



# CALCRA News

On the web at [www.calcra.org](http://www.calcra.org)

California  
Continuing Care  
Residents Association

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## FROM THE PRESIDENT

As you all probably know by now our two bills, AB 407 and AB 1169 have been signed by the governor and will be incorporated into the Health and Safety Code. It's been a good year.

AB 407 filled a regulatory void concerning resident rights when a CCRC is closed. This year we will be dealing with a companion bill, AB 1433, which is needed to cover residents who must be relocated temporarily while renovations are carried out. Aging Services supported AB 407—a first!—and we are hopeful of collaborating successfully with them on this companion effort.

These difficult economic times make us especially grateful that AB 1169's requirement for detailed reporting on reserves is now in place. Currently, about 25% of California's providers fail to have a positive net worth. This means the involved CCRCs have no contingency reserves available to help them ride out any unexpected adversities such as a fire, damaging acts of nature, another market decline or precarious drops in occupancy.

Without getting too technical, the contingency reserve is akin to what creditors refer to as the debt/equity ratio: what percentages of an organization's financing is provided by debt and by invested capital. It is a measure of risk to stakeholders. Whenever an entity has significant debt and little or negative equity it is considered to be close to failure. As the current reporting indicates, that may be the condition of several providers in California, emphasizing the need for improved financial oversight.



**Walter P. Rozett**

Although there is no perfect guideline for the adequacy of contingency reserves, a commonly approved approach is six months worth of out of pocket expenses. It is our objective that AB 1169's improved transparency of reserves will stimulate positive provider reactions wherever it is shown to be needed.

We are also concerned with legislation that would convert non-profit boards to trustees that would be primarily responsible to residents rather than serving as rubber stamps for management as do so many presently. This is a complex matter and it is uncertain it can be brought into focus this coming year.

We are also concerned with AB 1033 that would transfer authority for financial oversight of CCRCs from the Department of Social Services to the Insurance Department, much better equipped with financial and actuarial skills for this responsibility. We hope to work with the bill's author, Assemblyman Dave Jones, to fashion legislation that would bring necessarily improved financial oversight to CCRCs.

Finally, we will be meeting shortly with representatives of the Federal General Accountability Office, which is gathering information on CCRCs for the U.S. Senate Committee on Aging. We understand the Committee's interest stems from difficulties CCRC's are experiencing throughout the country with a special focus on financial oversight and regulation.

It promises to be a very busy year.

## Executive Board

**Walter P. Rozett**  
President

**Barbara Krings**  
Vice President

**Karen Robison**  
Secretary

**Ed Washburn**  
Treasurer

**Ed Delaney**  
Norm Eichberg

**Denise Fleig**  
Margaret Griffin

**Art Hallenbeck**  
Pat Herron

**John McGrew**  
Stefan Moses

**Carl Otto**  
Boyd Steele

**Bernard Werth**  
Members - At - Large

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## HELP NEEDED



CALCRA's board would like to hear from members who have had professional experience

- ~ designing newsletters and color brochures for large organizations
- ~ writing copy for organizations--distilling the message

If you have ideas for improving the effectiveness of CALCRA publications and if you can contribute some of the above skills to CALCRA, we would appreciate hearing from you. Please send a brief message telling us your ideas to Marian Rubin at San Francisco Towers, [MERUBIN@aol.com](mailto:MERUBIN@aol.com), using "CALCRA" as the subject.

## REPORT ON ANNUAL AND BOARD MEETINGS

The meetings were held at San Francisco Towers on October 15th. John Milford, executive director of the community, welcomed all attendees and expressed his appreciation of Bernard Werth, mentioning the special award given to him for his outstanding service to San Francisco Towers.

President Rozett welcomed all present with special appreciation for the members attending from Lake Park Retirement, The Sequoias and St. Paul's Towers.

The treasurer's report was read indicating cash assets of \$29,000 at September 30, 2009.

President Rozett announced that three directors whose terms expired this year indicated that they would stand for reelection. Director Sid Hanson, who lived at Air Force Village West (AFVW) has moved out of the community and, therefore, is no longer eligible. Sid was thanked for his years of service to CALCRA and to the AFVW community. John Mc Grew, also of AFVW was nominated to replace Sid. Since there were no other nominees John, along with Norm Eichberg, Ed Delaney and Art Halenbeck were elected for three year terms.

Guest speaker Pat McGinnis, Executive Director of California Advocates for Nursing Home Reform (CANHR) was introduced by President Rozett. He mentioned that Pat was a former teacher, had a J.D. from Golden State School of Law and has been actively involved in long term care reform issues for many years. CANHR has worked closely with CALCRA cosponsoring legislation to enhance the rights of CCRC residents.

