



CALCRA News

California
Continuing Care
Residents Association

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FROM THE PRESIDENT

This year CALCRA is concentrating on passage of our bill, SB 489, that concerns displacement of CCRC residents due to permanent closure or temporary relocation for whatever reason. We are also opposing the current wording of AB 1022, sponsored by the provider organization, Aging Services, to enable providers to offer continuing care at home without regulatory oversight. Each bill was introduced last year but held over to 2008.



Walter P. Rozett

subjected to the severe mental and emotional stress sustained by Marguerite Terrace's residents, relieved only partially by successful but costly legal action.

It is most unfortunate that the state's Health and Safety Code (the principal regulatory safeguard of resident rights), does not have a single page governing closure of a CCRC although it does have thirty five pages covering the opening of one. In the case of permanent closures this governance void leaves residents with no relief from abuse except through the expensive and time consuming legal process. Although temporary displacements are usually covered by the resident's contract, the provision is written by providers, most always serving their own interests, not the residents.

Last year SB 489 was opposed by the Department of Social Services which believes that it does not have sufficient resources to review and approve each provider's closure plan, as the bill then required. The bill has been rewritten to simply require a provider to disclose fully in its resident contracts whatever provisions it has for closure or for a displacement, thus making the process self administering.

As readers may recall, residents of Marguerite Terrace in San Jose were severely traumatized by its closure. Although that was California's first permanent closure in many years, there is reason to be concerned that some others may follow because of persisting low occupancy rates. Even more certain is temporary relocation of residents of aging facilities that are now in need of extensive renovations and modernization to restore their competitiveness. Without SB 489's safeguards residents are at risk of being

As to AB 1022, we do not oppose the concept of continuing care at home (CAAH). In fact we support the idea because it clearly serves the interests of many of the aged and is believed to be especially appealing to the Boomer generation. What we do oppose is AB 1022's intermixture of a non-regulated CCAH business with regulated CCRCs, because that relationship has a potential negative impact on the financial security and quality of life of CCRC residents. A related concern is the high probability that the cost structure of CCRCs will prevent

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AN INVITATION TO OUR APRIL BOARD MEETING



All members are cordially invited to attend CALCRA's board meeting at 10 AM on Thursday, April 24 at Eskaton Village, 3939 Walnut Avenue, Carmichael, CA.

MEMBERSHIP PARTICIPATION

By its very nature as a volunteer organization advocating for CCRC residents in their latter years, CALCRA has a continuing need for new leadership and the freshened ideas that newcomers bring to the table. It's not easy to find others to pick up the leadership torch because most CCRC residents seem to yearn simply to enjoy "the Golden Years" as a time to relax and become involved only in recreational pursuits. As an unfortunate consequence many are inclined to accept even badly faulted management decisions without question.

Regrettably, that "don't make waves" attitude can be exploited easily by managements bent on objectives that conflict with resident interests. So there will always be a pressing need for the activists among us who are stimulated by new challenges and gain personal satisfaction from helping fellow residents. CALCRA must depend on a constant flow of these activists to support its mission to enhance the financial security and quality of life of California's CCRC residents. So we do urge every CALCRA member to think seriously about the personal enrichment to be gained by serving to advance the interests of fellow residents.

There is an enormous amount of creativity among CCRC residents, but much of it does not find a productive outlet because of an all too common unwillingness to take on new challenges at this stage of life. CALCRA can provide that needed

inspiration.

Think first about the condition of your community. What's good about it? Can you help transfer the good things to other communities to improve the quality of life of their residents? What disturbs you about your community? Do residents of other CCRCs have similar problems? Could broadly experienced problems be resolved by a legislative initiative? What is needed to better protect the rights of residents? Have you had experience in the political process that could help CALCRA? Do you know someone at another California CCRC who is interested in becoming active with CALCRA? What would you do differently if you were managing your CCRC? If you are a nurse, can your perspective on skilled nursing be a source of constructive recommendations? If your career experience was in business, what do you believe could be done to make the budget respond more effectively to resident needs? What experience or insights do you have to help in satisfying the diverse tastes and dietary needs of hundreds of people?

Does your Resident Council follow practices that could be helpful at other communities? Or is it an ineffective voice to management on behalf of fellow residents? Is there something it should be doing that it is not doing now? Does your community have activities that are especially popular with residents? Do you have an investment club? Do you have a special relationship with a university?

