

CANHR 2004: PROGRAM REPORT

The growing number of elders and their families needing information about long-term care options in California manifested itself with a marked increase in the number of inquiries to CANHR's consumer hotline and an increase in e-mail inquiries through the new website feedback form. CANHR's major activities in 2004 are as follows:

Consumer Information and Education

During 2004, CANHR staff made over 245 presentations to community groups, family councils, social workers, health care providers, government agency staff and other advocates and policy makers throughout California. Topics included Medi-Cal for long-term care, estate recovery, residential care rights, family councils and elder abuse, among others.

In addition, CANHR's consumer hotline, family council list serve and web feedback system responded to nearly 1,700 inquiries a month, providing pre-placement counseling, information on residents' and consumer rights, legal services support and referrals through our Lawyer Referral Services.

Residential Care Guide

In January 2004, CANHR launched the "residential care guide" as a part of the www.canhr.org web site. Like its sister site, "nursing home guide," the site offers information on ownership, special services and capacity for over 6,600 residential care facilities for the elderly (RCFEs) in California. The Bay Area portion of the site includes more detailed information on services for those facilities that responded to CANHR's RCFE survey.

Funded in part by a grant from the Evelyn and Walter Haas, Jr. Fund, the site offers RCFE/assisted living consumers important information on all aspects of assisted living, including options, fees, admission agreements and residents' rights. Most of the consumer

information has been translated into Spanish and Chinese and posted on the site as well. A special links section enables consumers to access other related sites. During 2005, the site will be expanded to include more detailed information on RCFEs in other counties.

Elder Abuse Lawsuits

In early 2004, CANHR released the first comprehensive study of actual elder abuse lawsuits filed against California's nursing homes. In an effort to diminish the rights of abused elders and disabled, the nursing home industry has repeatedly claimed that "thousands of frivolous elder abuse lawsuits" are responsible for the sharp increase in their liability insurance premiums.

A CANHR study of actual lawsuits filed during the three-year period of 2000-2002, in 16 California counties, covering 577 freestanding skilled nursing facilities with 50% of the licensed beds in California, indicates just the opposite.

see *Program Report* cont. on pg. 3

Highlights This Issue:

CANHR News	2
Legislation: Tort Reform Targets Elder Abuse Victims ...	5
Long Term Care News	6
Citation Report	7
Did You Know: Intra-Facility Transfer Rights	13
Dear Advocate: AB 1629	13
CANHR on the Move	14
RCFE Corner	15
CCRC Corner: Financial Planning	16
2005 Rate & Cost of Living Increases ...	18

In fact, very few elder abuse lawsuits are actually filed and those that are filed are anything but frivolous - all of them involving death or serious injury or neglect. 23% of the facilities included in the study were responsible for 71% of the 501 lawsuits filed. Titled, *“Much Ado About Nothing: Debunking the Myth of Frequent and Frivolous Elder Abuse Lawsuits Against California’s Nursing Homes,”* the report was distributed to key organizations, policy makers, and legislators. The report includes legislative and policy recommendations and is available on the CANHR web site at: www.canhr.org.

Los Angeles Office

The end of 2003 marked the reopening of a Southern California office for CANHR. Mike Connors, a long-time advocate from Michigan, is now a full-time advocate for CANHR and has implemented a major outreach and education campaign for long-term care consumers in Southern California, focusing on Family Council organizing and residents’ rights issues.

Medi-Cal Recovery

With an appellate victory in the CANHR v. Bonta case, a class action lawsuit against California’s Department of Health Services, CANHR signed a settlement agreement with the Department. Since the beginning of 2004, CANHR staff has been working with the Department and their counsel to develop comprehensive and comprehensible regulations to provide consumers and advocates with fair and equitable regulatory standards for the Medi-Cal recovery program. These new regulation packages are expected to be finalized by the end of 2004.

Legal Services Delivery

As a qualified Legal Services Support Center, CANHR staff provided California’s legal services projects with training, advocacy assistance and/or technical assistance. CANHR staff also assisted hundreds of individual clients referred by legal services programs and others on a variety of issues, including illegal nursing home transfers, estate recovery, recoupment of money from facilities, Medi-Cal issues, conservatorship, elder fiduciary and physical abuse and nursing home abuse cases. CANHR staff also provided several on-site trainings to legal services

programs, focusing on representation of low-income elders in Medi-Cal recovery appeals and in elder fiduciary abuse cases.

