Has California Nursing Home Oversight Ever Been Worse?

Following a short hospitalization, Sam Rios went to Pine Creek Care Center, a nursing home in Roseville. At the time, Pine Creek was operated by Plum Healthcare which has since merged with the Providence Group, creating the largest nursing home chain in the state, with what is believed to be over 100 facilities. Despite being noted as being at high risk for skin breakdowns, Mr. Rios developed pressure sores on his heels in just a two-week stay at Pine Creek.

Mr. Rios suffered significant pain and suffering in his heels until his death about one year after his time in the facility. Subsequently, two complaints were filed related to his death. One complaint was a civil lawsuit against Pine Creek; the other was a complaint with the California Department of Public Health (DPH).

In the civil lawsuit, one Pine Creek CNA testified that understaffing was prevalent in the facility and that what she saw there “was barbaric.” The plaintiffs demonstrated the facility had a very high prevalence of resident falls and pressure sores. The jury ordered the Pine Creek defendants to pay Mr. Rios’s family $31 million for severe neglect, wrongful death, and punitive damages. The jury was clearly outraged by what it viewed as reprehensible care for Mr. Rios.

The DPH complaint, on the other hand, resulted in DPH finding nothing wrong with Mr. Rios’s care, stating it “was unable to substantiate a [single] violation of the regulations.” Records from the DPH investigation indicate that it performed a cursory examination of the medical records. Multiple appeals were filed by the complainant, urging a reexamination of the case, but the State obstinately stuck to its conclusion that no violation occurred.

[continued on page 3]
Welcome New CANHR Interns

CANHR welcomes two new Master of Social Work interns, Luis Alvarez and Amy Wendland, from California State University of Long Beach. Luis studies at the Long Beach campus and Amy is part of a satellite CSULB program located in Santa Rosa.

Luis will be based in the South Pasadena office and Amy will be based in the Berkeley office.

As MSW interns, both Amy and Luis will be supporting CANHR on policy research, community engagement, development of materials and coordination of grant projects. Welcome Luis and Amy.

CANHR Guide to Home & Community Based Services

CANHR staff has developed a new “quick guide” to Home and Community Based Services available under the Medi-Cal program. The guide provides an overview of the various programs so that consumers can determine which one would be the best fit for their circumstances. See this link: https://canhr.org/hcbs-quick-guide/

In Memory – Derrell Kelch

CANHR honors the memory of Derrell Kelch who passed away in July 2023. Derrell was an early mentor of CANHR staff, a forceful advocate for better oversight of long-term care facilities and, working with other advocates, helped craft numerous policy and legislative changes to improve the care of long-term care residents. As Vice President of Public Policy at the California Association of Homes for the Aging (now Leading Age) and subsequently, the first Executive Director of the California Association of Area Agencies on Aging (C4A), Derrell spent his professional career advocating for aged and disabled consumers. Derrell was a uniquely positive presence in Sacramento, and he will be sorely missed. Our sincere condolences to his wife, Deborah, and his daughter, LeAnn.

Donate to CANHR

CANHR answers thousands of consumer calls each year, and provides advocacy services for older adults and people with disabilities across the state. Our services are free, and all donations – however large or small - can make a huge impact.

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About CANHR

Since 1983, California Advocates for Nursing Home Reform (CANHR), a statewide nonprofit 501(c)(3) advocacy organization, has been dedicated to improving the choices, care and quality of life for California’s long term care consumers.

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[continued from page 1]

Ultimately, we have one case with two complaints. The first complaint, using the civil litigation system, held Pine Creek to a $31 million dollar accounting for the poor care it gave to Mr. Rios. The second complaint, using the state’s public enforcement system, resulted in a free pass for Pine Creek. The contradiction is stunning.

The Rios case may be a new low point in the largely unsatisfying history of California’s oversight of nursing homes. DPH has never practiced robust enforcement of nursing home standards as it balanced its legal role of regulatory watchdog with a less public but more cozy role of ensuring the welfare of the overall nursing home industry. 1 This means enforcement actions are often rare and weak, surveys are delayed, and operators with poor track records are able to buy and run more facilities, even after they have been denied licenses in the past due to an extensive track record of poor care and regulatory noncompliance.

Disregarding residents through diminished nursing home oversight is unfortunately not limited to California. On May 18, the U.S. Senate Special Committee on Aging released a report, “Uninspected and Neglected, Nursing Home Inspection Agencies are Severely Understaffed, Putting Residents at Risk.” The report states that several states, including California, are suffering from significant delays in nursing home inspections and complaint investigations. These delays are linked to poor care and resident rights violations. When shoddy practices are not discovered and remedied in a timely way, residents are endangered and needlessly suffer. Over the past ten years, the resources dedicated to timely inspections and complaint investigations have been stagnant, resulting in surveyor shortages, delayed data reporting to consumers, failed oversight, and resident abuse and neglect.

The evidence of failed enforcement in California is overwhelming.

1. 709 nursing homes (well more than half in the entire state) have not had a federal inspection within the statutory deadlines while 104 have not had an annual inspection since 2019. According to Newsweek, CA leads the nation in overdue surveys.

2. California’s number of deficiencies issued against nursing homes is falling. According to the federal database QCOR, the average number of annual deficiencies issued against CA nursing homes from 2015-19 was about 15,000. Since 2021, it’s about 12,000. The decreased number of deficiencies is in stark contrast to a record number of formal complaints. DPH has received 14,000 complaints against nursing homes in the last year. This is double the number of complaints from just ten years ago. Residents and their families are more unhappy with their care than ever before and yet DPH is finding fewer and fewer violations.

3. The vacancy rate for facility surveyors in California is 18%. This is up from 4% in 2019-20. Without enough surveyors to inspect facilities and respond to complaints, the critical work of oversight languishes.

4. DPH was recently successfully sued by the Foundation Aiding the Elderly (FATE) for failing to meet statutory deadlines to complete complaint investigations. The judge in the case found DPH had an “endemic inability” to meet its deadlines.

5. DPH is only completing 2-3% of its State Relicensing Surveys each year. The number of completed nursing home relicensing surveys has fallen from an average of 315 per year from 2017-2020 to 14 per year from 2021-2023

Calls to CANHR from residents and their families seeking help reinforce the sense of abdication in oversight: facilities with staff to resident ratios that are barely half of the legal minimum, residents evicted while on a cigarette break, sexual assaults committed by staff who move from facility to facility, abusing new victims.

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DPH’s chronically poor performance in nursing home oversight is frustrating but CANHR and its allies continue to push for improvements, with some success. We are committed to maximizing the public enforcement of our critical statutory and regulatory standards. However, we are also always hard at work promoting private advocacy and enforcement options, including family council facilitation, and lawsuits like the Rios case. Litigation from both private attorneys and state and local prosecutors are enormously important for maintaining an acceptable standard of care in nursing homes and for obtaining justice for victims of abusive, demeaning, or dangerous care.

With DPH enforcement at perhaps an all-time low, it has never been more important for residents and their advocates to speak out: appeal DPH’s complaint investigation findings, start or join a family council, call your state legislator, talk to the local media, volunteer for the local Long Term Care Ombudsman program, and stay in touch with CANHR. We will have to work together if we are going to counter decades of State neglect.

