Why Join CALCRA

When issues arise in our communities, the message we usually hear from our administrators is that we all should be "on the same page." In practice, this usually translates into: "Residents should adopt the thinking and viewpoint of administration and not say anything to the contrary." But we live in relatively good-sized facilities, part of a large, complex industry. It is not realistic to expect there to be one, and only one, way to approach an issue, or only one right answer to any problem.

But there seems to be a temptation for many providers to stifle differing viewpoints. We often hear from administrators that, "We're all in this together." Perhaps, but that does not mean that residents and administrators should be expected to agree completely on every issue; in fact, it only makes sense for residents to have a different perspective than administrators do. Yes, we all want our facility to be successful, but that very likely means one thing to a resident, another to an Executive Administrator or Director and perhaps something entirely different to you. For example, a resident's view of success for a facility might likely be a skilled nursing facility where residents are not afraid to be admitted as a patient; a dining room that serves food that is healthy and tasty; and a facility that is well maintained. An Executive Director's definition of success would probably include full occupancy, and no personnel problems from staff and no complaints from residents. While both parties want their CCRC to be successful, the elements that define their views of that success are different. Does that mean one is right and the other is wrong? No; it's just a complex issue, and there should be room for more than one approach to finding an answer. And disagreement is not necessarily a negative. It has been said, "You learn more from those who disagree with you than from those who simply share your point of view."

While both residents and administrators want their facilities to be successful, consider these three reasons why residents' perspectives -- our "take" on the issues -- should be expected to be different from those of administrators:

- Our administrators come to our facilities for several hours a day and at the end of the day, they go home. We live here. At the end of the day, we stay right here. There's nowhere else for us to go. The facility is our home.
- Our administrators are paid to be at the facility. On the other hand, we paid, most of us, a great chunk of our life's savings to be at the facility -- and we continue to pay substantial fees each month for our care and services.
- For our administrators, this is just a job; they have a boss and an outside life of family and friends. For many of us, this is our life. If we have family and friends outside our facility, it is often difficult to see and interact with them. Our facility is our primary universe.

But finding our voice as individual residents can be challenging. Taking a stand that is not embraced by the administration can feel uncomfortable. That's where CALCRA comes in. CALCRA's only purpose is to enhance the quality of life and financial security of CCRC residents. CALCRA has only your interest at heart and is not beholden to any other administrative entity or organizational chart. While CALCRA makes every attempt to work cooperatively and collaboratively with providers, CALCRA will move to oppose those actions that infringe on or don't support resident rights.

Making the decision to move to a CCRC usually comes at that point in life where one has retired from a career; seen the family grown and off on their own; health issues may be surfacing. It feels like time to slow

continued to page 4...
As reported in our previous issue, CALCRA's bill in this legislative session is AB 1379, authored by Assemblyman Bill Quirk (D-Fremont). It deals with corrective actions that may be initiated by the Department of Social Services when a CCRC's finances begin to look shaky, and makes some changes to the Provider Fee Fund.

The provisions of AB 1379 include:

- Changing the name of the Continuing Care Provider Fee Fund to the CCRC Oversight Fund.
- Adjusting the fund's fee structure to ensure the balance of the fund is adequate to fund reasonable regulatory costs of the program for the year.
- Requiring the budget for the Continuing Care Branch to be posted on the DSS's website.
- Establishing additional criteria for the Branch to consider when determining if a financial corrective action plan will be required from a provider. The new criteria combine current occupancy and financial performance data, and would require the provider to report to DSS when these criteria are met.
- Requiring that financial corrective action plans and progress reports be shared with the CCRC's resident council and prospective residents.

As noted in our last issue, AB 1379 would create an early intervention system based on the CCRC's current performance designed to identify, mitigate, or resolve financial issues early, hopefully allowing a provider to avoid bankruptcy, as well as protect the interests of residents. It would require more timely reporting by CCRC providers, thereby providing more relevant real-time data about financial performance.

By mid-May, AB 1379 had cleared all committee and floor votes in the Assembly and moved to the Senate. Prior to its hearing before the Senate Human Services Committee, discussions were underway with DSS regarding their concerns with the bill. As time passed, it was apparent that these issues would not be readily resolved. Since this is the first year of a two-year legislative session, Assemblymember Quirk made the decision to pull the bill from further consideration until January 2020. Discussions with DSS will continue in the meantime with the goal of resolving their concerns by the time the legislature reconvenes in January.

You can monitor the status of this bill and access all amendments and legislative committee analyses by subscribing to AB 1379. Go to http://leginfo.legislature.ca.gov. Click on the Bill Information tab, enter “AB 3088” into the Bill Number field and click on Search. You will get the current text of the bill. Above the bill text field, click on Track Bill, and enter your email and registration information, and the Tracking Points you want to follow. You will now get email notices of updates as they occur.

The Resident's Council of Fountaingrove Lodge has filed a complaint with the Continuing Care Branch of the CA Department of Social Services. The issues identified in the complaint are: 1) the provider has rejected resident requests to provide the an adequate explanation for the calculations of monthly fee increases; 2) residents request that DSS conduct a review of fee increases from 2017 forward to determine whether they have actually been “based on projected costs, prior year per capita costs, and economic indicators” as required by law (Health & Safety Code §1788(a)(22)(B)); 3) residents further request that DSS review the ownership and corporate practices of Oakmont Management Group and OSL Santa Rosa Fountaingrove LLC (the property owner and lessor) to determine whether they should be considered “providers” under HSC §1771(p)(10); 4) the provider has refused to disclose the terms and conditions of business contracts between related parties; 5) the provider's financial reporting uses over-broad and uninformative categories and fails to report payments made to related parties; 6) meaningful consultation with residents during the budget development process is lacking.