CANHR’s Lawyer Referral Service currently has 140 participating attorneys on nine specialized panels, all of whom have agreed to accept at least two pro bono and two reduced fee cases per year. In 2004, the LRS referred over 700 clients to panel attorneys and assisted hundreds of other consumers with various legal and consumer problems.

Public Policy Efforts

During 2004, CANHR staff provided expertise to numerous federal and state agencies and legislative staff.

Federal Health and Human Services: CANHR’s Executive Director was appointed to the federal Department of Health and Human Services/AARP Technical Expert Panels on Medicaid Estate Recovery and on Annuities.

CANHR was the only consumer advocacy group asked to participate, and the consumer perspective is particularly important if we want to retain equitable rules regarding transfers of assets and recovery. Both of these panels have met in Washington, D.C. twice since early 2004 and recommendations are expected to be released in early 2005.

State Regulatory Agencies: CANHR staff also met regularly with representatives of the Department of Social Services (DSS) and the Department of Health Services (DHS) to discuss issues pertaining to residential care, nursing homes and Medi-Cal. In 2004, staff participated in all scheduled “Medi-Cal Redesign” meetings sponsored by DHS in their efforts to obtain “stakeholder” input into the planned redesign of the state’s Medi-Cal program.

CANHR was also asked to provide comments on the California Performance Review recommendations released August 3, 2004. These recommendations will form the basis of potentially unprecedented departmental, structural, fiscal and policy changes in California, and are of great concern to CANHR.

Medi-Cal Rules: As the Department of Health Services tried (unsuccessfully) to pass onerous transfer of asset rules, first through legislation (AB 2102), then through the budget process, CANHR took a major role

in preventing the passage of these restrictive proposals. CANHR was asked by legislative staff to participate in meetings with the various budget committee staff, Department of Finance staff and the Department of Health Services to represent the consumer perspective. CANHR will closely monitor any proposed changes in Medi-Cal in 2005.

Oversight and Enforcement: Over the past two years, the budgets of the enforcement agencies mandated to oversee facilities for frail elders and the disabled have been cut to the point where they are dysfunctional. The Department of Social Services (DSS) had its budget cut by over 20% and the 2003 budget cut the annual surveys of California's 6,600+ residential care facilities for the elderly to once every five years. As a result, more and more elders are having their rates increased illegally, being unlawfully evicted, facing abuse and otherwise having their rights violated with no recourse from the oversight agency.

SB 1662 (Soto), sponsored by CANHR, was signed by the Governor. This new law requires advanced notice of level of care rate increases and an itemization of costs.

California's DHS Licensing and Certification agency, which oversees nursing homes, has also faced extensive budget cuts and greatly reduced their complaint response system. California's oversight and enforcement system for long term care facilities is now incapable of protecting residents' lives, much less their rights. All of these problems have increased the demands on CANHR's services, as it appears that consumers have few resources for long term care advocacy.

Tort Reform: Over the past two years, various nursing home corporations and the Service Employees International Union (SEIU), which represents thousands of nursing home workers and home health aides, among others, have formed an "Alliance" to pursue their mutual goals of more money for the nursing home industry and more money and more members for the union. A number of nursing home operators, who previously spent thousands of dollars on union busting, have now laid down their arms and embraced the "Alliance," promising the union higher wages for staff and greater opportunities to organize in their facilities in exchange for more money and tort reform.

None of their proposed "reforms" would benefit nursing home or RCFE residents, but instead would restrict their rights and allow substandard facilities to flourish. For more information on the tort reform issue, see the "Tort Reform" article in this issue.

With our own alliance of CANHR, AARP, the Alzheimer's Association and various other advocacy groups, we were able to defeat tort reform this year, but we need to be prepared to protect residents' rights once again in 2005. The provider/union alliance has pledged to renew their efforts to diminish residents' rights to sue in the next legislative session.

Join us in 2005 for our *Residents' Rights Protection Campaign* and help us strengthen the rights for California's long-term care consumers.



Workplace Giving

California Advocates for Nursing Home Reform is participating as a "non-affiliated beneficiary agency" in the **United Way Work Place Giving Campaign** for 2005.

As a Certified Community Campaign Agency, we are participating in:

- The Bay Area Community Campaign
- The California State Employees Charitable Giving Campaign
- The Combined Federal Campaign

When the campaign comes your way, consider making a charitable contribution to CANHR through payroll deductions. Write in CANHR's name and address or, where appropriate, designate CANHR by using our designation code identified in the campaign brochure.

Your contribution will help to support the many services CANHR provides. A full description of CANHR services is available at CANHR's website (www.canhr.org).