

CANHR

Long Term Care Justice and Advocacy

PROGRAM REPORT 2010

For the past 27 years, California Advocates for Nursing Home Reform (CANHR) has been dedicated to improving the choices, care and quality of life for California's long term care consumers. Through direct advocacy, community education, public policy and litigation, it has been CANHR's goal to educate and support long term care consumers and advocates regarding the rights and remedies under the law, and to create a united voice for long term care reform and humane alternatives to institutionalization.

Although CANHR is known for its work on nursing home reform issues, our staff deals with a variety of issues affecting long term care consumers and their caregivers, including conservatorships, health care directives, elder financial and institutional abuse, home and community based services, assisted living and funding of long term care. With your help in 2011, we can continue to make a difference and to provide consumers with the information and assistance they need. Following are some of the highlights of CANHR's work in 2010:

Residential Care For the Elderly (RCFEs)

For the past several years, CANHR has coordinated the RCFE Advocacy Coalition, a coalition of advocates, legal services and ombudsman programs, to work with Community Care Licensing's Senior Care Policy Team in updating and clarifying their CCLD Evaluator Manual for RCFE Eviction Procedures. This Manual gives direction to the Licensing Program Analysts (the people who investigate eviction complaints) on how to handle evictions. Fortunately, many of the consumer protections suggested by the Coalition were incorporated into the manual, and we are hopeful that RCFE residents will be offered far better protections from evictions in the future.

On January 1, 2010, the RCFE Eviction Protection Act went into effect. This CANHR-sponsored law (AB 781-Leno) strengthens eviction protections by requiring RCFEs to notify residents in writing of their rights when faced with an eviction and requires facilities to provide a list of resources available to identify alternative housing and care options.

Continuing Care Retirement Communities (CCRCs)

A major project for CANHR in 2010 was the revision our [CCRC Web page](#) to provide more information on California's Continuing Care Retirement Communities (CCRCs). The site now includes detailed information on how to locate a CCRC, CCRC Rights, consumer fact sheets, Key Resources and a FREE download of CANHR's booklet, "**How to Choose a CCRC.**" The site is the first of its kind and CANHR has already received much positive feedback.

On January 1, 2010, AB 407 (Beall) became effective. This CCRC bill, co-sponsored in 2009 by CANHR and CALCRA, requires a Continuing Care Retirement Community (CCRC) provider faced with a permanent closure to ensure residents have adequate time to find new housing and to ensure that residents receive adequate compensation should they be required to move.

Nursing Home Advocacy

CANHR's staff attorney, Tony Chicotel, along with one of our LRS attorneys, successfully litigated against a California nursing home for illegally medicating a resident with antipsychotic medications. The resident was given antipsychotics without his consent or the consent of his legal surrogate. He suffered a massive decline following the administration of medication and nearly died. This is one of numerous cases that has informed CANHR's advocacy on nursing home resident rights enforcement and

has resulted in a special **Nursing Home Resident Self-Determination Project** including consumer education, the development of enforcement protocols for informed consent requirements prior to the use of psychotropic drugs and a strategic plan to enable legal services programs to pursue resident rights cases for nursing home consumers and elder abuse cases.

In October 2010, CANHR launched a statewide **Campaign to Fight Drugging of Nursing Home Residents**. CANHR's campaign combines practical advice for nursing home residents and their families on how to stop misuse of the drugs along with a broad movement to raise awareness about the drugging problem, strengthen laws and target offenders. Some key features include:

A first-of-its-kind website, www.canhr.org/stop-drugging, that focuses exclusively on describing, fighting and ending the pervasive use of antipsychotic drugs as chemical restraints in nursing homes; a free consumer guide on how to fight nursing home misuse of psychoactive drugs; a CANHR video series on how to prevent drugging of nursing home residents; specific information on each California nursing home's use of antipsychotic drugs and other psychoactive medications; and a petition urging the Governor to crack down on nursing home misuse of psychoactive drugs. [The Stop Drugging Our Elders Blog](#) features regular commentary by CANHR staff and special guests.

Consumer Resources

CANHR developed several useful consumer and policy guides in 2010, including:

- **California Conservatorship Defense – A Guide for Advocates**. This Guide is believed to be the first publication devoted exclusively to the representation of probate conservatees faced with massive deprivations of their rights. The issues covered include the ethical implications of representing a person with alleged mental capacity problems, fighting the standard of proof, and ways of limiting a conservator's powers.
- **Toxic Medicine: What You Should Know to Fight the Misuse of Psychoactive Drugs in Nursing Homes**. The new guidebook covers all of the basics regarding psychoactive drugs in nursing homes, from a description of their uses and side effects to an examination of the applicable laws. Most importantly, the guide gives practical tips for nursing home residents or their family members to prevent misuse of psychoactive drugs.
- **Physician's Orders for Life Sustaining Treatment (POLST) – Problems and Recommendations**. This policy analysis is devoted to assessing POLST – from the good to the bad to the ugly. The analysis begins with an overview of the positive features of POLST as an advance care planning tool. The discussion then shifts to the considerable problems that POLST presents, from the form itself to its statutory foundation and subsequent implementation. The analysis concludes with a lengthy list of recommendations for eliminating or reducing some of the POLST problems. A full copy of the POLST white paper is available on CANHR's Web site.

www.canhr.org

CANHR's web site, www.canhr.org and its two search sites, [Nursing Home Guide](#) and [Residential Care Guide](#), received over 16,000 visitors per month. These include consumers, legal services and private bar attorneys, long-term care professionals and others. The Web site feedback form allows consumers to get answers to questions and referrals on a daily basis providing pre-placement counseling, information on resident and consumer rights, legal services support and referrals through our Lawyer Referral Service. All of the consumer fact sheets can be downloaded, and most are available in Spanish and Chinese.