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2. Inspection and other nursing home oversight data can be obtained on the Center for Medicare and Medicaid Services’ Quality Certification and Oversight Reports (QCOR) website. [https://qcor.cms.gov/nh_wizard.jsp?which=0&report=enforcement_type.jsp](https://qcor.cms.gov/nh_wizard.jsp?which=0&report=enforcement_type.jsp)

U.S. Supreme Court Vindicates Nursing Home Resident Rights

The U.S. Supreme Court has ruled that nursing home residents have the right to sue government-run nursing homes for violations of their federal rights. Federal law provides residents with an extensive list of rights that are not well enforced by state enforcement agencies. Another federal law, 42 USC Section 1983, allows people to sue to enforce their rights, privileges, or immunities. The Court ruled that nursing home residents can use Section 1983 to enforce their own rights specially enumerated under federal law.

The plaintiff in the case, Gorgi Talevski, was chemically restrained with psychotropic drugs and illegally evicted while a resident in a government-run nursing home in Indiana. The Court’s ruling ensures that he, and other residents of government-run nursing homes, can file Section 1983 lawsuits to enforce their rights.

CANHR was part of a friend of the court brief in the case filed by AARP, urging the Supreme Court to vindicate resident rights.

Riverside Nursing Home Settles Case of Illegal Kickbacks, Then State Gives the Owner Licenses to Operate 24 More Nursing Homes

The California Attorney General (A.G.) announced a $3.8 million settlement in a case against Alta Vista Healthcare and Wellness Center for illegally paying doctors to send hospital patients to the facility from 2009-2019. Alta Vista is owned by Shlomo Rechnitz, operated by Rockport Healthcare Services, and part of the second largest nursing home chain in California. According to the A.G. allegations, “Rockport and Alta Vista paid illegal kickbacks, in the form of cash, gifts, and salaries, to certain Riverside-area doctors to induce them to refer Medi-Cal and Medicare beneficiaries to Alta Vista.” The case was brought jointly by the A.G. and U.S. Department of Justice.

This is not the first time Rechnitz-owned facilities have settled a case involving illegal resident referral kickbacks. In 2017, four Rechnitz-owned San Diego nursing homes settled a similar case for $6.9 million.

Despite the settlement, the state Department of Public Health nonetheless approved Rechnitz’s application to oversee 24 more nursing homes. The license applications had been pending for nine years and several of them had previously been denied but the Department went ahead and agreed to approve them in a recently executed “settlement agreement.” The state’s approval, with only very modest conditions, is wildly disappointing for nursing home residents, sending a message that poor performing nursing home operators have a safe haven in California.

LTCCC Releases Report on Retaliation on Nursing Home Residents

The Long Term Care Community Coalition (LTCCC) released a report on retaliation against nursing home residents who speak out about poor care. The report discusses how retaliation and the fear of retaliation contribute to suffering for residents and their families. Retaliation is expressly prohibited in assisted living facilities (Health and Safety Code Section 1569.37) and nursing homes (Health and Safety Code Section 1432) in California.
Federal Flexibilities Approved for State Fair Hearings

The Department of Health Care Services has received approval on two requests for waivers to help address the volume of State Fair Hearings expected as a result of the public health emergency unwinding process. The two waiver requests extend the timeframe for Medi-Cal members to request a fair hearing from the original 90 days to 120 days, and extend the timeframe to take final administrative action on fair hearings from 90 to 120 days. Both waivers are effective retroactive to April 1, 2023. The waiver on the extended timeframe for Medi-Cal members to request a fair hearing remains effective through September 30, 2024, and the waiver for the extended timeframe for final administrative action on fair hearings will remain effective through February 28, 2025.

The New CANHR.org website redesign has launched

After many months of hard work, the highly anticipated new website is here! If you have any difficulty navigating the new site, do not fear as we are here to help. All of our free factsheets are available under the “RESOURCES” tab, CANHR memberships and subscriptions are available under the “JOIN US” tab. If you still can’t find what you are looking for, you can reach us through the “CONTACT US” tab. We are still making improvements to the new website so please be patient with us as we work to add additional resources and updates.

Moving Forward Coalition Posts Action Plans

The Moving Forward Coalition, a national group dedicated to improving nursing home quality, has released nine “action plans” aimed at describing a broad challenge facing nursing homes and goals for ameliorating it. The goals of the action places are ultimately to improve all residents’ quality of life.

CMS Posts Nursing Home Information by Chain

In a welcomed development, the Centers for Medicare and Medicaid Services (CMS) has released information tying nursing homes by ownership chain* and providing some quality measure data for those chains. On CMS’s care compare website, people can now see a facility’s “affiliated entity name” (aka chain) and once the chain is identified, can click to review notable performance measures for the chain such as staffing, star ratings, and enforcement actions.

* The accuracy of tying the facilities by chain can be suspect. Some nursing home owners go to great lengths to hide their chain affiliation.

Quishenberry v. United Healthcare, et al. – CA Supreme Court Decision (7/13/2023)

This California Supreme Court case concerns a Medicare Advantage (MA) enrollee who died after being discharged from a skilled nursing facility. The enrollee’s son, Larry Quishenberry, sued the MA health maintenance organization (HMO) plan and a healthcare services administrator that managed his father’s MA benefits. Quishenberry pled state-law claims for negligence, wrongful death, and elder abuse based on allegations that the HMO and healthcare services administrator breached a duty to ensure his father received skilled nursing benefits to which he was entitled under his MA plan.

The HMO and healthcare services administrator asserted that Quishenberry’s claims are expressly preempted by Medicare Part C’s preemption provision, which provides that the “standards established under” Part C “shall supersede any State law or regulation” concerning MA plans. (42 U.S.C. § 1395w-26(b)(3)).

In affirming the Court of Appeal, The Court held that as Quishenberry’s state-law claims are based on allegations that his father’s HMO plan and healthcare services administrator breached state-law duties that incorporate and duplicate standards established under Part C, Quishenberry’s claims are thus expressly preempted by Medicare Part C.
Appeals Court Upholds Class Certification in Sunrise Understaffing Case

A three-judge panel of the 9th Circuit Court of Appeals has affirmed a lower court ruling denying assisted living provider Sunrise Senior Living’s bid to strike expert testimony and class certification of Sunrise residents for violations of the Consumers Legal Remedies Act and the Unfair Competition Law and for financial elder abuse. The case alleges that Sunrise routinely represented that it hired and assigned staff to provide resident care according to the needs of the residents, but in fact it hired and assigned staff according to a pre-determined budget regardless of residents’ needs. The plaintiffs allege this scheme forced residents to pay for services they did not receive and placed them at risk for not having their needs met.

The 9th Circuit found the lower court did not abuse its discretion when it found the residents “alleged a cognizable economic injury in the form of an overpayment.” The Sunrise residents alleged they had been exposed to substantially similar, material misrepresentations about staffing through their residency agreements, making them a suitable class for a class action lawsuit.

Medi-Cal Asset Limit Changes Apply to People in Long Term Care!

In 2022 the Medi-Cal asset limit for older adults and people with disabilities increased, and in January 2024 there will no longer be a limit on assets for anyone on any Medi-Cal program. This includes people in the Long Term Care Medi-Cal program, who reside in skilled nursing facilities.

