WE MOURN WITH YOU

Over 3,000 California residents have died from the coronavirus in long term care facilities since March 2020. Our hearts go out to all who love and cherish each of them. We join you in your mourning, share your profound grief and feel deeply your sense of loss. Those who suffered and died so tragically are not numbers or statistics, they are our beloved mothers and fathers, grandparents, siblings, children, aunts and uncles, friends and neighbors. We pledge to remember and honor all of them as we renew our fight to establish a just and humane long term care system in California that provides high quality care to all those who need it in the setting of their choice.

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In this special COVID-19 edition of the Advocate, CANHR is including our recent reports to policymakers to address the awful toll the virus has had in long term care facilities. The first report, the “COVID-19 Action Plan,” comprises our recommendations to prevent the spread of COVID-19 and related deaths. We first posted this plan in April on our website and we are happy to report that some of our early recommendations were adopted. Others have been only partially adopted or ignored. Much work remains to be done to protect long term care facility residents. The second report is our “Ten-Point Plan to Reform California Nursing Homes.” This report was submitted to the California legislature to accompany CANHR’s testimony before the California legislature in June. It provides the state’s best roadmap for improving the lives of nursing home residents and making better use of the state’s resources spent on long term care.

During the COVID-19 crisis, years of poor care and the state’s tolerance of poor care in long term care facilities has come to haunt us as thousands of residents have died, alone without their families, and thousands more have been infected. We put a lot of time and thought into our reports but now we need action and real reform. We’re thankful for your support as we pursue the adoption of these recommendations.
COVID-19 Action Plan

CANHR COVID-19 Action Plan to Save Lives of Residents of California Nursing Homes and Assisted Living Facilities

End the ban on visitation
The visitation ban has harmed residents by isolating them and contributing to unmet needs and neglect. Give every resident the right to at least one support-person visitor to visit in-person until the time when full visitation rights can be restored. Establish reasonable infection control precautions for support-person visitors and provide training on safe visitation. Visitation saves lives!

Stop COVID-19 from being introduced into long term care facilities
Order facilities with no known or suspected COVID-19 outbreaks to refuse admission to any outside patients who have tested positive for COVID-19. When COVID-19 enters long term care facilities, it is highly likely to spread and kill residents despite precautions.

Designate facilities to provide care to COVID-19 patients after they are discharged from hospitals
Establish COVID-19 dedicated post-acute care facilities in counties and require all hospital post-discharge patients to be tested for COVID-19 and if positive, transferred to such facilities. Current facility residents should not be displaced to create COVID-19 dedicated facilities; rather, available empty spaces should be used. Set strong standards for dedicated facilities. Ban operators and facilities with poor track records or histories of outbreaks or non-compliance from designation. Post information on designated facilities.

Monitor on a daily basis facilities with residents or staff who have COVID-19
Assign an inspector to conduct daily onsite monitoring visits at each facility with residents or staff who have active COVID-19 and at facilities with poor compliance histories to ensure infection control practices and staffing levels are safe and to sound the alarm on the need for immediate intervention if they are not.

Deploy strike teams to intervene at facilities when residents are endangered
At the earliest sign of a facility crisis related to COVID-19 that endangers the lives of residents, send strike teams composed of state and local health departments, local health systems, EMS, the National Guard, ombudsman programs and CMS Region 9 personnel to provide emergency leadership, medical treatment, care, testing, supplies and equipment to save the lives of residents in overburdened facilities. Each strike team should give daily public reports describing its actions, findings, resources needed and the status of residents and staff in the facility.

Ensure staffing is sufficient to keep residents safe
Require all long term care facilities to maintain safe staffing levels; to submit daily staffing reports to CDPH or CCLD, local health departments, ombudsman programs, and CMS; and to post the daily reports on facility, state and local health department websites.

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COVID-19 Action Plan

Provide “hazard pay” and paid sick leave to workers so they do not need to work in multiple long term care facilities simultaneously or need to work while sick.

To help address understaffing and prevent cross-transmission of the virus during the pandemic, require long term care facilities to pay double-time to health care workers during the crisis, and to provide at least two weeks of paid sick leave.