Pat congratulated CALCRA on the passage of AB 407 and AB 1169, both of which were cosponsored by CANHR. She remarked that getting the bills through the legislature was not anywhere near as difficult as getting the governor to sign them. She discussed CANHR's opposition to AB 411 which, as amended, would subject CCRCs to the quality assurance fee from which they are currently exempt. The bill was not passed by the legislature this year. Next year CANHR will take action to ensure the elimination of this potential burden on skilled nursing facilities. She

mentioned the difficulty that CANHR and CALCRA continually experience from the opposition to our legislative efforts by Aging Services and Front Porch, one of the largest CCRC providers in California. These provider organizations would prefer that there be no regulation so that providers would have autonomous control of their operations. She indicated the need for CANHR and CALCRA to work together in a continuing alliance to ensure that resident rights are protected.

President Rozett then discussed 2009 and future legislation. He indicated that a compromise was reached with Aging Services on AB 407 deferring the portion of the bill dealing with temporary closures until next year to obtain Aging Services support for the permanent closure portion which is of greater importance considering current economic conditions. AB 1169 requires provider reporting of all reserves. This transparency will hopefully stimulate improved provider financial management. In 2010 CALCRA will also deal with governance, setting standards for provider boards with particular concern for converting all non-profit boards to boards of trustees with residents as the beneficiaries of the trust. The transfer of financial oversight of CCRCs from the Department of Social Services to the Insurance Department will also receive attention.

Marian Rubin, a resident of San Francisco Towers, brought up the subject of the potential improvement in the effectiveness of CALCRA News through reformatting. She felt the content of the newsletter was excellent but that some changes in the presentation would improve its impact. Since the format has not been changed in years her comments were most appropriate and her suggested study will be pursued next year.

Bob Thompson, attorney for the Continuing Care Contracts Branch of the Department of Social Services was introduced. He reviewed the function of the Branch and the Continuing Care Advisory Committee that provides advice to the Branch. He also responded to questions from the attendees.

The executive session of the board of directors included Tom Streeter who handles the printing and distribution of the CALCRA newsletter, Marian Rubin and Bob Thompson.

The CALCRA board was expanded to include two new members, Margaret Griffin of University Retirement Community and Karen Robison of Eskaton Village. Both Margaret and Karen have excellent experience in dealing with elderly issues and should be important contributors to CALCRA's future.

Officers elected for the upcoming year were: Walt Rozett, president; Barbara Krings, vice president; Ed Washburn, treasurer; Karen Robison, Secretary.

Pat Herron discussed the communication with the Archstone Foundation concerning their funding of a study of CCRCs with emphasis on financial matters. The study will probably be a collaborative effort including CALCRA, CANHR and University of California San Francisco. The scope of the study is yet to be determined and will depend, to a great extent, on the amount of funding available.

There was a discussion of the possible change of the current CALCRA fiscal year which ends on September 30 to a calendar year basis which might be easier for members to understand. Since the new fiscal year has already started no immediate action was taken. A committee consisting of Barbara Krings, Tom Streeter and Walt Rozett will review the matter and make recommendations at the April board meeting.

Bob Thompson discussed various aspects of current and pending legislation including the potential transfer of the financial oversight of CCRCs to the Insurance Department. It was most beneficial for the board to have the opportunity to interact with Bob who is probably the most knowledgeable individual on matters of importance to CCRC residents.

The annual meeting in 2010 will be held at The Covington in Aliso Viejo in October on a date yet to be determined. The date and location of the April board meeting are yet to be determined.

## CURRENT ECONOMIC RISK AT CCRCs

by Bill Allewelt

Historically, bank examiners have found it difficult to ferret out dangerous banking practices whenever the economy is booming. These regulators have even adopted a wryly ironic saying to describe their difficulties at such times: "It's awfully hard to tell who's swimming naked until the tide goes out."

Much the same could be said anytime by the Continuing Care Contracts Branch of the Department of Social Services, the regulatory agency intended to safeguard the ability of California's continuing care retirement communities (CCRCs) to fulfill their long-term obligations to residents. The Branch's tiny staff is constantly challenged to perform effectively, since it is so difficult for such a small entity to attract and retain financially qualified personnel. Because of this inherent weakness, serious consideration is now being given to proposed legislation that would transfer the Branch's responsibilities to the Department of Insurance where needed financial and actuarial skills are concentrated.

As it is now, the most that can be done by this hard-working unit is to report well after the fact whenever the financial viability of a CCRC has suffered from misfortune or

mismanagement. To illustrate, the Branch reported last spring that the economic devastation of 2007-8 had left about one of every four California CCRCs with a negative net worth, exposing their residents to problematic bankruptcy.

The media has only recently begun to give attention to the special vulnerability of CCRCs to the double whammy of today's sharply reduced home prices and shrunken retirement investments. Those persisting problems have had a chilling effect on CCRC occupancies, draining their financial life's blood and prompting bankers to question the industry's creditworthiness.