Consumer Outreach & Advocacy

During 2010, CANHR staff made over 160 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 financial abuse, among others. The information that CANHR receives from consumers and legal services staff informs our advocacy and helps us to direct our resources to those policy areas identified by consumers of care and their advocates.

CANHR also assists with nursing home Family Council organizing, which involves speaking to family councils, providing technical assistance to family councils and promoting family council organizing whenever possible. **CANHR's Family Council CD, "Organizing a Family Council,"** along with the Family Council Organizing materials, was distributed without charge to over 120 consumers in California and around the country. Mike Connors, CANHR's Southern California Advocate, worked closely with the Family Council at the Motion Picture Home to keep this renowned facility from evicting the nursing home residents and to keep the home open.

Legal Services Delivery

As a qualified Legal Services Support Center, CANHR staff provided California's legal services projects with training, advocacy assistance and technical assistance. CANHR presented a number of trainings – both on-site and on-line- to legal services staff on legal issues such as resident rights, Medi-Cal, health care decision making and special needs trusts, and assisted individual legal services staff with technical assistance and consultations in response to phone or email requests for assistance. With foundation support, CANHR was able to offer scholarships to 25 legal services staff for special litigation training in conjunction with our annual Elder Law Conference in November 2010. CANHR staff also assisted hundreds of individual clients referred by legal services programs and others on a variety of long term care-related issues.

Public Policy Advocacy

Administrative Advocacy: During the past year, as a member of the AB 1629 Nursing Home Reimbursement Workgroup, CANHR helped coordinate advocacy input into the nursing home reimbursement system. Because of the work of advocates, including CANHR, the Medi-Cal reimbursement reauthorization budget bill eliminated Medi-Cal's \$160 million bonus system for nursing home operators and directed Medi-Cal to develop a less expensive reward system. It restricts, but does not eliminate, Medi-Cal payments for nursing home legal fees and liability insurance. The law requires the Department of Public Health to evaluate nursing home compliance with minimum staffing standards and establishes limited fines for noncompliance. The bill also provides \$1.9 million for local long term care ombudsman programs, restoring some of the funds lost through budget cuts in previous years.

CANHR also led an ad hoc coalition of health care consumer advocates in shaping the Physicians Order for Life Sustaining Treatment (POLST) form revisions due in 2011. The coalition contributed formal comments to the state task force charged with revising the form and met with its leadership. Many of the coalition's recommendations were incorporated into the new draft POLST form. The revisions are currently being reviewed by the Emergency Medical Services Authority and will likely be adopted for state implementation in the next few months.

Legislative Hearings: CANHR's staff presented testimony at a number of legislative and committee hearings on issues such as residential care rights and nursing home enforcement issues, and, at the request of legislative staff, provided background information and assistance on issues such as elder financial abuse, the ombudsman program, Medi-Cal and Special Needs Trusts.

Awards/Recognitions

Prescott Cole, CANHR's Senior Staff Attorney, was selected by California Lawyer Magazine as a **2010 Clay Award winner and Attorney of the Year**. Prescott was honored in the category of Elder Law for spearheading AB 329 (Feuer), which established new protections for seniors against reverse

mortgage predators. Those of you who know Prescott also know his relentless advocacy for protections against elder abuse that has resulted in many successes on the state and national level. We are proud of Prescott and all he has done throughout the last 14 years with CANHR.

Memorials

2010 was marked by the deaths of **Walter Rosen** and **Ed Pope**. Walter Rosen was a long time member of CANHR's LRS Advisory Committee, a renowned elder law attorney and an ardent supporter of CANHR's work. Walter will be remembered for his passionate advocacy for ethics in the law and for justice for our elders and was truly beloved by his colleagues at CANHR. Ed Pope was a reporter and editor for the San Jose Mercury News for many years whose scathing series of articles on California's nursing homes called "No Place to Die: California's Nursing Home," led to numerous oversight hearings at the state level and, ultimately, to a number of new laws to protect nursing home residents in California. Their deaths leave a hole in our hearts.

A Special Thank You

CANHR's work in 2010 was made possible by the support of thousands of individual members and donors and by the volunteer time and expertise of CANHR's LRS Advisory Committee and our Board of Directors. We owe a special thanks to these unique individuals. Nor could CANHR do its work without the contributions of the private bar, legal services staff and other long term care advocates who have donated time and expertise to our trainings and newsletters throughout 2010.

Financial Support

We sincerely thank the hundreds of CANHR supporters who sent individual donations to support our work in 2010.

We also thank the following organizations/foundations for their support in 2010:

The State Bar of California, Legal Services Trust Fund Program
The van Loben Sels/RembeRock Foundation
The Wallace Alexander Gerbode Foundation
Southern California Council of Elder Law Attorneys
Consumer Attorneys of California Foundation
Law Offices of Michael F. Moran
Law Offices of Peter Lomhoff
Majors & Fox, LLP

Join CANHR's Campaign to Stop Chemical Restraints in Nursing Homes

CANHR's Stop the Drugging Campaign in 2011 will focus on stopping nursing homes and doctors from misusing dangerous antipsychotic drugs and other types of psychoactive drugs to chemically restrain residents and to replace drugging with individualized care. Through education, advocacy and political action, we seek to bring Californians together to end this harmful practice. Join us at www.canhr.org/stop-drugging to sign the petition and get involved in the campaign.

We thank all of you who have supported CANHR's work over the years and particularly during this past year, and we hope that you will join us in 2011 to continue to mobilize for justice and a better quality of life for all long term care consumers.

CANHR's financial statements are available through the California Attorney General's Office web site <http://ag.ca.gov/charities/> or upon request from the CANHR office.