Alarmingly, CANHR is hearing from people seeking Medi-Cal services that both County eligibility workers and nursing home staff are incorrectly stating that 2024 asset elimination does not apply to people in nursing homes. This is leading to people spending down their hard earned savings unnecessarily. In July, the Department of Health Care Services (DHCS) sent out a Long Term Care provider bulletin to facilities about asset limit changes. In the bulletin DHCS also shared the updated Notice Regarding Standards for Medi-Cal Eligibility (DHCS 7077) form, which explains eligibility provisions for persons in Long Term Care Medi-Cal. To read more about changes to the asset limit, visit CANHR’s Asset Limit Changes Fact Sheet.

Alameda County Judge Finds Key Tenant Protection Applies to RCFEs

A judge in Alameda County has ruled that Civil Code Section 1946.1 applies to Residential Care Facilities for the Elderly (RCFEs), which means they are required to give 60 days’ eviction notice to residents who have lived in the facility for a year or more. There has long been a small degree of uncertainty as to the proper amount of time for RCFE eviction notices. RCFE-specific rules (22 Cal. Code Regs. Sec. 87224) require a 30 day notice but the broader Civil Code rule applies to all tenants, including people who live in RCFEs. The Civil Code requires thirty days’ notice for tenants who have lived in their homes for less than one year but sixty days’ for those who have lived in their homes for a year or more.

CANHR Receives Cy Pres in Elders’ Privacy Rights Case

CANHR recently received a cy pres award in a federal class action case - Terry Strange v. MDR Group, LLC. The case was about non-consensual phone recordings of California consumers, many of whom were older adults, by an out of state marketing firm. A cy pres award is when money is leftover from a class action case and goes unclaimed or cannot be distributed to some of the class members. The court cited CANHR’s work in educating older adults about their rights, including privacy rights and avoiding scams. Many thanks to attorneys Mark Redmond and Lawrence Salisbury, plaintiffs’ counsel, who facilitated the cy pres award.
Dementia Care Training - Reducing Negative Resident-to-Resident Interactions

The California Partnership to Improve Dementia Care is co-sponsoring a free webinar called “Improving Resident Relationships in Long Term Care. The webinar will be held on September 27 and again on September 28. Register now to attend this awesome training event.

Consumer Alert

Medicare scams are on the rise - take steps to prevent yourself from falling prey to common scammer tactics.

• Do not respond to calls, texts or emails asking for your Medicare Number.

• Only your doctor or people you know should have access to your Medicare card or Medicare Number.

• Medicare will never call you without you requesting support first to ask you for your personal information.

• Check your Medicare Summary Notices (MSNs) or claims statements carefully. If you see a charge for a service you did not get or a product you did not order (like a COVID-19 over-the-counter test), it may be fraud.

Report suspected fraud at 1-800-MEDICARE (1-800-633-4227). Visit Medicare.gov, the official source for Medicare information, to learn more about preventing Medicare fraud.

Award Presented to Pat McGinnis

The Barbara McGinity Service to Seniors Award was presented to Patricia McGinnis, CANHR’s recently retired Executive Director, at the 14th annual National Elder Financial Exploitation Summit. The Summit, sponsored by the National Adult Protective Services Association’s Financial Exploitation Advisory Board, was held in Boston on August 31, 2023.

The Service to Seniors award recognizes individuals who have demonstrated a commitment to improving the lives of older adults by pursuing initiatives that seek to prevent, detect, or resolve elder financial exploitation. Under Ms. McGinnis’s leadership, and along with CANHR’s erstwhile Senior Staff Attorney, Prescott Cole, CANHR has been actively involved in combating elder financial abuse, sponsoring numerous successful policy and legislative efforts to prevent and deter such abuse, establishing an elder financial abuse Lawyer Referral Service panel, and conducting consumer outreach programs throughout California. The award was accepted on Ms. McGinnis’s behalf by William Benson, Principal with Health Benefits ABCs.
Introducing CANHR’s New Executive Director

Dear CANHR supporters and friends,

As I begin my tenure as the new Executive Director, I want to first express my appreciation to our Board of Directors for the confidence they have shown in me to lead CANHR into the future. I would also like to take this opportunity to introduce myself, share a bit about how I came to this role, and my history with the organization.

I began my career at CANHR helping my mother, Pat McGinnis, fold fundraising letters when the organization was starting out in a small San Francisco office. Throughout my childhood I joined her at Family Council meetings in Santa Clara, visited Sacramento legislator offices to push for systemic reform, and attended legal services and Ombudsman training all over California. Many long-time CANHR Elder Law Conference attendees have watched me grow up, working the registration table throughout my teenage years, well into college and beyond.

After graduating with my Masters in Social Work I worked in a variety of non-profit environments, including after school programs for at-risk youth, affordable housing for adults with disabilities, managing a Family Resource Center for caregivers of children with developmental delays, and program development for children with developmental disabilities. I have established new system navigation programs for parents of children with disabilities, created a developmental screening program to connect young children with early intervention services, and expanded community education to link underserved children and adults to vital services.

I have been fortunate to work for truly wonderful people and organizations over the years, which shaped my experience in grant writing, fund development, program design and management, team building, community relations and quality assurance. But my first mentor was my mother, who taught me that “grant writing is like a recipe, follow it and give them everything they ask for,” and who instilled the importance of striving for justice and fighting for those who cannot always fight for themselves.

It was through my work with individuals with disabilities that I realized the intersection of CANHR’s policy advocacy with the local community’s need for improved service systems. Though I worked for years for CANHR on special projects, I joined the staff full time as the Director of Organizational Development two years ago, and have since garnered new funding to expand our educational campaigns and materials, upgrade our technology, and improve our data collection. While many years ago, it was my intention to strike out on a different path from CANHR, I am grateful for the opportunity to return to where I began.

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While my professional development outside of CANHR helped me to build the skills I need to lead our organization into its next phase, I also carry a deep understanding of the foundation on which it was built, and its core values. In addition to being a leader and trailblazer in the world of long term care and elder justice, my mother instilled in me a passion for advocacy, change, and for working to make life better for everyone, regardless of where they live, who they love, or where they are from.

As we enter CANHR’s 40th year, It is my goal to keep that same passion and drive that inspired my mother to start this organization well in mind while working to improve and expand our impact. I appreciate your continued support of CANHR and look forward to sharing news about our work with you all.

Sincerely,

Maura McGinnis Gibney, MSW
Executive Director
California Advocates for Nursing Home Reform

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CANHR prohibits the use of its name for the purpose of advertisement by attorneys, financial planners or any other organization or entity.
Dear Panicked,

Contact your local Ombudsman program and Community Care Licensing office immediately. Let both entities know that she is facing an improper eviction. Assisted living facilities may not refuse to readmit a resident following a hospital stay. If the facility alleges that your mother’s care needs have increased, the facility must first readmit her, and conduct a formal assessment to determine whether they can provide the necessary services. After this assessment, the facility must provide your mother with a valid eviction notice if they determine that they can no longer meet her needs.

Sincerely,

Panicked in Pasadena

For more information on Eviction Protections in assisted living facilities, visit: [https://canhr.org/eviction-protections-for-rcfe-residents/](https://canhr.org/eviction-protections-for-rcfe-residents/)

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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:

If you are admitted to a nursing home after a hospital stay, and the facility tells you to leave once your Medicare days run out – you have a right to stay.

It is a common practice among California nursing homes to accept residents for short-term rehabilitation (covered by Medicare) and then tell those residents that there are no “long-term care beds” or “custodial beds” once the Medicare days run out. These phrases are another way of referring to a stay covered by Medi-Cal, and this practice stems from the dramatic difference between reimbursement rates for Medicare and Medi-Cal. The fact is, every nursing home in California must provide long-term care, and if a nursing home is certified for Medi-Cal, all of their beds can be Medi-Cal beds. W&I Code §14124.10, 42 USC §1396r(c)(4).

