The previously unthinkable evisceration of visitation rights began in March of 2020 when the Centers for Medicare and Medicaid Services (CMS) imposed a near-total lockout of all visitors in virtually all U.S. nursing homes to prevent the introduction and spread of COVID-19. CMS was well-intentioned of course, trying to protect residents with what was anticipated to be a short, temporary safety measure. However, in locking out visitors, CMS demonstrated profound myopia about resident well-being. CMS was ignorant to think that visitors would be the vehicle for COVID-19 spread in nursing homes - that turned out to be facility staff members. CMS was also ignorant to think that stopping visitors would be a net benefit to residents’ health and well-being. It turns out that the family members and friends who visit residents not only keep residents engaged, connected, and happy, but they also provide a significant portion of the care that many residents receive. Locking out visitors cut a vital lifeline of care and well-being for long term care residents and they suffered immensely.

As the calendar turns to 2022, long term care residents and their family members and friends are close to entering their third year of COVID-19 related restrictions on their right to see and visit one another. These unfathomable and, in many ways, unconscionable limitations have exacted an incalculable toll on the health and well-being of hundreds of thousands of residents throughout the state and continue to be facilitated by a frustrating dispersion of uncoordinated federal, state, and local guidance and an appalling lack of rights enforcement. The visitation rules are very fluid so please visit our websites, www.canhr.org or www.visitationsaveslives.com for the most up-to-date information and advice.

A Little History on COVID-19 Visitation Restrictions

The previously unthinkable evisceration of visitation rights began in March of 2020 when the Centers for Medicare and Medicaid Services (CMS) imposed a near-total lockout of all visitors in virtually all U.S. nursing homes to prevent the introduction and spread of COVID-19. CMS was well-intentioned of course, trying to protect residents with what was anticipated to be a short, temporary safety measure. However, in locking out visitors, CMS demonstrated profound myopia about resident well-being. CMS was ignorant to think that visitors would be the vehicle for COVID-19 spread in nursing homes - that turned out to be facility staff members. CMS was also ignorant to think that stopping visitors would be a net benefit to residents’ health and well-being. It turns out that the family members and friends who visit residents not only keep residents engaged, connected, and happy, but they also provide a significant portion of the care that many residents receive. Locking out visitors cut a vital lifeline of care and well-being for long term care residents and they suffered immensely.

[continued on page 3]
Goodbye to 2021 and thank you for your support!

We want to thank everyone who generously contributed money, time and/or resources to CANHR throughout 2021. A very special thank-you goes to those of you who wrote letters to legislators in support of our bills; and a special thank you to those who advocated on behalf of your family members, friends and residents in long term care to make their lives better, and in many cases - to save their lives.

We don’t know what 2022 will bring, but we do know that this has been a terrible year for long term care residents, who have been denied family members, friends and other visitors, along with a total lack of oversight, leaving them prisoners of this terrible long term care system. All of us at CANHR will work in the year 2022 to reform a “system” that leaves so many vulnerable to the whims of a for-profit industry and a reluctant enforcement agency.

Leave a Legacy

Planned giving leaves a legacy to honor your memory or that of someone you love and helps to ensure the future of CANHR. With careful planning, it is possible to reduce or eliminate income and estate taxes while turning appreciated assets into income for yourself or others. Call the CANHR office or email maura@canhr.org to get more information and a free booklet on planned giving.

Donate to CANHR When You Shop on Amazon

It’s not just for the holidays! Any time of the year Amazon will donate 0.5% of the price of your eligible Amazon purchases to California Advocates for Nursing Home Reform whenever you shop on AmazonSmile. AmazonSmile is the same Amazon you know - same products, prices, and service. Support CANHR by shopping at smile.amazon.com. On your first visit to AmazonSmile you will need to approve “California Advocates for Nursing Home Reform” as the charitable organization to receive donations from eligible purchases before you begin shopping. Amazon will remember your selection, and then every eligible purchase you make at smile.amazon.com will result in a donation.

Donate to CANHR

CANHR’s funding has significantly dropped as a result of the pandemic. A donation – however large or small - can make a difference in our advocacy.

We wish you joy, wellness and peace in 2022, and, with your support, we’ll continue to advocate for the rights of all long term care residents.
Whither Visitation?

[continued from page 1]

Since March of 2020, the visitation lockout has slowly receded. Outdoor visits were mandated by California’s Department of Public Health (CDPH) in June 2020. Indoor visits, albeit with heavy limitations, were restored in September 2020. In-room visits became mandatory at facilities that were COVID-free. Assisted living facility policy largely followed suit.

However, most of 2021 was marked by an uncomfortable stasis: some long term care facilities provided robust visitation opportunities to residents while other residents were lucky to get a half-hour of in-person visits per week. What was left of residents’ right to visitation was barely enforced, fostering a climate of do-it-yourself lawlessness regarding visitation, where each facility was able to make up its own rules based on its own predilections.

CMS QSO-20-39 Restores Visitation in Nursing Homes - Oh Wait, It Doesn’t?

On November 12, 2021, CMS revised its visitation rules and largely declared that nursing home visitation restrictions were over. The new rules restored residents’ rights to unscheduled visits of unlimited frequency and duration and from as many visitors as desired. Visitors still need to follow reasonable and important infection prevention rules but visitors must be “allowed for all residents at all times.”

Unfortunately and tragically, CDPH has not aligned its visitation rules with the new CMS rules. The State rules therefore continue to provide cover for facilities with very restrictive visitation policies. Adding even more frustration, some local public health departments in counties and cities have not updated their guidance for visitation in long term care facilities. Many of these local departments have almost no experience in nursing home policy and have had very proscriptive visitation policies written as though visitation was a luxury and not a critical resident right and protection.

In many facilities throughout the state, the CMS rules have been completely ignored and vital resident visitation continues to be denied.

Where We Are and What to Do: Raise Hell!

The CMS guidance, which almost fully restores nursing home residents’ right to visitation, is the law of the land. CDPH must enforce the federal rules. It gets paid to do so. The enforcement of the CMS rules is complicated through the existence of local public health guidance that is restrictive of visitation. Facilities that do not want to adhere with the CMS rules may try to use this guidance as an excuse for non-compliance. It is unclear whether local public health departments can overrule federal and state laws but it seems highly unlikely that “guidance” or “recommendations” are tantamount to legally binding orders.

Assisted living facilities (RCFEs) are unaffected by the CMS guidance so the state Department of Social Services rules, which require robust outdoor, indoor, and in-room visitation, still apply in those facilities.

Folks who continue to suffer limitations on visits should engage in a three-part process to vindicate residents’ rights to visitation.

1. Challenge the facility to produce its current visitation policy, in writing, and cite the laws or regulations that require it to deviate from the CMS rules for visitation.