Is there a charitable or religion-oriented activity in which residents are actively involved? Is there an intellectual activity that residents find particularly stimulating? Has your foundation done something special that would be of interest to other communities?

There is so much each of us can do to give CALCRA a stronger voice representing resident needs and interests. An insert is included in this issue that provides information on how to contact actively interested CALCRA members at other CCRCs. Look through the list and feel free to contact any one of them about your personal interests. You can ask questions or provide answers. If your views are different that's OK since progress oftentimes comes more from disagreement than from agreement.

Much has been accomplished over the years by a limited number of CALCRA activists. Think about how much more could be accomplished for the benefit of the elder care industry, for individual communities and for all CCRC residents if we could double or triple that number. Talk to the contact(s) on the list at your community to get some idea of where to start. If you happen to be a resident of a community that is not on the list and would like to represent your community please contact Walt Rozett by using the list's information.

Dip your toe in activist waters. You will find it rejuvenating!

CALCRA MEMBER GIVES \$10,000

by Barbara Krings

Channing Gilson, a long-time CALCRA member has remembered CALCRA in his will with a \$10,000 gift. CALCRA is so grateful for his generosity and so saddened by his death. We remember Channing for his vibrant personality and unswerving support of CALCRA.

Some of our members may remember the sad facts in 1999 that led to Channing's eviction from White Sands of La Jolla by his provider, Southern California Presbyterian Homes. Channing sued SPCH and unfortunately, lost his case. Equally unfortunate for Channing was that, after the eviction, in order to see his

wife he had to come to White Sands as a visitor.

CALCRA was asked to be a witness for Channing during the trial. We were happy to do whatever we could to try to avoid the tragedy of seeing one of our members evicted from his home. We hope this situation will never again occur in California but recognize that it could due to the Right of Termination in resident agreements stating that the provider has the right of termination for "good cause."

Channing was a graduate of West Point and flew four-engine B-29's during World War II. He missed Pearl Harbor by a few months because he

was reassigned to West Point from Hawaii after having been awarded one of 10 U.S. Army appointments to the prestigious Academy that year.

In later life, Channing went on to receive an M.B.A and participate in the National Veterans Golden Age Games, receiving 6 medals. He spent his working life as an industrial designer including design of the fountain at the entrance outside of the U.S. Hall of Independence in Philadelphia.

CALCRA honors this most generous member and will continue, in his name to work to preserve the rights of residents.

CCRC RESIDENT TAXATION

With a budget shortfall of about \$14 billion in prospect for California this coming year, there is already much jockeying by various factions to protect their interests in how the budget is to be balanced. Considering the potential of a recession the stakes may become even greater. Reality dictates that there are limits to what can be done by reducing expenditures and closing loopholes, so it is highly likely that at some point deliberations will turn to tax increases.

By no means is California alone in being forced to deal with this issue. What is going on in Florida may be of interest. There, a recommendation has been made in the legislature this year to rescind all sales tax

exemptions and exclusions that are currently provided for under Florida law. Already, the proposal has been adopted by the legislature's Governmental Procedures and Structure Committee. Should it now gain passage from Florida's Finance and Tax Committee it would be passed on for debate and vote by a commission before going to the legislative floor for a final determination.

The proposal would have a significant financial impact on the residents of Florida's continuing care retirement communities. Since the monthly fees residents pay cover more than housing it is not all considered "residential rent," which is exempt from sales tax in Florida.

Except for nursing and home health care, all continuing care services would be subject to sales tax. This would include dining, housekeeping, transportation, personal laundry, and assisted living. Evidently a portion of monthly fees would be subject to sales tax to cover whatever services are determined to be taxable. Entrance fees would be similarly taxed.

CALCRA's counterpart in Florida, FLiCRA, is keeping its members abreast of these developments and is soliciting their input to determine how best to deal with them. CALCRA will be monitoring the Florida situation and will keep you informed.

PRESIDENT'S LETTER con't...

them from competing successfully with the many alternative sources of care at home already available.

As currently written, AB 1022 would permit a provider to use CCRC funds to finance its new venture into care-at-home services to non-residents. This would put the CCRC at risk for any losses incurred should the venture fail. Furthermore, CCAH clients would be enabled to access the skilled nursing facility and other services at the provider's CCRC. Obviously this would put the established CCRC residents at risk to overcrowding of services now taken for granted, perhaps even being denied access to such critical services as skilled nursing and special care. Interestingly, this provider sponsored bill specifically excludes the availability of CCAH services to CCRC independent living residents. There is also an element of insurance involved in the entry fee that expands the financial risk that should, at a minimum, be subject to the oversight of the Department of Insurance.