Fully inform the public on outbreaks at long term care facilities.

Direct state and local health departments to identify long term care facilities that have residents or staff members with positive COVID-19 test results, to fully track and report deaths of residents at each facility or following transfers, and to publicly report and update the status of facility infections and deaths on a daily basis.

Test all staff and residents frequently.

Ensure availability of testing with rapid results at all long term care facilities statewide. Impose strong penalties against facilities that fail to comply with testing requirements. Report facility-specific findings publicly and update data daily. Implement contact tracing procedures when a positive result is discovered.

Ensure availability of personal protective equipment (PPE) at long term care facilities.

Give long term care facilities high priority for distribution of PPE.

Enable residents to go home temporarily if they are able to do so.

Give residents who wish to return home temporarily the means to do so by expediting assistance to provide home caregivers, making testing readily available, and giving residents the right to return to their long term care facilities once the crisis recedes or if their stays at home become unsafe or unmanageable.

Suspend nursing home and assisted living evictions.

During the COVID-19 crisis it is nearly impossible for vulnerable people being evicted from nursing homes and assisted living facilities to find new places to live. Prevent homelessness by temporarily suspending evictions from these facilities during the pandemic.

Restoring full inspections and investigate all complaints at long term care facilities.

Inspectors and investigators are the last line of defense for facility residents who are being mistreated, neglected or abused. Require regulatory agencies to carry out comprehensive inspections and to investigate all complaints in accordance with the law.

Enforce infection control standards and residents’ rights.

Impose immediate sanctions on facilities that jeopardize residents’ lives through poor infection control or other substandard care, illegal evictions or other violations of the law. Direct inspectors to identify and document violations. Post inspection findings and sanctions on existing state websites.

Mandate transparency on infection levels.

Require facilities to inform residents, families, staff members, state and local health departments and the local long-term care ombudsman when residents or staff test positive for COVID-19 and when residents or transferred residents die due to confirmed or suspected cases of COVID-19, along with the steps the facility is taking to treat infected residents and to protect other residents. Impose strong penalties on facilities that fail to report or submit false data.

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COVID-19 has caused unprecedented devastation and tragedy in nursing homes. Years of understaffing, poor infection control and toothless enforcement of the standards of care have led to dangerous habits and significant tolerance for poor care. When the virus came to California, its nursing homes were universally unprepared to protect their residents and staff, and most were simply incapable of good preventive care because they had never seen it.

Nursing home residents are scared, angry and frustrated. Too many of them have died. The pandemic has forced the public’s attention to the corrosive state of affairs in long term care and to the yawning gap between the care we are paying for as taxpayers and the care that is actually delivered to residents.

COVID-19 alone has not killed more than 2,400 nursing home residents as of June 2020. Inattention and indifference from policymakers have fostered a long term care system that encourages institutionalization, marginalization and neglect.

There is a better way. California can undertake several actions to reduce the suffering in nursing homes. The following are some of the most important.

**One ➔ Give top priority to helping people stay out of nursing homes.**

Californians who need long term care overwhelmingly prefer to receive it at home or in community settings rather than in nursing homes, which are widely feared. Home care is not only more popular, it is generally far less expensive and dangerous than nursing home care.

California should reform its impenetrable long term care system to serve this priority. Make it easy for people needing long term care to get it at home or in home-like settings. Doing so will force nursing homes to become more livable places in order to remain in business.

How can it be that the Newsom and Trump Administrations are currently pumping hundreds of millions of new dollars into California nursing homes where thousands have died and not adding funds to vital programs that help vulnerable people get care at home?

**Two ➔ Put the “home” back in nursing homes.**

One of the greatest fears about nursing homes is that one will be warehoused in a dirty, smelly, institutional facility where three-to-four residents are crammed into small rooms and have their privacy and dignity stripped away. Indeed, that is the grim reality for far too many nursing home residents in California, where the environmental standards for nursing homes are almost as old and outdated as many of the facilities. California should set new standards calling for spacious private or semi-private (no more than two residents) rooms with modern bathrooms, bathing facilities, therapy rooms and homelike design that give residents a fighting chance to survive future outbreaks of infectious diseases. Operators who fail to modernize their facilities should be forced to give up their licenses.