If a nursing home proposes a discharge after your Medicare runs out and you still need care: 1) Don’t go! and 2) Tell the nursing home you do not agree with the discharge, and that they must serve a 30-day advance written notice and meet all other legal and procedural requirements to go forward. Check to see if they are Medi-Cal certified, and if so, you may apply to Medi-Cal to cover your stay. W&I Code §14124.7

So – just don’t go. Make it clear to the nursing home that you know what your rights are. State and federal laws are very protective against illegal discharges for nursing home residents, and the burden is on the facility to show they’ve met the requirements for a discharge.

For more information, please see CANHR’s factsheet on Transfer and Discharge Rights https://canhr.org/transfer-and-discharge-rights/

A Consumer’s Guide to Financial Considerations and Medi-Cal Eligibility

This booklet outlines Medi-Cal eligibility requirements and discusses the protection of assets, such as the home and other items, when a spouse enters a nursing home.

http://canhr.org/publications/Consumer_Pubs.html
How to Respond to a Level of Care Denial While Residing in a Skilled Nursing Facility

CANHR has been receiving an uptick of calls regarding residents in skilled nursing facilities who are being told they no longer need a skilled nursing level of care. In many cases they are only told verbally and are unsure of where the denial is coming from, or the reason. Managed care plans and skilled nursing facilities may have a financial incentive to discontinue services even if the resident actually needs those services. Residents of skilled nursing facilities have a right to a fair hearing when there is a denial of services. The most important next step is to identify where the denial is coming from to determine the best course of action.

Things to look for to identify how to approach the situation:

- Were you or your representative given written notice?
- Who is the notice from? Is the notice from the nursing home, Medi-Cal or the Medi-Cal managed care plan?
- What is the reason listed for denial?

What to do if you have not received written notice

Contact both the Administrator of the nursing home and the managed care plan to make sure you get a clear understanding of where the denial is coming from and ask for a copy of the notice. Managed care plans and skilled nursing facilities are legally obligated to provide written notice for reducing or terminating services.

When your denial of coverage is from the Medi-Cal Managed Care plan

Step 1: File an appeal with the managed care plan. Your Notice of Action (NOA) from the plan should provide you with information about how to appeal. If you are unsatisfied with the outcome of the appeal go to step 2.

Step 2: Request a state hearing or an independent medical review. To request a state hearing, residents or their authorized representative can contact the Office of Administrative Hearings and Appeals (OAHA).

When you receive a discharge notice from the Nursing Home stating you no longer need a skilled level care

A skilled nursing facility may issue a discharge notice citing the reason that your health has improved sufficiently and that you no longer need skilled care services. If you disagree, you have a right to request a state hearing. Residents or their authorized representative can contact the Office of Administrative Hearings and Appeals (OAHA). See CANHR’s fact sheet on Skilled Nursing Facility Discharge Rights.

You don’t have to leave just because the facility or managed care plans says you do. Make sure the facility or the plan is following legal protocols and providing written notice. The notice should contain information about your appeal rights. In some cases there may be more than one level of appeal. You should take advantage of all levels of appeals that are available to you. If you have exhausted all levels of appeals from both the plan and the facility and have decided to leave, the facility is still required to provide you with a safe discharge plan and your Medi-Cal managed care plan is still responsible for managing your care. Make sure to connect with the managed care plan and request a referral to Enhanced Case Management and ask if any Community Support services are available to assist with your transition back to the community.

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Helpful Tips:

- Obtain a letter from an outside physician documenting the resident’s complex medical needs to demonstrate their need for skilled nursing.
- Contact the Managed Care Ombudsman for assistance on Managed Care denials.
- Review the criteria for skilled nursing and provide evidence that the resident meets the criteria.

Helpful Contacts:

- The Office of Administrative Hearings and Appeals via telephone at (916) 445-9775, fax at (916) 440-5105, or email at OAHAEfax@dhcs.ca.gov.
- The long term care ombudsman can provide support for Skilled nursing facility discharge/evictions find your local program using this link: https://aging.ca.gov/Programs_and_Services/Long-Term_Care_Ombudsman/
- The Managed Care ombudsman can provide support for managed care appeals Phone: (888) 452-8609 Email: MMCDOmbudsmanOffice@dhcs.ca.gov
The Food and Drug Administration (FDA) has approved the use of Rexulti, an antipsychotic drug, for the treatment of agitation associated with dementia due to Alzheimer’s disease. The approval of the drug represents a new blow to the disappearing national effort to improve dementia care. Residents of long term care facilities and their advocates are very concerned that Rexulti will be used as yet another chemical restraint to sedate and subdue residents rather than meeting their needs.

FDA Approval Is Questionable

The FDA approval is based on some pretty shaky data on efficacy. Renown psychotropic medication journalist Robert Whitaker reported that, upon closer examination of the randomized studies submitted to the FDA, Rexulti failed to provide a clinically meaningful benefit and increased patients’ risk of death. The studies measured the efficacy of Rexulti by using a 174 point test that tracks the frequency of “behaviors” that could be expressions of agitation. Researchers have set the minimum for a clinically noteworthy difference at 17 points. The Rexulti studies showed a maximum 5.3 point improvement, far less than the threshold for researchers, but apparently enough for the FDA.

The FDA approval also came despite significant red flags about potentially fatal side effects. Antipsychotic drugs, especially “atypical” antipsychotic drugs like Rexulti, cause very high mortality rates for older adults with dementia. This is why drug manufacturers are required to include a Black Box warning that tells older adults with dementia that their risk of death is increased when taking an antipsychotic drug. The increased mortality associated with Rexulti and other concerns led one member of the FDA Advisory Committee to vote no on approval and to write about their no vote in a compelling article in the Mad in America website.

Even if “Effective” and Not Deadly, Treating “Dementia-Related Agitation” With an Antipsychotic Drug is Misguided

Dementia is characterized by three symptoms: memory loss, confusion, and problems communicating. These symptoms impair a person’s ability to think but it does not impair their ability to feel. Like everyone else, and perhaps more so, they experience joy, anger, and sadness. Since they may have trouble regulating and explaining their feelings, people with dementia often use nonverbal forms of communication. Unfortunately, health care providers are prone to label nonverbal communication “behavior” and call it a symptom of dementia. “Agitation” and other negative feelings are not symptoms of dementia, they are the reasonable and predictable outcomes of someone not having their needs met, over and over.

Giving a person with dementia an antipsychotic to stop undesired “behaviors” is misguided. An expression of unmet need, like resisting care from someone perceived as a stranger, is a display of health - the patient’s communication of having a problem or not feeling safe or well. Agitation does not come from inside the patient unprovoked, it comes externally from their environment. Giving a person with dementia a pill may make them less likely to express agitation, but is not going to address the underlying problem that caused the agitation.

The agitation scale used in the Rexulti studies includes such things as “trying to get to a different place,” “handling things inappropriately,” and “complaining” as measures of agitation. To us, these are things that people with dementia do in long term care facilities because they are bored, neglected, or protecting themselves.