2. File a complaint with CDPH or DSS regarding any facilities that do not honor residents’ rights to visitation.

3. Write to CDPH and urge them to align the state guidance with the CMS rules. Write to local public health departments in communities that have visitation limitations that are inconsistent with the CMS rules and urge them to bring their guidance up-to-date.

In order to prevent the madness of visitation lockouts in the future, Congress is considering a bill, H.R. 3733, which would ensure that residents have access to up to two essential caregivers in any future pandemics. Several states have already adopted such laws, although California has not. Thank you to the Essential Caregiver Coalition for their tireless work to prevent future lockouts. While the bill enjoys bipartisan backing, it will need grassroots support so please call your Congressperson and encourage them to vote yes.

Your voice is critical to restoring visitation rights in California. Please use it!
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 840 pages, and is growing daily.

See the guide below for an overview of the many resources you can find there.
New Consumer Voice Report Details Lack of Adequate Staffing Standards in Nursing Homes

A new report by Consumer Voice depicts the tremendous gap between the needs of nursing home residents and the actual staffing standards in states throughout the nation. Describing state staffing standards as “severely low,” the report contrasts each state’s staffing standards with research-based standards recommended by medical and healthcare professionals to ensure quality of care. With the exception of the District of Columbia, the report finds state standards for total nursing staff time fall short – often far short – of research-backed recommended staffing standards. And only six states, not including California, require a registered nurse 24/7 at all facilities.

Chronic understaffing has been a serious problem in nursing homes for decades and has been exacerbated by the COVID-19 pandemic. The research is clear that inadequate staffing contributes to lower quality of care and poor health outcomes for residents, yet no federal staffing standard exists. The new report makes a strong case for a federal staffing standard and strengthening of state staffing requirements.

Court Finds State has “Endemic Inability” to Finish Complaint Investigation in a Timely Manner in FATE Lawsuit

On November 15, 2021, San Francisco Superior Court judge Ethan Schulman granted a Writ of Mandate against the California Department of Public Health (CDPH) for failure to complete nursing home complaint investigations within the 60 day timeframes imposed by law. Finding that CDPH “has not complied with the statutory deadlines in numerous respects” and that its noncompliance is “institutional and longstanding,” the Court ordered CDPH to develop a written plan to start complying with the law. The deadlines for complaint investigation have been around for years but complainants still routinely wait months and months, and sometimes years, for their complaints to be resolved.

The lawsuit against CDPH was brought by Foundation Aiding the Elderly (FATE), which assists clients in filing nursing home complaints and having them resolved satisfactorily.

U.S. Senate Holds Fate of Nursing Home Reforms in Build Back Better Act

On November 19, 2021, the United States House of Representatives passed its version of the Build Back Better Act, which includes five important provisions to improve protections for nursing home residents. The bill would require:

1. Nursing homes to have a registered nurse on duty 24 hours a day, 7 days a week;
2. Staffing studies to determine a recommended minimum level of staffing hours for nursing homes and the commitment to implement those recommendations;
3. Auditing of Medicare cost reports submitted by nursing homes to ensure accuracy;
4. Improving the reliability of nursing facility data collection; and
5. Improving survey and enforcement practices.

The legislation is now before the U.S. Senate, which is expected to act on it before the end of the year. Senators are facing pressure from the nursing home industry to dilute the House version and take out the staffing improvement protections.

CANHR strongly supports the nursing home resident protections and has joined with over 80 organizations in calling on Senate leadership to help enact these provisions. You can help by urging Senators Dianne Feinstein and Alex Padilla of California to support including all five of the nursing home resident protections in the Senate’s version of the Build Back Better Act.

Read an editorial by Judith Stein of the Center for Medicare Advocacy and Mairead Painter, the Connecticut State Long Term Care Ombudsman, on seizing the moment to better protect nursing home residents.

OIG Report Finds Many Problems with Nursing Home Evictions

A new report from the U.S. Health and Human Services Office of Inspector General (OIG) has found that considerable problems remain with illegal evictions in nursing homes and that a half-hearted federal effort to stop illegal evictions in 2017 has languished with uncertain results.

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Following a number of media stories about illegal evictions, CMS issued a memo loosely aimed at increasing enforcement of the myriad protections that residents are supposed to have against poorly planned and unsafe discharges. The OIG study found that while some eviction-related deficiencies issued against nursing homes rose in the few years since the CMS memo, there is no way of knowing whether CMS has had any kind of success in reducing illegal evictions – one, because CMS did not list measures for success and two, there is a paucity of data.

The OIG found that many of the organizations with responsibility for ensuring that resident protections are honored – CMS, state enforcement agencies, and the long-term care Ombudsman programs – are often uncoordinated when it comes to fighting illegal evictions and are hampered by a lack of eviction-related data. The report also notes that state agencies tasked with residents’ eviction appeals often do a poor job of actually stopping or remedying illegal evictions.

The OIG concludes its report with some modest recommendations: facility training, reengagement by CMS, and more data collection, but does not address enhanced enforcement. A second report, on nursing homes’ compliance with eviction protections, is expected soon.

Additional information:

A December 6, 2021 article by CalMatters reports that California nursing homes have filed more than 400 lawsuits since 2016 to appeal state citations and fines for neglect and abuse. The article – From maggots to sex abuse, nursing homes sue California to overturn citations, fines – states that regulators downgraded nearly a third of sanctions involving a death in these appeals. Another key finding is that California has issued more than 3,000 nursing home citations since 2016, and reduced sanctions in more than 600 of those cases.

Additionally, it reports that about 25 percent of the roughly $23.3 million in fines California has levied on skilled nursing facilities since 2016 remains unpaid.

What the article does not say is that taxpayers help subsidize nursing home legal costs to fight citations for abusing and neglecting residents in some cases. California’s Medi-Cal payment system for nursing homes – designed by the nursing home industry – allows this outrageous practice.

As is its custom with the media on nursing home oversight, the California Department of Public Health declined to grant interviews or discuss its process or criteria for deciding when to downgrade citations and fines. The state agency charged with preventing elder abuse in nursing homes almost never has anything to say on the subject.

CANHR and Partners Issue Recommendations to Reform California’s Nursing Home Payment System

On November 22, 2021, CANHR and 13 partner organizations submitted a letter and recommendations to the Department of Health Care Services (DHCS) on reforming California’s $5 billion-a-year Medi-Cal payment system for skilled nursing facilities, which is scheduled to sunset next year. The payment system, known as AB 1629, was originally enacted in 2004 and has been extended several times. Designed by the nursing home industry with promises to improve staffing and care, it has instead produced billionaire owners and epidemic levels of neglect throughout California nursing homes.

Center for Medicare Advocacy Report Asks Why Unfit Nursing Homes Are Allowed to Expand Operations

A December 6, 2021 special report by the Center for Medicare Advocacy addresses the disturbing trend of poor-quality providers expanding the numbers of nursing homes they own and operate.
The report — *Why Do Nursing Home Operators Who Provide Poor Quality Care Control Increasing Numbers of Facilities?* — cites several reasons for this trend: complex ownership structures; hidden ownership interest; state tolerance of unscrupulous operators; political influence of wealthy owners; and nursing home owners becoming too big to fail.