How can it be that billionaire nursing home operators who own decrepit facilities are posing as wards of the state, making excuses that it is up to the state, not themselves, to pay to modernize their warehouses?

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CANHR’s Ten-Point Plan to Reform California Nursing Homes

Three ☐ Set safe staffing levels.

California nursing home operators have been quick to credit the heroic work of their caregivers during the pandemic, but actions by operators have often been far from heroic. From the safety of their luxury mansions, chain operators expose caregivers to dangerous working conditions while paying them so little. Getting sick is not an option as caregivers are forced to work two to three jobs in order to make a living. California’s minimum staffing requirements for nursing homes are manifestly unsafe, with operators fighting reforms at every turn. The poor quality of nursing home care cannot be improved until safe staffing standards are set and enforced and caregivers are paid living wages.

How can it be that one of the first actions taken by the California Department of Public Health at the outset of the crisis was to waive California’s inadequate, loophole-ridden minimum staffing requirements for nursing homes?

Four ☐ Put the “nursing” back in nursing homes.

At a time when advanced nursing skills have never been more needed to safely care for residents with complex health needs, registered nurses (RNs) with these skills have become nearly extinct in many nursing homes, especially so in facilities that have experienced deadly outbreaks. It is not uncommon for nursing homes to operate without RNs on afternoon and night shifts or at all on weekends. Residents routinely die in nursing homes because they lack experienced RNs to assess and respond to their needs during medical emergencies. At a minimum, California should require nursing homes to have RNs engaged in direct care 24 hours a day, 7 days a week, with no less than .75 hours of RN time per resident each day.

How can it be that California law does not set minimum requirements on RN staffing in nursing homes?

Five ☐ Ensure nursing homes are prepared for emergencies and pandemics.

In today’s California, where the pandemic and wildfire season are about to collide, it is critical that nursing homes be thoroughly prepared to keep residents safe during emergencies. Yet the opposite is true. The horrific and ever-rising COVID-19 death toll in nursing homes is one indicator of failings but there are many others. At this moment, few California nursing home operators are prepared to keep residents safe during the Public Safety Power Shutoffs (PSPS) and other types of emergencies that are right around the corner. Rather than addressing this danger head-on, the nursing home industry and the California Department of Public Health are fighting and obstructing legislation (SB 1207) aiming to address it.

How can it be that the federal HHS Office of Inspector General (OIG) recently found over 300 violations of emergency preparedness and life safety code requirements in 19 California nursing homes it visited and that OIG concluded that the California Department of Public Health is not enforcing these requirements?
Six ⇧ Crack down on nursing home slumlords.

The pandemic has exposed horrific conditions in many California nursing homes, where even in the best of times residents are often subjected to life-threatening infections, mistreatment, neglect and abuse. Every year, California nursing home inspectors document epidemic levels of elder abuse in California nursing homes, but state officials take no meaningful actions to prevent abuses from happening again and again. California’s nursing home slumlords operate with impunity and without concern that even the most shocking cases of abuse and neglect will threaten their licenses or business model. The state’s enforcement system needs to be overhauled, but one immediate action that would get the attention of slumlords is a ban on admitting new residents when violations are detected. The Legislature should authorize this sanction and direct that it be applied whenever infection control violations are detected or any other deficiencies present risks to resident health and safety.

How can it be that California nursing homes receive no sanctions of any type for 99 percent of infection control violations cited by the California Department of Public Health?

Seven ⇧ Remove the welcome mat for bad actors.

Shockingly, operators no longer need a license to own or run nursing homes in California. Virtually anyone or any company can acquire nursing homes in California, no matter how terrible their track record, incompetent, or financially unqualified they may be. The Department of Public Health’s longstanding failure to screen out unfit operators as required by law is like a welcome sign to bad actors who see opportunities to exploit nursing home residents for profit. As a result, California nursing homes are dominated by for-profit chains that, at best, are known for putting profits over care and, at worst, for routinely exposing residents to neglect and abuse that is causing residents to suffer severe harm, misery and torturous deaths. California must finally start enforcing its current licensure screening requirements and must strengthen them to prevent unqualified, unsuitable and unscrupulous persons or companies from acquiring and operating nursing homes.