If you had memory loss, were confused, and received intimate care from strangers in an institutional, inflexible, and unstimulating setting, might you feel some reasonable “agitation?” Rexulti, and the inevitable chemical restraints that come after, will never substitute for holistic person-centered care that focuses on the comfort of the person with dementia. We wish the FDA would approve that.
CANHR has supported, opposed, and/or closely followed the below pieces of legislation this session. Please check [www.canhrlegislation.com](http://www.canhrlegislation.com) for updated details on legislation, and [www.leginfo.ca.gov](http://www.leginfo.ca.gov) for information on specific bills.

**SPONSOR / CO-SPONSOR**

**AB 48 (Aguiar-Curry): Informed Consent**
This bill would codify and expand existing informed consent rules to ensure nursing home residents are given important information about drugs that are prescribed for them and an opportunity to consent or withhold consent.
**Status:** Enrolled and presented to the Governor.

**AB 979 (Alvarez): Family Councils**
This bill would modernize existing family council laws, so that members can continue to meet, communicate, and operate during a public health emergency; ensure facilities are more responsive to concerns; discourage operators from undermining family council activities; and clarify that control of the family council membership and participation in meetings lies with the family council itself.
**Status:** Enrolled and presented to the Governor.

**AB 1309 (Reyes): Nursing Home Eviction Protection**
Would require nursing homes to include the same level of detail on written notices to justify a resident eviction that is required of Residential Care Facilities for the Elderly (RCFEs), allowing residents to better defend against inappropriate and unsafe evictions on appeal.
**Status:** Enrolled and presented to the Governor.

**AB 486 (Kalra): Long-Term Health Facilities: Citation Appeals**
This bill would provide a more consistent framework for the appeals process across regulatory citations for long-term care facilities in California. This would reduce the burden on our superior court system and save judicial resources and taxpayer money. Furthermore, it would streamline and improve a process that is designed to hold negligent facilities (i.e., nursing homes) accountable.
**Status:** Is a two year bill.

**AB 751 (Schiavo): Elder Abuse**
The bill would codify existing law requiring most local law enforcement agencies to adopt a detailed, specific policy providing much better protection to the 8.5 million older adult Californians and to the 9 million California children and adults with disabilities.
**Status:** Chaptered by Secretary of State - Chapter 18, Statutes of 2023.

**AB 1029 (Pellerin): Advance Health Care Directive Form**
This bill would clarify that a “health care decision” does not include consent by a patient’s agent, conservator, or surrogate to convulsive treatment, psychosurgery, sterilization, or abortion. The bill would confirm that a voluntary standalone Psychiatric Advance Directive may still be executed. The bill would clarify in the statutory advance health care directive form that the individual’s agent may not consent to a mental health facility, or consent to convulsive treatment, psychosurgery, sterilization, or abortion for the individual.
**Status:** Chaptered by Secretary of State - Chapter 171, Statutes of 2023.
SUPPORT (CONTINUED)

AB 1085 (Maienschein): Medi-Cal: Housing Support Services
This bill would require the Department of Health Care Services (DHCS) to seek federal approval to make housing support services a Medi-Cal benefit.
Status: Senate amendments concurred in. To Engrossing and Enrolling. (Ayes 63. Noes 13.).

AB 1417 (Wood): Elder and Dependent Adult Abuse: Mandated Reporting
Will require mandated reporters to follow a single, simplified reporting process, and also require reports of abuse or neglect to be reported sooner than under the current system (e.g., 24 hours vs. 2 working days). Would ensure that criminal acts are reported to law enforcement first. This bill will ensure that residents of long-term care facilities have the same protections against elder abuse as persons who reside in their own homes.
Status: Senate amendments concurred in. To Engrossing and Enrolling. (Ayes 79. Noes 0.).

AB 1537 (Wood): Skilled Nursing Facilities: Direct Care Spending Requirements
This bill would require by July 1, 2024, the establishment of a direct patient-related services spending, reporting, and rebate requirement for skilled nursing facilities, with exceptions. Would require that a minimum of 85% of a facility’s total non-Medicare health revenues from all payer sources in each fiscal year be expended on residents’ direct patient-related services, as defined.
Status: Is a two year bill.

SB 278 (Dodd): Elder Abuse
Would strengthen California’s elder financial abuse protections by clarifying current language in statutes governing elder financial abuse under Welfare & Institutions Code §15610.30.
Status: Is a two year bill.

SB 311 (Eggman): Medi-Cal Part A Buy-In
Would require the Department of Health Care Services to submit a State Plan Amendment for California to become a Part A Buy-In State. Would benefit low-income older Californians and persons with disabilities, who rely on Medicare and Medi-Cal but struggle to pay costly Medicare Part A premiums, by simplifying the enrollment process for financial assistance.
Status: Enrolled and presented to the Governor.

SB 525 (Durazo): Minimum Wage: Health Care Workers
SB 525 will raise to $25 the minimum wage for the lowest paid healthcare workers including those who provide services in nursing, caregiving, housekeeping, security, clerical, food services, laundry, and other patient-care related services.
OPPOSE

AB 839 (Addis): Residential Care Facilities for the Elderly: Financing
This bill would expand the California Health Facilities Financing Authority Act and California Health Facility Construction Loan Insurance Law to include RCFEs by adding an RCFE to the definition of “health facility” under those programs. By expanding the purpose for which the two continuously appropriated funds may be used, with regard to RCFE projects, the bill would make an appropriation from each of those funds.
Status: Enrolled and presented to the Governor.

SB 43 (Eggman): Behavioral Health
This bill expands the definition of “gravely disabled” to also include a condition that will result in substantial risk of serious harm to the physical or mental health of a person due to a mental health disorder or a substance use disorder.
Status: Assembly amendments concurred in. (Ayes 40. Noes 0.) Ordered to engrossing and enrolling.

SB 263 (Dodd): Insurance: Annuity Recommendations
Would require insurance producers and insurance companies to strengthen suitability standards for the sale of annuities and life insurance policies. The bill would ensure California meets federal and national model standards, while providing additional consumer protections.
Status: September 1 hearing postponed by committee.

SB 696 (Portantino): Notaries Public
This bill would give effect to a notarial act performed in another state, under the authority and within the jurisdiction of a federally recognized Indian tribe, under federal law, or under the authority and within the jurisdiction of a foreign state, as if it were performed by a notarial officer of this state, if specified conditions are met.
This bill would authorize a notary public or an applicant for appointment as a notary public to apply for registration with the secretary to be a notary public authorized to perform online notarizations by submitting an application that meets certain requirements.
Status: Enrolled and presented to the Governor.

Home & Community Based Services Available Through Medi-Cal
Learn about different Medi-Cal covered programs that help people receive care and support in their home or in the community including:
- In Home Supportive Services
- Assisted Living Waiver
- PACE, MSSP and more!

https://tinyurl.com/canhrhcbs2023
Increased Fees & Reduction in Services

Increasing the Monthly Care Fee – How Much is Too Much?

Despite Health and Safety Code guidelines regarding monthly fee rate increases, under DSS’s view, there is apparently no limit on annual monthly care fee increases, as long as the provider meets the notice and meeting guidelines pursuant to Health & Safety Code §1771.8(c-f). That is-meeting with the residents and providing a notice to explain the rationale for the increase. In answer to one such complaint objecting to a 9.25% increase in fees, the Department deemed the complaint “unfounded” – noting that “it appears as though the Provider complied with the requirements in H&S Code 1771.8(c-f).” Note the words “appears as though” – since no further investigation was done to determine if the provider complied with other applicable statutes, such as H&S Code §1788(a)(22), which specifically governs monthly fee increases, or whether the provider’s continuing care promises under § 1771(c) were broken.