The report concludes that who owns or operates a nursing facility largely determines whether the facility will provide good care to its residents. This core truth is the reason CANHR is sponsoring AB 1502 (Muratsuchi), the *Skilled Nursing Facility Ownership and Management Reform Act of 2022*.

**New York Times Reports Worst Nursing Home Offenses are Hidden From the Public**

Those looking for reason to have faith in government oversight of nursing homes won’t find it in the New York Times December 9, 2021 article on how the federal Centers for Medicare and Medicaid Services (CMS) hides severe violations from the public. The article reports CMS omitted over 2,700 dangerous incidents cited by state inspectors on its Care Compare website and did not factor them into its rating system that the public uses to help select nursing homes. Violations such as sexual assaults and exposing residents to COVID-19 are being quashed during a secretive, one-sided appeals process for nursing home operators. The article is the third in a recent series of articles by the New York Times describing serious problems with the CMS rating system for nursing homes. Earlier stories reported that much of the data that powers the system is wrong and that the rating system also obscures how many residents are receiving powerful antipsychotic drugs.

**CMS Orders States to Resume Nursing Home Recertification Surveys**

On November 12, 2021, the Centers for Medicare and Medicaid Services (CMS) issued a memorandum directing state survey agencies to fully resume nursing home recertification surveys, which are the inspections conducted about once a year to evaluate compliance with federal nursing home standards.

CMS suspended recertification surveys at the beginning of the pandemic and, in August 2020, gave states the flexibility to resume them. It is now directing them to do so.

This directive could be good news for California nursing home residents if the California Department of Public Health (CDPH) pays any attention to it. CDPH, which has the largest surveyor workforce in the nation, nonetheless has one of the largest backlogs of recertification surveys in the nation. The notoriously lax CDPH largely sidelined its nursing home inspectors from conducting recertification surveys throughout the pandemic, leaving dangerous conditions in nursing homes undetected and unaddressed. As of December 6, 2021, over 60 percent of California skilled nursing facilities had not had a recertification survey in over 24 months.
California to Phase in the Elimination of the Medi-Cal Asset Test

Medi-Cal is a combined federal and California State program designed to help support the costs of medical care for public assistance recipients and other low-income individuals. Currently, seniors and people with disabilities who apply for Medi-Cal must show that they are beneath the resource limit of $2,000 for a single individual and $3,000 for couples. If an individual has more than $2,000 in non-exempt property, they will not be eligible. This resource limit, which has not been updated since 1989, counts money from savings, checking, and any excess cash surrender value of life insurance among other assets.

This year, historic legislation – AB 470 (Carillo) – was introduced to completely eliminate the Medi-Cal asset test for all non-MAGI Medi-Cal programs. The bill represents a shift away from requiring low-income individuals to spend down all of their resources in order to receive help with paying for healthcare. While AB 470 currently sits with the Senate Appropriations Committee, provisions of the bill were incorporated into AB 133, a budget bill signed into law by Governor Newsom on July 27, 2021.

Under AB 133, the state will phase in an elimination of the Medi-Cal asset test for all non-MAGI Medi-Cal programs over the next two and a half years. It is expected that around July 1, 2022, the state will raise the Medi-Cal asset limit for an individual to $130,000, $195,000 for a couple, and $65,000 for each additional family member. No sooner than January 1, 2024, the state is expected to completely eliminate the Medi-Cal asset test. The Department of Health Care Services received federal approval of its implementation plan in November, 2021, and will begin outreach to beneficiaries in July of 2022.

Medi-Cal programs affected by this change include:

- Long Term Care Medi-Cal
- Aged & Disabled Federal Poverty Level Program
- 250% Working Disabled
- Medically Needy
- Pickle

There are many different Medi-Cal programs: beneficiaries who would like to confirm their specific coverage can check their Medi-Cal Notice of Action or call the local Medi-Cal office.

CANHR supports the effort to eliminate the asset test. For too long, low income seniors and individuals with disabilities have been forced to spend down their assets in order to receive assistance with paying for healthcare. This leaves many in a precarious position should they experience a financial emergency. In addition, as a home is not counted as an asset for Medi-Cal eligibility, the current asset limits disproportionately impact renters, who do not have access to home equity to fund emergency expenses or retirement. The majority of California renters are Asian, African-American and Latino, therefore a permanent elimination of the asset test will increase equity for communities of color who need support with paying for long term healthcare.

CANHR participates in a stakeholder workgroup administered by the Department of Health Care Services regarding the state’s implementation of these changes. The workgroup reviews All County Welfare Directors Letters (ACWDL), notices, discusses beneficiary outreach efforts, and receives regular updates regarding the federal approval of the changes. CANHR will work in collaboration with advocates across the state to educate Californians about these new changes to support low income elderly and individuals with disabilities in accessing Medi-Cal.
Dear Advocate:
I receive Medi-Cal with a share of cost. My income went up a little in 2020, but I never reported the change to Medi-Cal. Will I owe Medi-Cal back payments for my share of cost? I have limited savings and I am worried I’ll lose my IHSS benefits.
Sincerely,
Worried in Wilmington

Dear Worried in Wilmington:

An emergency declaration by the Secretary of the Department of Health and Human Services allowed the government to suspend negative actions for Medi-Cal, such as increasing share of cost (except for residents of long term care facilities). After the Public Health Emergency ends, Medi-Cal will not apply share of cost increases retroactively. This means that you will not owe back payments for your share of cost. You should still complete your redetermination packet and report your change of income, but you will not receive any negative action as a result until the end of the Public Health Emergency. Your new share of cost will be applied going forward after the Public Health Emergency ends.

Did You Know… you have the right to go home for the holidays?

Nursing home residents and their family members often worry about losing their rooms or their Medicare or Medi-Cal status if they leave the facility for brief periods of time. While the rules for Medicare and Medi-Cal differ, both programs will permit, and reimburse the facility for short leaves – depending on the length of the leave. With the COVID-19 public health emergency, there are important recommendations from the Department of Public Health to remember when leaving the facility to visit family members and procedures that will be implemented upon return.

On December 8, 2021, the California Department of Public Health released guidance to nursing facilities advising them that residents may leave their facilities to celebrate with their families and friends. The letter directs facilities to educate residents about COVID-19 precautions, and infection prevention and control measures. It states that “fully vaccinated residents who leave for any duration and return to the facility do not routinely need to quarantine and be tested upon return to the facility.” Facilities are instructed to screen residents returning from outside holiday celebrations for signs and symptoms of COVID-19. Residents who leave their facility may be subject to testing or quarantine requirements if they are unvaccinated or if they are exposed to someone infected with COVID-19 while they are outside their facility.