How can it be that the California Department of Public Health allows known bad actors to own and run nursing homes without ever obtaining a license and continues to allow unfit operators to do so even after denying them licenses due to dangerous conditions in their facilities?
CANHR’s Ten-Point Plan to Reform California Nursing Homes

Eight ⊗ Ban self-dealing schemes that enrich nursing home operators.

California’s Medi-Cal rate system for skilled nursing facilities – known as AB 1629 – is a magnet for bad actors seeking to profit at the expense of residents’ and the Medi-Cal program. The rate system allows wealthy operators to siphon off vast amounts of Medi-Cal funds intended for care and staffing through self-dealing schemes. A 2018 investigation by the State Auditor found that California nursing home chain payments to related parties grew astronomically in recent years, with annual transactions now exceeding $1 billion. Incredibly, the Administration’s current budget plan would extend the failed AB 1629 rate system for another five years, allowing nursing home chains to continue to systematically loot the Medi-Cal program while also granting nursing home operators large rate increases that will cost the California budget hundreds of millions of dollars over this period.

How can it be that California would extend the failed AB 1629 rate system for another five years and expend vast new sums on substandard nursing home care that will come at the direct expense of home and community-based services that Californians prefer?

Nine ⊗ Strengthen opportunities for elder abuse victims to obtain justice.

The California Department of Public Health has for decades proven incapable of enforcing our standards of care and protecting residents from abuse, neglect, and violations of their rights. Residents are far more motivated to protect themselves than bureaucrats but are not given the tools to do so. Ubiquitous pre-dispute arbitration agreements deny justice to victims of abuse and neglect. The burden of proof for physical abuse cases is inexplicably higher than it is for financial abuse. The private right of action for violations of resident rights has been undermined by its ambiguity and age. The legislature should free residents to enforce the laws designed to protect them.

How can it be that understaffing is posted publicly and the Department yawns? That residents are routinely drugged to keep them “manageable” and nothing is done? Or that residents are illegally dumped into homeless shelters, motels, and hospitals and the Department shamelessly fights to do nothing about it.

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Ten

Declare independence from the nursing home industry.

The Administration, Legislature and the Department of Public Health need to finally break free from the grip of the nursing home industry, which has virtually controlled state policymaking and budget decisions involving nursing homes for nearly two decades. While the means through which the industry has obtained such powerful influence is worthy of investigation, its existence is not in any doubt. For all practical purposes, unscrupulous nursing home chains in California hold virtual veto power over nursing home reform legislation of any consequence.

How can it be that nearly two decades have passed since California last enacted major reforms to improve the quality of nursing home care?

How can it be that the California Department of Public Health never speaks out about the epidemic of elder abuse that has occurred in California nursing homes and stands silent even today about the thousands of neglected residents who are suffering and dying alone in substandard nursing homes?

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Call the CANHR office or email patm@canhr.org to get more information and a free booklet on planned giving.
The evolving Coronavirus Crisis has had a worldwide impact that will take a long time to become fully understood. At the beginning of the crisis, in an effort to keep you all better informed, we created a website, 

https://canhrnews.com/

specifically for COVID-19 information, news and resources related to Long Term Care. For the duration of this crisis, we are posting frequent updates there. The website contains over 670 pages, and is growing daily.

See the guide below for an overview of the many resources you can find there.
Give To CANHR

How Your Gift Helps
Your contributions help CANHR grow and thrive, so we can extend our services and support to ever more long term care consumers and their family members.

Why Donate?
CANHR is not a government agency. We are funded by membership donations, foundation grants, and publication sales. To continue our work, we need the support of people like you who are unwilling to ignore the abuse and loss that the elderly and disabled in this state suffer in long term care facilities.

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