If, for example, the provider promised residents – whether written or oral, or in advertisements, brochures or other material - that the average increase in fees would be 4%, and proceeded to increase the fees 9.25%, is that a violation of §1771(c)(8 & 9)? We believe it is. Under the Department’s twisted and provider-friendly rationale however, any increase, regardless of broken promises, is okay with them as long as the residents received prior notice. Clearly, the statutes need to be amended to protect those residents who invested their life savings into a profit-driven system that purports to put the residents first.

Although residents can certainly complain about an increase in care fees, they should not expect any relief from the DSS CCRC Bureau. They will delay any response and eventually uphold any increase regardless of the amount of increase, profits, amount of reserves, promises made at admission, or pass-through of capital costs associated with other communities.

A complaint about such an increase sent in early January 2023 was responded to in mid-June. At this point, CCRC providers have an open door at DSS to increase rates however much they choose.

Eliminating the Skilled Nursing Unit in CCRCs

The latest trend for those CCRCs prioritizing profits over residents is to try to eliminate the skilled nursing unit. Skilled nursing care is expensive, more regulatory intensive, requires skilled medical staff and needs to be licensed by the Department of Public Health. Many residents moved to CCRCs under the contractual understanding that the CCRC would offer all levels of care, including skilled nursing. However, despite marketing materials and admission agreements that promise “continuing care,” a number of CCRCs are trying to eliminate their more costly skilled nursing units. Despite these efforts, CCRCs that have residents with life care contracts cannot eliminate their SNFs. A clear reading of the laws regarding CCRCs under Health & Safety Code § 1771 (l) indicate that these proposed plans are in violation of the laws and the contracts signed by many current residents.

(l) “Life care contract” means a continuing care contract that includes a promise, expressed or implied, by a provider to provide or pay for routine services at all levels of care, including acute care and the services of physicians and surgeons, to the extent not covered by other public or private insurance benefits, to a resident for the duration of his or her life. Care shall be provided under a life care contract in a continuing care retirement community having a comprehensive continuum of care, including a skilled nursing facility, under the ownership and supervision of the provider on or adjacent to the premises. A change shall not be made in the monthly fee based on level of care. A life care contract shall also include provisions to subsidize residents who become financially unable to pay their monthly care fees.” H & S Code §1771(l).

[continued on next page]
Take a look at what type of contract you have with your CCRC provider, and do not let them talk you into reduced services as a “benefit” to you.

**Enforcement:** CANHR has been working on CCRC issues for over 30 years. While enforcement of the limited statutory rights of CCRC residents has always been spotty, it has never been as dismal as today’s system. Despite the clear provision in §1775(e) that “This chapter shall be liberally construed for the protections of persons attempting to obtain or receiving continuing care,” the provisions are usually construed to protect the interests of the provider. This needs to change.

The CCRC statutes need to be amended to protect the rights of CCRC consumers; to provide them with the information necessary to make informed choices at admission and on-going; and to provide consumers and the State with the tools and willingness necessary to overturn illegal actions on the part of providers.

The financial and managerial aspects of CCRCs are approved and regulated by the Department of Social Services, Continuing Care Contracts Branch and governed by laws found in California Health & Safety Code Section 1770 and following. A copy of the current statutes can be found on the CCRC Bureau website: [https://www.cdss.ca.gov/inforesources/community-care/continuing-care](https://www.cdss.ca.gov/inforesources/community-care/continuing-care).
Care Needs Increases in RCFEs

A common issue currently facing older adults living in residential care facilities is the rising cost of care needs. Older adults in these facilities are often surprised and unprepared for these cost increases, which can have devastating impacts on their ability to stay in the facility.

Residential Care Facilities for the Elderly (RCFEs), sometimes called “assisted living” (e.g., 16+ beds) or “board and care” (e.g., 4 to 6 beds) facilities, are non–medical facilities available to older adults who are 60 years old or older. These facilities provide room, meals, housekeeping, supervision, storage and distribution of medication, and personal care assistance.

The average monthly cost of a facility in California is approximately $5,000 (but some facilities charge far higher rates), which includes basic services like accommodation, food, laundry, hygiene, etc. Most people pay privately for care except for a small number of residents who are on the state’s assisted living waiver program, SSI recipients, or have long-term care insurance. Facilities very often give themselves the ability to charge for additional services at their sole discretion in the residential agreement.

The law does not provide limits to the monthly charges, so a facility can charge whatever the market will bear. However, any fee charged, whether prior to or after admission, must be clearly stated in the residential agreement and fee increases must be preceded by written notice. (Cal. Health & Safety Code §1569.884; California Code of Regulations §87507).

Rate increases occur in one of two scenarios. One, the facility raises the rates for all residents due to inflation, increased costs of doing business, or simply to make more money operating the facility. The second scenario is when a resident’s functioning allegedly declines and the facility seeks to augment the services the resident is receiving.

Typically, increases in charges due to allegedly increased care needs are triggered after a facility staff person conducts a health needs assessment for the resident. These individualized assessments are done periodically and typically at the discretion of the facility. The care needs are assigned points associated with different levels of care, which they typically call tiers. For example, the tiers could range from tier 1 to tier 7. Tier 1 would be assigned for someone that is mostly independent and needs only minimal assistance, while a tier 7 would be for someone who requires significant assistance to perform most daily activities. The higher the tier, the more services that are required. The higher the tiers, the higher the monthly costs.

These costs are unavoidable for many residents, especially since the residential agreements allow the facility complete control over assessing care needs and assigning costs. So how can residents be better informed?

• Check the Resident Agreement about the type and frequency of services offered for the fixed rate and how the point system works. For instance, many residents are surprised when they receive charges for more than one shower a week or for having food trays brought to the room when they are sick.

• It is common for facilities to charge higher rates for specialized dementia care or for hospice care. These charges must be clearly stated in the residential agreement.

• If the resident is on Supplemental Security Income (SSI), the SSI board and care rate, which currently is $1,324.82 for 2023, covers the full charges for all basic services. Extra charges for a resident on SSI can only be made for special food services or a private room. (Cal Code Regs § 87464(e)).

Knowing is only half the battle. We will have a follow-up article in our winter Advocate with advocacy tips on what to do when an RCFE raises costs based on alleged increased care needs.
• 6/23/2023: Legal Services of Northern California invited Consumer & Policy Advocate Jaclyn Flores and Staff Attorney Arabelle Malinis to present to staff on Evictions in Long Term Care Facilities, Reverse Mortgages and Medi-Cal Recovery.

• 7/7/2023: Health Plan of San Joaquin hosted a virtual training for social workers where Executive Director Maura Gibney presented on Home and Community-Based Services.

• 8/15/23: Maura Gibney and Pauline Shatara collaborated with Legal Assistance for Seniors to present to their staff on Home and Community-Based Services.

• 8/21/2023: California Advocates for Nursing Home Reform staff members hosted a virtual Social Worker Advocacy Program Drop In meeting for social workers and advocates on evictions in long term care facilities and Medi-Cal eligibility.

• 8/22/2023: Staff Attorney Arabelle Malinis presented to the PG&E Legacy Employee Resource Group on Planning for Incapacity.