Residents whose skilled nursing facility care is paid for by Medicare can leave the facility for short visits, subject to Medicare rules. The Medicare Policy Manual states that residents who leave the facility for an “outside pass or short leave of absence for the purpose of attending a special religious service, holiday meal, family occasion, going on a car ride, or trial visit home” can do so without losing their coverage. By taking a temporary leave of absence for these purposes, Medicare recognizes this does not necessarily indicate the resident does not meet the skilled nursing facility level of care (Chapter 8 §30.7.3). If they return by midnight, the facility can bill Medicare for the day. If the resident is gone overnight, past midnight, and returns the next day, this is considered a leave of absence and the facility can bill the beneficiary to hold the bed during an absence. Chapter1§ 30.1.1.1, outlines how Medicare beneficiaries may take a brief leave of absence by making out of pocket payments to the facility. If planning to leave temporarily, you should ask the facility what the cost will be, since the daily rate of room and board at a nursing home can be high.

Residents whose nursing home care is paid by Medi-Cal have a much more liberal leave policy, but it is also subject to certain restrictions. Under Medi-Cal rules, a leave of absence of up to 18 days per calendar year can be granted to a Medi-Cal resident of a nursing home in accordance with the resident’s plan of care, and the facility will continue to be reimbursed for care. Up to 12 additional days of leave per year in increments of two days may also be granted under certain conditions. See 22 CCR §51335 as specified conditions are outlined. The resident, family members and/or friends should ensure that provisions for leaves of absences are included in the resident’s care plan.
What’s the Deal with Reporting Resident Falls?

A fair amount of uncertainty exists in California about when long term care facilities must report falls. Individual laws and regulations are not entirely clear about what types of falls must be reported, when, and to whom. However, taken together, the rules are clear that facility staff should be diligent about reporting all falls to resident surrogate health care decisionmakers and significant falls to appropriate government agencies.

A fall is defined as movement “downward, typically rapidly and freely without control, from a higher to a lower level.” Falls are often associated with a loss of balance or a sudden change of momentum from forward to downward. Falls often result in injuries and for older adults, they can be catastrophic.

Both federal and state law require long term care providers to report all incidents of alleged abuse or neglect to the State - a requirement that is often called “mandated reporting.” Any fall that arguably resulted from neglect, abuse, or mistreatment must be reported as well as any injury that resulted from an unknown source (which could be an unobserved fall). The reporting form is the “SOC-341” and is supposed to be sent to law enforcement, the long term care Ombudsman, and the relevant licensing agency (the Dept. of Public Health for nursing homes and the Dept. of Social Services for assisted living facilities.)

Nursing homes in California are required to report all “unusual occurrences” to the State, which include “major accidents” and “unusual occurrences which threaten the welfare, safety or health of patients.” (22 Cal. Code Regs. Section 72541) This reporting requirement could include most falls in nursing homes.

While reporting falls to the State is important, perhaps even more important is informing “responsible parties” for residents who lack cognitive capacity for health care decisionmaking or have a surrogate to make decisions on their behalf. Many laws and regulations require residents and their decisionmakers to be updated and informed as to any noteworthy developments in their health status and careplan. Every fall, whether injurious or not, is an important event for assessing a resident’s needs and the adequacy of their care and should be reported to the resident’s representative if they have one.

For nursing homes, state regulations (22 Cal. Code Regs Sections 72311 and 72527 - among others) require nursing homes to document any residents’ changes in condition, revise and update care plans as needed, and keep residents and their decisionmakers informed of all care developments. Federal laws and regulations back this up, primarily at 42 Code Fed. Regs Sections 483.10 (resident rights) and 483.21 (comprehensive care resident-centered planning).

Assisted living facilities have very similar requirements as nursing homes regarding noting changes in condition and making revisions to care plans. These requirements are found in the Health and Safety Code Section 1569.80(c) and 22 Cal. Code Regs. Sections 87457, 87463, and 87466. All developments, such as falls, that could indicate a change in functioning or care needs, must be communicated to resident representatives.

The patchwork nature of the laws and regulations related to event reporting, changes in condition, and care planning and the lax enforcement of these rules means that many resident falls in long term care facilities are unreported. Nonetheless, providers have extensive reporting requirements and residents and families have every right to expect that significant falls will be reported to the State and that all falls will be reported to surrogate health care decisionmakers.
Hundreds of new California laws will become effective January 1, 2022, including many that will impact various long-term care and elder abuse issues. CANHR sponsored, supported or opposed a number of legislative proposals this session, and highlights of some of the successful bills follow. Please check https://canhrlegislation.com/ for updated details on legislation, and https://leginfo.legislature.ca.gov/ for information of specific bills.

**SB 650 (Stern): Skilled Nursing Facility Transparency and Accountability**
Sponsored by CANHR, SB 650 requires nursing homes to file annual consolidated financial statements, giving the State and the public more transparency about nursing home payments. Nursing homes are using complex ownership structures to siphon unprecedented amounts of money to “related parties,” allowing corporate home offices to hide their profits and support facilities’ claims for yet more public money. Implementation of SB 650 will give the public information about how much of money is supporting nursing home residents versus how much is being spent on the lifestyles of billionaire nursing homes owners.

**AB 323 (Kalra): Long-Term Health Facilities**
This new law increases penalties for state citations issued against nursing homes to keep up with inflation and updates the criteria for AA citations (those that cause the death of a resident) from the old “direct proximate cause of death” standard to the more clear “substantial factor” standard used by courts.

**AB 636 (Maienschein): Financial Abuse of Elder or Dependent Adults**
Authorizes information relevant to the incident of elder or dependent adult abuse to be given to a federal law enforcement agency.

**AB 665 (Garcia): Residential Care Facilities for the Elderly: Resident Rights: Internet Access**
Amends the rights of residents of RCFEs, in those facilities with existing internet service, to add the right to have available at least one internet access tool with videoconference technology as part of the facility’s activity program.

**AB 749 (Nazarian): Skilled nursing facilities: medical director certification**
Prohibits a skilled nursing facility from contracting with a medical director if the person is not, or will not be within 5 years, certified by the American Board of Post-Acute and Long-Term Care Medicine as a Certified Medical Director.

**AB 849 (Reyes/Stern): Restoring the Enforcement of Nursing Home Resident Rights**
Since 1982, California nursing home residents have had a “private right of action” (the ability to sue) for violations of their rights. Last year, the state Supreme Court ruled that nursing homes that violate the rights of residents may only be held liable for $500 maximum, regardless of how many rights a facility violates and how egregious those violations are. Nursing homes now routinely infringe multiple rights of residents and simply send the victims $500 checks as a license to violate. This new law restores facility liability to up to $500 per violation, so that offending facilities have to answer for every breach of resident rights it commits.