The complaint was filed July 31, 2019. CALCRA has sent a formal letter of support to DSS, and will continue to monitor the progress of this action. Both the complaint and letter of support are available on CALCRA’s website.
Medicare Reminder

If you are dissatisfied with your Medicare Advantage or Part D prescription drug plan for any reason, you can choose to file a grievance. A grievance is a formal complaint that you file with your plan. It is not an appeal, which is a request for your plan to cover a service or item it has denied. Times when you may wish to file a grievance include if your plan has poor customer service or you face administrative problems (such as the plan taking too long to file your appeal or failing to deliver a promised refund). In some cases, you may want to file both an appeal and a grievance.

To file a grievance, send a letter to your plan’s Grievance and Appeals department. Check your plan’s website or contact them by phone for the address. You can also file a grievance with your plan over the phone, but it is best to send your complaints in writing. Be sure to send your grievance to your plan within 60 days of the event that led to the grievance. You may also want to send a copy of the grievance to your regional Medicare office and to your representatives in Congress, if you feel they should know about the problem. Go to www.medicare.gov or call 1-800-MEDICARE to find out the address of your regional Medicare office. Keep a copy of any correspondence for your records.

Your plan must investigate your grievance and get back to you within 30 days. If your request is urgent, your plan must get back to you within 24 hours. If you have not heard back from your plan within this time, you can check the status of your grievance by calling your plan or 1-800-MEDICARE.

Originally posted August 8, 2019 on Medicare Watch, the weekly newsletter of the Medicare Rights Center, providing Medicare news and policy developments.

Amicus Brief Update

Five years ago, the residents of the Vi at Palo Alto filed a class action lawsuit against their provider, CC-PaloAlto, and its parent company CC-Development Group (see the Summer 2014 issue of this newsletter).

As reported in our Summer 2019 issue, after several years of considering pre-trial motions, the judge ruled in February granting the defendant’s motion to dismiss that lawsuit. The residents are appealing this decision and, at their request, CALCRA has joined with the California Advocates for Nursing Home Reform (CANHR) in filing a joint amicus brief in this matter. That brief was filed July 26, 2019. It sets out the errors in the prior court’s rulings, affirms that residents have standing in this matter, and identifies the harms experienced by residents as a result of the defendants’ actions.

Information on the background of the original class action lawsuit, documents of the original court’s orders, and the amici curiae brief are available on the CALCRA website.

What's next? At some point in the future (there is no deadline or schedule), the court will issue an order stating whether it is granting our request to be heard as a friend of the court. The defendants will file a brief stating their arguments, and then the court will issue a notification that it is setting the case for argument/trial. A final decision and opinion from the court is certainly months, if not years into the future.

Carlisle Update

Residents of the Carlisle, a condominium CCRC in San Francisco, are breathing a sigh of relief, with the major building repair that has been underway for two+ years now nearing completion. After several years of neglect, their highrise building suffered extensive exterior damage due to wind action and water penetration of the building’s exterior surfaces.

Carlisle homeowners and management company Sunrise Senior Living Corporation have settled the lawsuit filed by the Homeowners Association over payment of the multi-million-dollar repair bill and other issues. Details of this settlement are confidential.

A complaint filed last year by the homeowners with the CA Department of Social Services, which cited several related violations by Sunrise management, has also been addressed to the satisfaction of residents. (Previous articles detailing the issues giving rise to the lawsuit and DSS complaint are described in the Fall 2018 and Spring 2019 issues of this newsletter.)

CALCRA needs you and you need CALCRA.
Why join CALCRA con’t...

down. Up until now, life has been a series of acquisitions and achievements. Now we must deal with downsizing, personal losses, and restrictions. We make a large entry fee payment to the CCRC with the prospect of substantial monthly fees. It is not wholly unreasonable to feel, "I've paid my money, now just take care of me and, for heaven's sake, don't give me any problems, bad news or trouble!" The notion of paying attention to the operations or business end of CCRC living is not what we bargained for and may seem like just too much to take on.

But choosing to ignore the business implications of CCRC residency is not wise. The contract you signed to move into your community is no different from any other contract you've been a party to – any business agreement, partnership, home loan, etc. In these situations did you expect the other party to have your best interests at heart – to look out for you? No. And it is not realistic to cede that authority and power to your CCRC provider. As business people (yes, even the nonprofit organizations), they must put the needs and interests of the organization first. Not your needs. While you may not feel comfortable or able to take on these issues yourself, I would ask that you consider supporting the one organization that exists to do this work: CALCRA.

Dues Coming Due

The CALCRA membership year runs from January – December. To see the year for which you've paid, look at your address label on this newsletter. Following your name is a 4-digit number which is the year for which you've paid. If it says 2019, we have not yet received your payment for 2020. Please use the Membership Form in this issue to renew for 2020. Payments ($25 for an individual, $35 for a couple) may be sent to Stuart Groman, 3939 Walnut Ave., #385, Carmichael, 95608. Contributions in addition to dues are always welcome!

Speakers Available

Members of the board are available to speak at your community. Contact Margaret Griffin at info@calcra.org or (916) 573-1247 for more information.