• 9/13/2023: Jaclyn Flores hosted a Social Worker Advocacy Program webinar on Evictions Protections in Long Term Care Facilities.

Medi-Cal Eligibility and Updates in 2023

- Learn about Medi-Cal eligibility for older adults and people with disabilities

- Hear updates on current and upcoming changes to Medi-Cal eligibility rules, managed care plans, and services

https://tinyurl.com/canhrmedical2023
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

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<thead>
<tr>
<th>Name</th>
<th>In Honor Of</th>
<th>In Memory Of</th>
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<tbody>
<tr>
<td>Judy Stark</td>
<td>Pat McGinnis</td>
<td>Lisa Chang</td>
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<td>Robert Reis</td>
<td>Alice Reis</td>
<td>Tom Barrett</td>
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<td>Marian Rubin</td>
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<td>Jon Borden</td>
<td>Beverly Borden</td>
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<td>Gail Marshall</td>
<td>Myrtle Privett</td>
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<td>Tom Barrett</td>
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<td>Andrea &amp; David Gleason</td>
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### In Memory Of

- Her Daughter Faline
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For the foreseeable future, due to an overwhelming number of citations and staff time constraints, CANHR will be publishing only Class “A” or “AA” citations in the Advocate.

Explanation of citation classifications: Class “AA” citations are issued for violations that are a substantial factor in the death of a resident and carry fines of up to $120,000. Class “A” citations are issued when violations present imminent danger to a resident or the substantial probability of death or serious harm, and carry fines of up to $25,000, except in cases involving the death of a resident, when the Class “A” penalty can be up to $60,000. Class “B” citations carry fines of up to $3,000 for violations that have a direct or immediate relationship to a resident’s health, safety, or security, but do not qualify as Class “A” or “AA” citations. “Willful material falsification” (WMF) and “willful material omission” (WMO) citations carry fines of up to $25,000. Fines are not always required to be paid. Citations can be appealed. Violations repeated within twelve months may be issued “trebled fines”—triple the normal amount.

El Dorado County

THE PINES AT PLACERVILLE HEALTHCARE CENTER
1040 Marshall Way, Placerville

AA $100 000 Careplan; Decubiti (Bedsores); Deterioration; Infection; Neglect; Notification; Nutrition; Patient Care; Patient Rights; Death 7/10/23

The facility failed to turn, reposition, and monitor a resident’s skin, resulting in her developing eight pressure sores. The resident began displaying confusion, drowsiness, weight loss, inability to swallow medications and changes in vital signs, and was placed on antibiotics for a suspected UTI with physician instructions to transfer her to a hospital if her condition worsened. The resident was unable to swallow her medication and her condition worsened. The facility delayed treatment and failed to notify her physician in a timely manner. On 9/6/21, the resident was sent to the ER at the request of her daughter. The resident had developed sepsis, had multi-organ failure and died on 9/13/21.

Citation # 030018893

Placer County

PINE CREEK CARE CENTER
1139 Cirby Way, Roseville

A $10 000 Careplan; Neglect; Notification; Patient Care

A 74 year old resident and was admitted to the facility on 7/4/22 with a circulation disorder, hardening/thickening of the arteries in the left leg, and sores on the leg and foot. The facility failed to develop a comprehensive care plan based on the resident’s diagnosis and did not appropriately monitor for signs of impaired circulation. The facility also did not notify or consult with the director of nursing or the primary care provider when the resident’s left foot was noted to have a purple discoloration. This led to a delay in treatment and contributed to the subsequent amputation of the resident’s left lower leg.

Citation # 030018104
A $25,000 Careplan; Deterioration; Patient Care 6/28/23

A resident who required a ventilator to breathe was admitted to the facility on 7/18/22 without a physician order or careplan related to ventilator care or oxygen administration. On 7/22/22, the resident’s oxygen level fell to 88-90% and 37 minutes elapsed before the nursing staff sought to transfer the resident to an acute hospital. The staff decided to use a non-emergency transport service, further delaying treatment for the resident. Neither of the two licensed nurses working on 7/22/22 were trained in tracheostomy and ventilator care. The facility was cited for failing to have competent nursing staff to meet the needs of the residents.

Citation # 030018890

Twin Oaks Rehabilitation & Nursing Center
897 N M St, Tulare

A $25,000 Fall; Injury; Patient Care 7/18/23

The facility failed to ensure a resident was transferred using a Hoyer lift which resulted in the resident falling and sustaining a right ankle fracture. This violation presented either imminent danger that death or serious harm would result or a substantial probability that death or serious physical harm would result.

Citation # 120018882

Twin Oaks Rehabilitation & Nursing Center
897 N M St, Tulare

A $25,000 Fall; Injury; Patient Care; Supervision 7/19/23

The facility failed to ensure a resident was transferred by a qualified staff. This failure resulted in the resident falling to the ground and sustaining a left shoulder fracture. This violation presented either imminent danger that death or serious harm would result or a substantial probability that death or serious physical harm would result.

Citation # 120018886
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Kern County

KERN VALLEY HEALTHCARE DISTRICT D/P SNF
6412 Laurel Ave, Lake Isabella

A $25 000 Fall; Injury; Patient Care; Supervision

An 82 year old resident was admitted to the facility with diagnoses of dementia and Alzheimer’s and required daily one-to-one monitoring as ordered by her physician. On 7/24/22 the monitor who was assigned to the resident voluntarily left her alone during lunch, resulting in the resident wandering without her walker and falling. The resident needed to be transported to the ER due to a large cut to her left eyebrow area. An LVN reported on 9/14/22 that resident does not walk the same as before and now often requires a wheelchair, becomes fatigued easily, has shortness of breath and complains of headaches and back pain.

Citation # 120018157

Los Angeles County

VILLA DEL RIO
7002 Gage Ave, Bell Gardens

A $25 000 Fall; Injury 7/25/23

An 82 year old resident with cognitive impairment fell from her bed onto her face and suffered head injuries that required hospitalization. The resident’s careplan called for supervising the resident when her bed was elevated and keeping her bed lowered when she was unsupervised because of her high potential for falling. Despite this, the resident’s bed was left elevated after breakfast on 6/15/23 and her floor mat was not set in place, leading to her fall. The facility was cited for failing to ensure the resident was not left unattended on an elevated bed and provided an environment safe from falls.

Citation # 910018995
Bel Tooren Villa Convalescent Hospital
16910 Woodruff Ave, Bellflower

A   $25 000 Fall; Injury 6/23/23

On 12/29/22, a non-ambulatory, complete paraplegic, right leg amputated patient fell from a sit-to-stand mechanical lift during transfer by only one person from a shower chair to bed. The facility failed to use full body mechanical lift during transfer or use a second CNA for assistance. This resulted in a left thigh bone fracture with swelling. The resident was transferred to a hospital for evaluation.

Citation # 910018892

Mayflower Care Center
5043 Peck Rd, El Monte

A   $25 000 Fall; Injury 3/22/23

On 1/22/23, a resident who was assessed at high risk for falls, got up from his wheelchair unnoticed by staff, fell from the wheelchair and broke his left hip bone. The resident was transferred to hospital where he underwent surgery. The facility failed to keep the resident within visual field as nursing intervention for resident’s care plan for fall, and failed to provide a function sensor pad alarm to prevent a fall for the resident who is a high fall risk.