**AB 1042 (Jones Sawyer): Related Party Accountability**
Nursing homes investors are increasingly setting up “related party” businesses to avoid accountability and hide profits. AB 1042 establishes shared standards and liability for entities that have shared ownership and control, and makes related parties liable for a nursing home’s unpaid State fees and fines.

**SB 447 (Laird): Civil Actions: Decedent’s Cause of Action**
Permits damages for a decedent’s pain, suffering, or disfigurement to be recovered in an action brought by the decedent’s personal representative or successor in interest.

**SB 664 (Allen) Hospice Licensure: Moratorium on New Licenses**
Imposes a temporary moratorium on the issuance of new licenses to provide hospice services.
Focus On Nursing Home Ownership

Will the Legislature Finally Say “No More” to Unscrupulous Nursing Home Owners?

In early January, Californians will get a first look at whether state legislators have found the will and independence to prevent corrupt nursing home operators from buying up facilities throughout the state. That is when the Assembly Health Committee will hear AB 1502 (Muratsuchi), the CANHR sponsored bill to reform nursing home ownership in California.

The stakes are high for current and future nursing home residents in California. For decades, people living in nursing homes have been subjected to epidemic levels of elder abuse by unfit, unapproved and unaccountable chain operators. The California Department of Public Health (CDPH) has rolled out the welcome mat to unscrupulous operators, allowing anyone to buy and operate nursing homes in California, no matter how terrible their performance history may be.

AB 1502 would begin unrolling the welcome mat to bad actors by giving CDPH strong authority to disqualify unfit applicants, setting suitability standards for operators, requiring prior approval to operate a skilled nursing facility, sanctioning non-compliant operators and giving the public an opportunity to comment on pending change of ownership applications.

The bill would also close huge loopholes that allow most California nursing homes to change hands without any state approval process whatsoever. Entire nursing home chains can be bought and sold without state approval due to CDPH’s position that it has no authority to review ownership changes at the chain level. A recent example is the Providence Group becoming California’s largest nursing home chain in November 2021 when it bought the 58-facility Plum Healthcare chain without change of ownership review or approval by CDPH.

Originally, AB 1502 was intended to be the centerpiece of the PROTECT Plan, a 7-bill legislative package introduced in early 2021 aimed at reforming nursing home care in the state. Five of the PROTECT Plan bills were enacted and one of them was vetoed, but AB 1502 was sidelined shortly after introduction and has yet to be heard by any committee. To advance, it must pass out of the Assembly Health Committee by mid-January.

Although AB 1502 was initially sidelined, media stories on why it is desperately needed were not. Beginning in April 2021, a trio of nonprofit newsrooms published an ongoing series of exposes called “Unprotected,” that examine California’s failures on nursing home oversight. Their headlines help tell their story: California oversight of nursing homes called ‘befuddling,’ ‘broken’ (CalMatters); Immediate Jeopardy: Death and Neglect Inside a Troubled California Nursing Home Chain (LAist); ‘People are dying as we wait’: Bid to tighten California nursing home oversight sputters (CalMatters); Gov. Newsom Donates Contribution From Nursing Home Owner To Charity, After LAist Investigation (LAist); Licensing by clerical error: How the state’s mistake decided the course of two nursing homes (CalMatters); Despite Multiple Citations for Deficient Care, Government Sent More Than $400M To Troubled Nursing Home Chain (LAist); Owner of Troubled Nursing Homes Drops Appeal (LAist); Shlomo Rechnitz nursing home suit over COVID deaths reflects “broken state licensing” (CalMatters); State Authorities Allowed Alleged Sexual Predator to Job-Hop Among San Diego Area Nursing Homes (KPBS); Nursing Homes In Dire Need of Regulation After Thousands Die From COVID-19, State Lawmakers Say (LAist); State health department blasted over nursing home oversight (CalMatters).

It is no mystery why California is the epicenter of nursing home ownership scandals. The government doles out over $10 billion annually to California nursing home owners, which they use to wield powerful influence at all levels of government.

AB 1502 is not the first legislative attempt to strengthen screening and suitability requirements for nursing home owners. Legislative proposals failed in 2016 and 2019 largely due to indifference and resistance by Administration officials and the Legislature.

Along with horrific tragedy and death, the pandemic has brought new awareness of the dangerous conditions in nursing homes and the urgent need for reform. All eyes are now on the Legislature and the Administration to see how they respond.

Please help by urging your state legislators to stand up for neglected nursing home residents by supporting AB 1502 and by encouraging others to do the same. You can find more information on AB 1502, including a fact sheet and a sample support letter, on CANHR’s AB 1502 webpage.
CCRC & RCFE Corner

Family & Resident Councils – A Tool for Improvements in Care

Since January 1, 2015, comprehensive laws governing resident and family councils in RCFEs have been in effect. AB 1572 (Eggman) was sponsored by CANHR. All of these laws, in addition to applying to Residential Care/Assisted Living, also apply to CCRCs, which are licensed as Residential Care Facilities for the Elderly (RCFEs). Resident councils and family councils are particularly powerful tools in CCRCs where the management tries to control much of the decision-making. Several CCRCs have already organized successful resident councils and family councils. While the CCRC statutes (Health & Safety Code § 1771.8) do include provisions that suggest CCRCs “encourage” Resident Associations – these laws were written for and by the CCRC industry. Most of these “Resident Associations” are controlled by the providers with little autonomy for the residents. The providers can reject the Associations’ recommendations for the Governing Board, withhold information regarding litigation, personnel, etc., and generally fail to provide whatever information the provider chooses. Family Councils and Resident Councils provide more autonomy for the residents, allow them to meet in private without provider interference, and the laws include penalties for willful interference with the formation of such Councils. CANHR’s fact sheet on Family Councils and Resident Councils in RCFEs explains the laws and resident rights, and copies can be downloaded for free from our website at http://www.canhr.org/familycouncils/index.htm.

Assisted Living Residents’ Rights to Control Calls and Visits Vindicated by DSS

The Department of Social Services has released a new Provider Information Notice reminding Residential Care Facilities for the Elderly (RCFEs) that all residents have control over their visits, calls, and outings unless a court has authorized the curtailment of their rights. RCFE residents often have their access to visits, calls, and outings limited by family members or other third parties who lack the legal authority to do so. While many of these surrogate decisionmakers are well-meaning, residents’ legal rights can only be taken away by a judge.

Payment Increase for SSI/SSP Residential Care Recipients

The SSI/SSP rate for non-medical out-of-home care will increase effective January 1, 2022.

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Room and Board</td>
<td>590.77</td>
</tr>
<tr>
<td>Care and Supervision (maximum)</td>
<td>621.00</td>
</tr>
<tr>
<td><strong>Amount Payable for Basic Services</strong></td>
<td><strong>1,211.77</strong></td>
</tr>
<tr>
<td>Personal and Incidental Needs Allowance (minimum)</td>
<td>154.00</td>
</tr>
</tbody>
</table>

(Must be provided to the recipient)

Total NMOHC Payment Standard $1,365.77*

*This total NMOHC payment standard is doubled for SSI/SSP couples.