We hope this commentary makes it clear that CALCRA has no objection to a provider going into the CCAH business as long as it is totally independent of the provider's CCRC

and is prevented from having any negative impact on CCRC residents. You can be assured that unless the objectionable features now contained in AB1022 are removed by Aging Services, CALCRA is prepared to press fully justifiable objections to their fullest with legislators.

We are exceedingly grateful to Senator Darrell Steinberg for authoring SB 489. As noted by media he is widely supported to become the next President Pro Tem of the California Senate. That would be a rewarding event for the State of California, for his past record in the Assembly and now in the Senate clearly reflect high qualifications for this senior responsibility. From our own experience we can attest to his compelling ability to come to balanced views by open-minded listening to both sides of an issue. It has been a pleasure to work with him and we look forward enthusiastically to CALCRA's future associations with the Senator.

CALCRA's board has seriously considered how to respond to resident appeals for legislation that would mandate logically determined monthly fees, and to also require appropriate accountability and transparency in CCRC governance.

These initiatives are most definitely top priorities. But, with limited resources, we have concluded it would be best to defer action on these issues to the following year's legislative session in order to avoid diluting support for currently pending legislation.

This delay will benefit development of monthly fee legislation since it will make it possible to reference data on statewide CCRC reserve funds that is now being collected for the first time under the requirements of our SB1212, enacted in 2006. Since providers can be expected to resist vigorously any initiatives that impose standards for determining monthly fees and for governance accountability and transparency, the added time will be helpful to us in developing convincing advocacy for what has to be seen as cornerstone measures concerning CCRC resident rights.

As this year's legislative process moves forward there is a high probability that we will be asking all CALCRA members to participate in the effort by communicating with their legislators at critical junctures. We urge you to respond actively when called upon. Your support is vital to the success of our mission.

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES OVERSIGHT OF CCRCs

Due to the length of time covered by continuing care contracts, as well as the substantial payments made by residents, the State Legislature has enacted laws requiring providers to meet certain financial and disclosure requirements. The California Department of Social Services (CDSS) is responsible for the oversight of all continuing care providers.

The Department's Community Care Licensing District Offices continually monitor CCRCs to ensure compliance with laws regarding physical plant, accommodations, care and supervision, and quality of service.

The Department's Continuing Care Contracts Branch (CCCB) has the responsibility for overseeing continuing care contract providers. It reviews and approves applications to operate CCRCs and monitors the ongoing financial condition of all CCRC providers and their ability to fulfill the long-term contractual obligations to residents.

A Permit to Accept Deposits is issued if a provider applicant has demonstrated viable marketing plans,

sound operating strategies and adequate long term financial strength. The department monitors the project's presale and construction activities, and controls the deposit escrow account. After construction is completed and the applicant has met all licensing requirements, the Community Care Licensing District Office issues a Residential Care Facility for the Elderly License. When the applicant meets its sales projections and continues to demonstrate financial viability, the CCCB issues a Certificate of Authority to enter into continuing care contracts with residents which becomes permanent after one year if the provider is in compliance with all statutes.

The statutes specify the content of continuing care contracts and require approval by CCCB of all such contracts. The terms and services provided under continuing care contracts vary significantly among CCRCs. Some offer more than one type of contract. Contracts can differ in terms of costs and payment methods, services and service provisions, and

proprietary interests. In addition, refundable and non-refundable contracts may be offered.

Once a provider is issued a Certificate of Authority audited financial statements and reserve reports must be submitted to CCCB on an annual basis. Various financial reserve requirements are mandated by the continuing care contract statutes. These reserves help to assure that providers will be able to meet their financial obligations. The reporting of the full details on the status, description and amount of all reserves maintained by the provider as well as disclosure of any funds accumulated for identified purposes or contingencies is also required. CCCB reviews the annual financial statements. In the event the Department determines that a provider is in unsound financial condition or when a provider fails to comply with the statutory requirements, CCCB may levy administrative fines, file liens on property, seek a court appointed administrator to take over operation of an ailing community or take disciplinary action against the provider.

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

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