged by its legislative accomplishments, it is indeed correct that we are a special interest group: CALCRA focuses exclusively on the interests of California's 20,000 or so CCRC residents.

Certainly the provider members of CAHSA/Aging Services have to recognize that its future success is dependent on realizing the same goals as CALCRA's: a healthy and respected industry and satisfied residents. Hopefully recognition of these common interests may some day stimulate mutually beneficial cooperation and collaboration in resolving otherwise contentious issues.

But that will require CAHSA/Aging Services to back away completely from such vindictive and heavy handed bullying as was evidenced by their recent employment of a powerful, union-oriented lobbyist to arrange for the removal of CALCRA's president from the Advisory Committee to the Department of Social Services. This was compounded when the hired gun lobbyist also arranged a replacement who is beholden to his provider as a former board member. Such underhanded tactics have no place on a body that could provide a vehicle for meaningful discussion and reconciliation of differing views.

Until that change takes place CALCRA will unilaterally and aggressively pursue the interests of CCRC residents through legislation. Protection of the elderly is a popular political cause and we expect continued success in our efforts.

IT'S BEEN A GOOD SIX YEARS

The greatest pleasure of serving on the Board since September 1999, has been meeting and getting to know other members of the Board and many members of CALCRA.

It has been exciting to see CALCRA develop into a force to be reckoned with. Earning my unbounded respect for the countless productive hours they have spent visiting legislators, attending

legislative committees and getting out the newsletter are Barbara Krings, Walt Rozett, and Bernard Werth. Also putting in many hours have been treasurers George O'Donnell and Ed Washburn, as well as Tom Streeter who maintains our data base and oversees the distribution of the newsletter. Maude and Jim Transue, the founding "parents" of CALCRA also deserve recognition.

by Virginia Anderson

These dedicated workers have been aided and abetted by those who have worked to increase membership in CALCRA in their facilities and have supported CALCRA's endeavors. My hours as secretary have been few, but my experience has been rewarding, pleasant, and interesting. I am grateful for the opportunity to have served, and I heartily recommend the experience to others.

REPORT ON CALCRA'S ANNUAL MEETING

The meeting was held on October 5 at St. Paul's Towers in Oakland. Ed Delaney of St. Paul's Towers, Sid Hanson of Air Force Village West and Norm Eichberg of the Classic Residence by Hyatt at La Jolla Village were elected new members of the Board. Bill Allewelt was reelected. Virginia Anderson of St. Paul's Towers was ineligible for election following her six years of service. Virginia served as Secretary for a number of years. She has been most helpful in CALCRA's activities, including making the arrangements for this meeting, and will continue to be involved in the future.

Barbara Krings, our former president and guest speaker, talked about CALCRA, the many hurdles that had to be overcome and its many accomplishments. She spoke of the early years and the leadership and effort that Jim Transue, CALCRA's first president brought to the organization. Jim continues to live at the Sequoias in Portola Valley. She also noted that although much has been accomplished much remains to be done to protect the financial security and quality of life of

CCRC residents particularly in the area of provider transparency and accountability. She urged every member to participate in the effort to recruit new members to continue to strengthen CALCRA's voice in Sacramento

Walt Rozett reviewed the last year, particularly, SB 1212, CALCRA's bill for 2006. It originally included restructuring the Advisory Committee to equalize resident and provider representation and some minor clarifications of last year's SB 244 dealing with transfers to higher levels of care but, most importantly, dealt with the requirement that information on all reserves established by providers be disclosed. Providers originally opposed the bill. After everything but the reserve disclosure was eliminated CAHSA withdrew its opposition and the bill passed the Assembly and Senate and was signed by the governor on September 28.

Walt also discussed the matters on the agenda for the board meeting following the annual meeting - principally increasing CALCRA

membership, CCRC governance the probable 2007 legislative effort, and the analysis of all of the CCRC financial information submitted to the Department of Social Services.

At the board meeting the resignation of board member Paul Beckman of Eskaton was accepted. Paul has recently married and his travel plans preclude his active involvement in the board. The board appointed Barbara Krings as his replacement. Officers elected at the meeting were: Walt Rozett, President; Barbara Krings, Vice President; Norm Eichberg, Secretary; Ed Washburn, Treasurer; Sid Hanson, Assistant Treasurer.

The board approved the priority of increased membership for 2007. The proposed legislation concerning governance will be determined as the year progresses and the board endorsed the analytical effort related to the Department of Social Services financial information.

The next board meeting will be at San Francisco Towers on April 12, 2007.

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

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