NOTE: Recipients who have income in addition to their SSI/SSP check (for example, a pension, Social Security retirement, or disability benefits) can be charged the $1,211.77 amount for basic services plus an additional $20. Because federal rules do not count the first $20 of a recipient’s income against his/her SSI/SSP grant, an SSI/SSP recipient with other income has an extra $20 that people who receive only an SSI/SSP check do not have. Neither federal nor state law restricts the recipient in how this additional $20 amount is spent. Thus, if the recipient agrees in the admission agreement to pay the additional $20 for basic services, the facility may charge the additional amount.

PIN 21-23-CCLD: Estimated SSI/SSP Payment Standards Effective January 1, 2022
• 10/13/2021: Tony Chicotel and Mike Connors provided a webinar on long term care facility evictions for legal services organizations.

• 10/19/2021: Tony Chicotel gave a presentation about long term care residents’ safety versus autonomy at the State Long Term Care Ombudsman Coordinators’ Conference.

• 10/20/2021: Tony Chicotel and Alice Dueker provided a webinar on Capacity, Surrogacy, and Decision-Making for legal services organizations.


• 11/4/2021: Tony Chicotel discussed nursing home resident advocacy with the students in the UC Hastings College of the Law Medical Legal Partnership.

• 11/9/2021: Pauline Shatara presented to the San Francisco VA Hospital Social Workers group on Medi-Cal Eligibility & Recovery.

• 11/29/2021: Tony Chicotel and Mike Connors hosted a town hall on the state of visitation in California long term care facilities attended by 138 consumers, family members and advocates from across the state.

• 12/1/2021: CANHR held a consumer and advocate virtual town hall for 321 attendees on Medi-Cal Updates in partnership with Disability Rights California, and Center for Health Care Rights.

This booklet outlines the applicable rules of the Medi-Cal Recovery laws before and after January 1, 2017. It has been revised to provide additional information on Medi-Cal recovery laws effective for individuals who die on or after January 1, 2017.

We revised the booklet again in June 2019 with the latest applicable information, which is still current as of October 2021. You can order printed copies of the updated version, or download it for free as a PDF document at:

http://canhr.org/publications/Consumer_Pubs.html
CANHR welcomes memorial and honorary gifts. This is a great way to honor a special person or a loved one, while helping those who are long term care residents. Recent gifts have been made in the names of the following persons:

**In Honor Of**

*Margaret Breland and Esther Bernal,*  
*West Berkeley elders and leaders who died before their time*  
*Elizabeth Morris*

<table>
<thead>
<tr>
<th>In Honor Of</th>
<th>In Memory Of</th>
</tr>
</thead>
</table>
| **Pat McGinnis**  
Mary Gerber Esq. | **Margaret T. Ragsac**  
Roy Ragsac |
| **Joel Bryant and Rob Dieringer**  
Estate Planning Council of San Diego | **Herminia Vazquez**  
Maggie Vazquez |
| **Muriel**  
Gerrie Wormser | **Kurtis Lemke**  
Jan Vyeda |
| **Prescott Cole**  
Sara DuBois | **Sid Clarke**  
Ardis Shubin |
| **Yong Cha Pak**  
Felise Leidner | **Leslie A. Bard, MD**  
Penny Bard |
| **Vivian August**  
J W August | **Tim Millar**  
CANHR Staff |
| **Joel Bryant and Rob Dieringer**  
Estate Planning Council of San Diego | **Bill Taylor**  
CANHR Staff |
| **Muriel**  
Gerrie Wormser | **Estate Planning Council of San Diego**  
Joel Bryant and Rob Dieringer |
| **Vivian August**  
J W August | **Gerrie Wormser** |
| **Alice and Tom Riley**  
Barbara B. Riley | **Donna Ambrogi**  
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| **Margaret T. Ragsac**  
Roy Ragsac | **Sherry O. McIlwain**  
Gloria McIlwain and Sharon Roberts-Cagle |
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Joel Bryant and Rob Dieringer | **Donna Ambrogi**  
CANHR Staff |

**Family Councils: Making a Difference**

CANHR’s instructional video for the establishment and functioning of family councils is now available for viewing on our website:

The following citation summaries are compiled from the citations issued by the California Department of Public Health to Northern California skilled nursing facilities and received by CANHR as of the publication of this issue of the Advocate. CANHR makes every effort to ensure that consumers are provided with accurate information. CANHR welcomes comments and suggestions or notice of errors. Please direct such comments to mis@canhr.org or by calling the CANHR office at (800) 474-1116. Citations without summaries will be reprinted with summaries once received by the CANHR office. Citations from earlier months are included if a description was not printed in a previous issue. Appeals of citations and collection of fines can take up to three years.

Explanation of citation classifications: “AA” citations are issued when a resident death has occurred due to nursing home regulation violations, and carry fines of up to $100,000. A class “A” citation is issued when violations present imminent danger to a resident or the substantial probability of death or serious harm, and carry a fine of up to $20,000. Class “B” citations are fined up to $2,000 and are issued for violations which have a direct or immediate relationship to health, safety, or security, but do not qualify as “A” or “AA” citations. “Willful material falsification” (WMF) violations also result in a fine. Fines are not always required to be paid. Citations can be appealed, requiring the Department of Health Services to substantiate the violation. Violations repeated within twelve months may be issued “trebled fines”— triple the normal amount.

Santa Clara County

**MOUNTAIN VIEW HEALTHCARE CENTER**
2530 Solace Pl, Mountain View

**AA** $20000 Careplan; Medication; Death 9/2/21
The facility failed to follow physician’s orders or safely monitor the administration of fluid for a resident who was prescribed dextrose in water intravenously due to being at risk for fluid imbalance as a cause of his cognitive challenges. The staff failed to monitor the amount of fluids given to the resident, and failed to monitor for signs of a fluid imbalance. The resident was administered an excess of fluid, resulting in fluid buildup in his body, shortness of breath, extremely low blood pressure, and critical sodium levels. The resident became unresponsive and died after this medication error.

Citation # 070016503

Tulare County

**LINDSAY GARDENS NURSING & REHABILITATION**
1011 W Tulare Rd, Lindsay

**B** $20000 Patient Care 4/21/21
On 6/25/2020 an unannounced COVID-19 Infection Control Survey was conducted and revealed staff failing to follow recommended CDC practices. One receptionist was not wearing a face mask, one GVN and one LVN were wearing cloth face masks inside the facility, one LVN was wearing a cloth face mask when providing resident care, and one CNA was not wearing a face mask when providing resident care. According to CDC guidelines, cloth face coverings are not considered PPE. These failures could have resulted in continued COVID-19 spread.