The Wall Street Journal recently dramatized the impact of these conditions on a highly respected CCRC provider, with its write up of the filing for Chapter 11 bankruptcy by a giant industry pioneer Erickson Communities. Erickson's first development opened in 1983 and its successful expansion since had made it a model for future CCRC providers as it grew to serve more than 20,000 residents throughout 10 eastern and mid west states. But an all too familiar theme of overly ambitious and under capitalized growth finally caught up with this

sprawling enterprise, when financial markets seized up and caused bankers to recognize that Erickson no longer could perform on its overly extended indebtedness.

Others may yet fall victim to those same symptoms. But such a cataclysmic fate is certainly not prospective for those California CCRCs with a history of prudent management and operating now with conservatism merited by the most disturbed economic conditions since the Great Depression. Surely it goes without saying that this is no time for any CCRC to undertake a risk taking adventure, even of modest dimension. And it is equally clear that the highest priorities of provider management must focus on rebuilding financial resources and on attracting new residents by delivering needed services, reliably and with top quality.

Those have always been key ingredients for a CCRC's success. In these troublesome times, lacking any of those critical qualities is virtually a promise for distressing failure. In short, what is needed now for a CCRC to survive is to deliver exactly what its contract promised. It's as simple as that.

## MEMBERSHIP - MEMBERSHIP - MEMBERSHIP

by Norm Eichberg

That's the Game. Who's playing? You and me and everyone else you know who resides in a CCRC. None of us can afford to sit on the sidelines.

Times are tough, for us and for our providers. Where they invest their (our) money is more important than ever. Our future depends on that. Having just read of the bankruptcy filing of Erickson Corporation, one of the largest providers in the US, gives us pause. If it can happen to them why can't it happen to others? Then what happens to all the promises made to us for lifetime continuing care, refund of our entrance fees (if applicable), guarantees to operate with full services, to say nothing of

the increases of monthly maintenance fees at a time when residents are suffering a worsening economy.

Since we're all in the Game let's join together to be sure that our providers stay within the law, both as written and in spirit. Let's be sure that resident money is used only for our welfare and not for any other purpose.

How do we do that? We are currently two thousand members representing some twenty thousand or so residents in the CCRCs in the state. Our voice to the legislature is not as strong as it could be. So how do we gain strength? By getting every CCRC resident to join

CALCRA, the only organization that solely represents the interests of CCRC residents. Talk to your fellow residents in your community who are not CALCRA members, talk to your friends in other CCRCs and help them learn what CALCRA is all about.

Want to know more? Want to know what we have accomplished and what we plan for the future - call me Norm Eichberg (858) 457-8282, norm\_e@san.rr.com or Boyd Steele (949) 831- 8870, btsteele@cox.net for more information or to arrange a speaker to come to your community. Hear first hand from one of our board members, ask all the questions you want and we'll give you answers.

# WHAT IS SARBANES-OXLEY, AND WHY SHOULD YOU CARE?

by Margaret Griffin

Following the corporate scandals of Enron, WorldCom, Tyco, Arthur Andersen and other corporate debacles, Congress passed the Sarbanes-Oxley Act (SOX) in 2002. Intended to deter fraud, the statute imposes accounting and reporting requirements on publicly traded companies. It also served as a wake-up call to the nonprofit sector.

In response, several groups concerned with oversight and governance issues in nonprofits have issued recommendations that follow provisions of SOX including: adoption of written conflict of interest, document retention, and whistleblower policies, and, for nonprofits that have an audit, to consider establishing an independent audit committee.

• Conflict of Interest: A conflict of interest arises when someone is influenced by personal considerations, including but not limited to financial considerations, in

the course of performing their work. Having a written Conflict of Interest policy makes the organization's priorities clear, and offers guidance when ethical questions arise. The policy should be organization-wide and apply to all officers, employees and volunteers. It should contain provisions for regular review and enforcement.

• Document Retention: This policy should address the retention, safekeeping and destruction of records and documents. It should cover all forms of documentation (including electronic and voicemail), backup procedures, archiving, and regular checks of the reliability of the system.

• Whistleblower Protection: Organizations should develop policies that encourage confidential and anonymous employee

complaints of illegal practices or violations of organizational policies, and provide a mechanism to resolve the complaints. It should specify that no one will be subject to retaliation or adverse action for bringing a complaint.

• Independent Audit Committee: The Board of Directors/Trustees should establish a separate audit committee to oversee the selection and periodic review of the audit company, and review the audit. The audit committee should include at least one "financial expert."

As CALCRA moves forward with developing our legislative plans for the coming year, considering how to incorporate these and other elements that support good governance and transparency of operations will be in the forefront.



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We're on the Web!!!

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