Citation # 120016351

Tuolumne County

**AVALON CARE CENTER - SONORA**
19929 Greenley Road, Sonora

**AA** $75000 Dietary Services; Feeding; Neglect; Supervision; Staffing; Death 9/2/21
On 4/3/21, a resident choked during the lunch meal, was hospitalized later that day in acute respiratory distress and died five days later on 4/8/21 of respiratory failure and aspiration pneumonia. Despite the resident’s history of choking on food, the facility had upgraded her diet two days earlier from soft foods to a regular diet on 4/1/21. The certified nursing assistant (CNA) assigned to the resident that day did not know of her recent diet change and did not receive education or instructions about the diet. The resident was served her lunch in bed despite directions that she be up in a wheelchair for all meals. After the resident began choking, an LVN responded and assisted her in spitting out pieces of chicken. A registered nurse (RN) did not assess the resident because none was on duty despite a requirement the facility have a RN on duty 24 hours a day, nor did the facility assure the resident’s dentures were in place before the meal as required by her care plan. The Department’s investigation determined the facility failed to ensure adequate supervision and assistance with the resident’s meal and failed to ensure her meal was provided in a texture she could safely swallow. These failures led to difficulty with breathing and a rapid decline in her condition. This chain of events, coupled with a delay in the resident receiving a higher level of care, ultimately contributed to the resident’s death.

Citation # 030017066
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Los Angeles County

Camellia Gardens Care Center
1920 N Fair Oaks Ave, Pasadena

B $2000 Physical Environment; Staffing 8/13/21
On 6/21/20, during a tour of the facility kitchen, the inspector noticed cardboard covering a hole in the ceiling and debris hanging down over the kitchen dishwasher and dropping debris onto utensils used by facility residents. The staff stated that there had been a leak in the pipe above the ceiling and maintenance had begun a repair and covered the incomplete repair with the cardboard. During subsequent interviews, the facility administrator stated that leaking had been noted a week before the repair was begun, and that the Maintenance Supervisor was on medical leave so a part time maintenance worker was called to make the repair. The administrator also stated that no report was made to DPH or OSHPD because it was “an easy fix.” The facility’s failure to notify the agencies with jurisdiction put residents’ safety at risk.

Citation # 950016807

Claremont Care Center
219 E Foothill Blvd, Pomona

B $2000 Patient Care 6/27/21
The facility failed to try the use of less restrictive appropriate alternatives before installing bed rails to the beds of three residents, which placed them at risk for entrapment and injury from the rails.

Citation # 950016876

Country Villa Bellmont Heights Healthcare Center
1730 Grand Ave, Long Beach

B $6000 Patient Care 5/19/21
The facility failed to implement preventative measures for a resident with a history of elopement who told staff they wanted to leave. The facility did not monitor exit doors, ensure the wander guard system was working properly on all exit doors, and failed to provide adequate supervision for resident with cognitive delays and multiple diagnosis including schizophrenia. As a result, the resident left the facility unsupervised, and was missing for 13 days.

Citation # 910016519

Foothill Heights Care Center
1515 N Fair Oaks Ave, Pasadena

B $2000 Fall; Injury; Notification 10/15/21
On 3/28/21 at 7:30 PM, a 93 year old resident had an unwitnessed fall from bed. Her physician ordered X-rays, and the results dated 3/29/21 at 10:41 AM showed a fracture of the resident’s left hip. The resident’s physician was not notified of the X-RAY results until 3/30/21 at 7:23 AM (31 hours and 53 minutes after her fall), and she was transferred to the hospital at that time. The facility was cited for the delay in the care and treatment of the left hip fracture.

Citation # 950017021
LONGWOOD MANOR CONVALESCENT HOSPITAL
4853 W Washington Blvd, Los Angeles

B $6000 Decubiti (Bedsores); Patient Care 6/4/21

On 12/27/20, a resident noted to be at high risk for skin breakdown and development of pressure ulcers was not properly assessed for bed sores during his initial admission to the facility. In addition, the staff failed to ensure that prevention measures, such as turning the resident every two hours, were taken, to prevent the development of new pressure ulcers. As a result, the resident did not receive wound treatment for an existing wound on his lower back, which progressed into a bed sore which went through the skin to his fat tissue, and deep tissue injury to both of his buttocks and thighs.

Citation # 910016567

MANCHESTER MANOR CVLT HOSPITAL
837 W Manchester Ave, Los Angeles

B $2000 Neglect; Patient Care; Staffing; Death 4/30/21

On 12/19/20, a 71 year old resident died at the facility after it failed to call 911 for 30 minutes after he was found unresponsive. CPR was not administered despite the resident’s treatment wishes for CPR to be attempted with full treatment to prolong his life by all medically effective means. The certified nursing assistant (CNA) who found the resident unresponsive reported that she immediately notified a licensed nurse. However, the CNA stated the facility had two residents unresponsive and it became difficult to provide CPR to both residents at the same time when the entire facility was positive for COVID-19. The licensed nurse reported that the facility was short staffed and everything was a blur. The director of nursing stated no vital signs were taken during the month of December 2020. The facility was cited for failing to provide immediate CPR upon finding the resident unresponsive and failing to immediately call 911.

Citation # 910016458

MESAGLEN CARE CENTER
638 E Colorado Ave, Glendora

B $2000 Careplan; Elopement; Transfer 7/29/21

On 5/27/2021 a 75 year-old resident with a diagnosis of dementia eloped and was found on a major street a quarter mile away from the facility. The resident’s care plan states the resident was at risk of injuries due to elopement, wore a wander guard (monitoring bracelet) and required frequent monitoring. The facility failed to provide adequate supervision for this resident, which resulted in his elopement, and also failed to report the resident’s elopement to DPH. Because of the elopement, this resident was also inappropriately transferred to another facility on 5/27/2021, which goes against the resident’s care plan.

Citation # 950016778

MONTEBELLO CARE CENTER
1035 W Beverly Blvd, Montebello

A $20000 Fall; Injury 3/17/21

On 12/18/18, a 71 year old resident was injured when she fell at approximately 3:20 AM while transferring from bed to a commode chair. A certified nursing assistant (CNA) was present at the time but did not provide the physical assistance required by the resident’s care plan. The resident fell on her left leg, sustained a fracture and was transferred to the hospital for splinting of her lower left leg. She stated that before the fall, she was starting to walk with physical therapy, but after the fall, she could not walk anymore and had continued pain to her left leg. The facility was cited for failing to provide the physical assistance the resident needed with transfers from bed to the commode chair.

Citation # 950016309
**Osage Healthcare & Wellness Centre**  
1001 S Osage Ave, Inglewood  

A **$20000** Careplan; Patient Care 5/13/21

The facility did not take steps to prevent the decline of residents diagnosed with COVID-19, and for one specific resident, failed to follow physician orders and COVID-19 care plans to regularly monitor vital signs. The staff also failed to notify a doctor when the resident’s oxygen levels declined, and failed to initiate CPR or call 911 when the resident was found unresponsive. This was against the resident’s wishes outlined on a Physician Order for Life Sustaining Treatment (POLST) form, which indicated they wanted less aggressive medical interventions. These failures resulted in a delay in care and treatment, a lack of requested resuscitation measures after the resident was found unresponsive, and were a direct proximate cause of death.

Citation # 910016498

**Pasadena Grove Health Center**  
1470 N Fair Oaks Ave, Pasadena

B **$2000** Mandated Reporting; Physical Abuse 9/29/21

On 7/5/21, a resident called 911 after another resident hit her on the back of her head with a brick at 2 PM, causing her pain, dizziness and fear. The activities director witnessed the abuse. The facility was cited for failing to protect the resident from physical abuse and failing to send a written report to the Department of Public Health until 7/6/21 at 2:03 PM, 24 hours after the incident.

Citation # 950016968

**Playa Del Rey Center**  
7716 W Manchester Ave, Playa Del Rey

A **$60000** Fall; Injury 5/13/21

On 3/10/21, a 93 year old resident who was dependent on staff for total care suffered a serious injury and severe pain when she rolled off the bed onto the floor while a certified nursing assistant (CNA) was changing the resident. The resident sustained a fractured femur and a skin tear to her elbow. She was hospitalized from 3/10/21 to 3/15/21, where she underwent surgical repair of the right femur. The facility was cited for failing to ensure adequate supervision to prevent accidents to the resident and for leaving the resident unattended during care.

Citation # 910016499

**Primrose Post-Acute**  
515 Centinela Ave, Inglewood

A **$20000** Decubiti (Bedsores); Neglect; Patient Care 7/28/21

From 5/5/21 to 6/4/21, the facility failed to follow physician’s orders for a resident who was determined to be a risk of pressure ulcers. The resident did not receive the care needed to prevent pressure ulcers, and the facility failed to accurately document the care the resident received. The facility also falsified the resident’s medical records. As a result, the resident was transferred to the hospital with a Stage IV pressure ulcer.

Citation # 910016771

**Regency Oaks Post Acute Care Center**  
3850 E Esther St, Long Beach

A **$20000** Decubiti (Bedsores); Infection; Neglect; Patient Care 5/27/21

On 2/23/21, the facility failed to adhere to a comatose resident’s plan of care, follow physician’s orders and established procedures to prevent UTIs, such as ongoing assessment of resident’s catheter. As a result, the resident was admitted to the hospital for sepsis, wounds and signs of infection on a urinary catheter.

Citation # 910016546

**SoCal Post-Acute Care**  
7931 Sorensen Ave, Whittier

B **$2000** Discharge 9/10/21

The facility failed to safely discharge a resident to their home, not providing needed medical supplies including insulin and g-tube supplies, not providing family education on the administration of insulin or formula feeding through a g-tube, and not arranging for visits from a home health provider. As a result, within two days of returning home, the resident was admitted to the intensive care unit at the hospital due to a diagnosis of diabetic ketoacidosis, caused by excess sugar in the blood, which can lead to death.

Citation # 950016910
A **$20000** Fall; Injury; Patient Care 12/4/20
On 8/31/2020 the facility failed to have two CNAs transfer an 86-year-old resident with functional quadriplegia and wheel chair dependence from wheelchair to bed using a mechanical lift, which resulted in the resident falling and sustaining a broken right hip, right hip pain, left knee pain, and a nose bleed. The resident’s care plan and facility policy requires two or more people to assist with transferring the resident to and from surfaces, including their bed, chair, and wheelchair. This failure resulted in the fall requiring the resident to have right hip hemiarthroplasty (a surgical procedure that replaces one half of the hip joint with a prosthetic).

Citation # 950016174

B **$20000** Elopement; Supervision; Death 10/18/21
On 8/18/21, a resident left the facility unsupervised at 8:08 PM and wandered into a busy street, resulting in her being hit by a car and dying at 8:38 PM from the injuries sustained from the car impact. Reports indicated the resident’s entire body was mangled by the collision. Video surveillance showed that the resident wandered out the unlocked, unalarmed front doors of the facility and was struck by a car minutes later. A registered nurse stated it was his responsibility to lock the front doors and set the alarms at 8 PM, but he forgot to do so. The resident had previously eloped from the facility less than a month earlier on 7/26/21, but the facility failed to conduct an assessment or develop an elopement/wandering care plan. These failures and the failure to adequately monitor the resident were determined to be a direct proximate cause of her death.

Citation # 950016836

C **$2000** Neglect; Staffing 8/20/21
On 6/5/21, a resident who needed assistance with toileting had to wait 90 minutes for a staff person to respond to the resident’s call light for assistance to urinate. The resident described her wait as “unbearable.” She also stated the facility was often understaffed on weekend nights. A CNA said she was assigned to take care of 31 residents on 6/5/21 and could not keep up with the demands for her time. On 6/12/21, a second resident was forced to wait 90 minutes for a response to her call light when she was unable to sleep due to leg pain. The facility was cited for failing to answer call lights with reasonable promptness.

Citation # 9100017022

D **$2000** Mandated Reporting; Patient Care; Sexual Abuse 6/11/21
The facility failed to immediately report a sexual abuse allegation on 3/10/21 to the Department of Public Health, the ombudsman, and law enforcement. As stated in the facility’s Abuse Prohibition policy, with suspected abuse not resulting in serious bodily harm, the facility must make a telephone report within two hours to law enforcement and provide a written report within two hours to the ombudsman and licensing agency. The facility failed to do so and reported 24 hours after the report of alleged sexual abuse, which had the potential to cause harm to the reporting resident as well as other residents.

Citation # 9516602
A 60 year old resident died on 6/10/21, six days after being admitted to the facility requiring continuous oxygen support for treatment of chronic obstructive pulmonary disease (COPD). The resident complained to the staff on numerous occasions that she was not receiving breathing treatments because of the ineffectiveness of the BIPAP (Bi-level Positive Airway Pressure) non-invasive ventilation machine. A family member of the resident stated the BIPAP machine displayed error messages constantly and the staff did not know how to set the BIPAP machine. The resident was found unresponsive on 6/10/21 after not receiving prompt pulmonary care when she exhibited hyperventilation and a COPD exacerbation. She was transferred to the hospital and died within two hours. The investigation of her death determined that there was a delay in the provision of care and an unexpected decline in her health due to the facility’s failures to: ensure that its nurses were competent and knowledgeable in the use of a BIPAP machine; ensure the resident’s respiratory equipment was in good condition and functioning properly; notify the resident’s physician of the situation; and ensure the resident was provided medication of oxygen, as ordered, through the BIPAP machine pursuant to the physician’s order. These violations were a direct proximate cause of the resident’s death.

Citation # 910016967
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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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