Citation # 950018551

Century Villa, Inc.
301 Centinela Ave, Inglewood

A   $15 000 Dignity; Injury; Physical Abuse 6/30/23

On 4/21/23, a resident diagnosed with schizophrenia was involved in a verbal and physical altercation with staff at a facility. Once physical altercation started, the resident was tackled to the floor by staff. Staff placed their knees on the resident’s arms to keep resident still and began to strike the resident across his face. The facility failed to ensure resident was free from abuse, failed to treat resident with dignity and respect, and as a result the resident developed a swollen and bruised left eye.

Citation # 910018917

BROADWAY BY THE SEA
2725 E Broadway, Long Beach

A   $25 000 Careplan; Infection; Neglect; Patient Care Injury 5/10/23

The facility failed to provide consistent care and cleaning of a 93 year old resident’s indwelling urinary catheter with soap and water every shift, which was ordered by the physician and documented in the careplan. The facility failed to remove the catheter after two weeks of admission to the facility and failed to ensure bladder retraining started to prevent a urinary tract infection (UTI). This resulted in the resident experiencing an altered mental status, which required transfer to the hospital and was diagnosed with sepsis as a result of a UTI.

Citation # 910018741

Alcott Rehabilitation Hospital
3551 W Olympic Blvd, Los Angeles

A   $15 000 Fiduciary; Patient Care; Patient Records; Death 8/18/23

The facility failed to ensure that a resident received immediate basic life-saving support, including CPR, as per the request of the resident’s legal representative. On 6/17/23, when the resident had no blood pressure reading, CPR was not attempted. The resident was pronounced dead shortly thereafter on 6/17/23.

Citation # 920019074

Country Villa Mar Vista Nursing Center
3966 Marcasel Ave, Los Angeles

A   $15 000 Dignity; Infection; Neglect; Patient Care 8/11/22

On 6/1/22, the facility left a resident unattended for five hours. The resident was observed disheveled, partially naked exposing his private parts, on a bare mattress without linen, covers or pillows. The resident’s right foot wound dressing was soiled with liquid stool. There was a soiled linen and a soiled incontinent brief on the floor by resident’s bed. Additionally, the resident was shivering from being cold. The resident was at risk of falls given his history, and the call light was not within resident’s reach.

Citation # 920017883
Fountain View Subacute and Nursing Center  
5310 Fountain Ave, Los Angeles

A $25,000 Elopement; Injury; Neglect; Supervision

A 68 year old resident with cognitive impairment, opioid and alcohol dependency and depression left the facility unattended on 7/28/22. The resident had been assessed as having a high risk of elopement eight months prior, but his careplan had not been updated. At around 5:30 pm on 7/28/22, the resident was noted as missing. At 8:00 pm, he was in the hospital for alcohol poisoning. The resident’s roommate said the resident sometimes came to his room drunk. The liquor store clerk said the resident came to the store once or twice a month and bought alcohol. The facility was cited for failing to: 1) update the resident’s elopement assessments and careplan, 2) implement a plan to ensure the resident complied with facility rules and 3) prevent the resident from leaving the facility unattended.

Citation # 920018085

Kei-Ai Los Angeles Healthcare Center  
2221 Lincoln Park Ave, Los Angeles

A $25,000 Careplan; Dignity; Neglect; Patient Care 1/11/23

A resident was admitted to the facility following abdominal surgery and was not given a careplan for managing the surgical wound. The facility failed to provide prescribed wound care, resulting in drainage collecting into the resident’s wound dressing for hours at a time, causing an embarrassing odor. The facility also neglected to assess and treat the resident’s pain. The facility was cited for failing to provide needed wound care and treatment that presented a high risk for serious harm.

Citation # 920018299

Kei-Ai Los Angeles Healthcare Center  
2221 Lincoln Park Ave, Los Angeles

A $25,000 Patient Records 1/11/23

The records of five residents were falsified to reflect care services were provided when they actually were not. A nurse stated that she had an unmanageable workload on 9/25/22 and was later pressured to falsely document having provided medical treatments. On 9/30/22, a day the nurse did not work in the facility, someone documented that the physician-ordered treatments has been performed on 9/25/22. Those records were false. The facility was cited for willful material falsification of resident medical records.

Citation # 920018297

Kei-Ai Los Angeles Healthcare Center  
2221 Lincoln Park Ave, Los Angeles

AA $120,000 Careplan; Infection; Medication; Neglect; Patient Care; Staffing; Death 6/2/23

The facility failed to ensure a resident with a history of a spinal infection, received care, treatment and services in accordance with professional standards of practice by failing to: 1) verify admission orders with a doctor, 2) ensure the resident saw a physician regularly and 3) ensure the resident had transportation to necessary medical appointments. As a result, on 2/7/23, the resident developed a new spinal infection and lower extremity paralysis, requiring transfer to a hospital. The resident died at the hospital on 2/16/23.

Citation # 920018822

View Park Convalescent Center  
3737 Don Felipe Dr, Los Angeles

A $20,000 Elopement; Injury; Neglect; Supervision 5/10/23

On 3/18/23, a 76 year old male resident with dementia left the facility unattended and was missing for several hours. While outside of the facility, the resident fell and suffered numerous injuries, including a broken nose and black eye, and had to be hospitalized. The facility was cited for failing to ensure the resident was adequately supervised.

Citation # 920018730

Vista Del Sol Care Center  
11620 W Washington Blvd, Los Angeles

A $20,000 Careplan; Fall; Injury; Patient Care; Physical Environment 6/29/23

A resident fell three separate times and sustained head injuries in the facility. The facility failed to: 1) identify and evaluate hazards related to the resident’s specific risk and causes to prevent falls and injury, 2) implement appropriate interventions to prevent the resident from falling and 3) implement the resident careplan for Risk for Fall which indicated that the physician would document the presence of uncorrectable risk factors. These violations presented either an imminent danger that death or serious harm would result or a substantial probability that death or serious physical harm would result to the resident.

Citation # 920018899
### ARARAT NURSING FACILITY
15099 Mission Hills Rd, Mission Hills

**$25 000  5/17/23**

A resident with Alzheimer’s disease fell on her face from her wheelchair on 3/11/23. A nurse documented that the resident sustained no injuries. On 3/12/23, the resident was found unresponsive and was sent to a hospital where she was diagnosed with broken bones and extensive brain bleeding. The resident died on 3/13/23. The facility was cited for failing to provide the resident with postural support while in her wheelchair and failing to address the resident’s episodes of getting out of her bed and wheelchair unsafely.

Citation # 920018759

### SANTA CLARITA POST-ACUTE CARE CENTER LLC
23801 Newhall Ave, Newhall

**$25 000  Patient Care; Death 3/17/23**

On 1/1/23, a 78 year old resident was found unresponsive her room by a CNA. Instead of yelling for help and initiating CPR, the CNA felt uncomfortable performing CPR so she left the resident to get help. A LVN examined and repositioned the resident, delaying the application of CPR by several minutes. The facility’s director of nursing later stated that the five-minute delay in CPR could have caused the resident’s death. The facility was cited for failing to provide immediate emergency care after the resident was found unresponsive.

Citation # 920018524

### SANTA CLARITA POST-ACUTE CARE CENTER LLC
23801 Newhall Ave, Newhall

**$20 000  Careplan; Fall 3/17/23**

A 77 year old male resident suffered at least 19 falls over a 27 month period, eight of which were injurious. After some of the falls, the facility failed to review and update the resident’s careplan to prevent future falls. Additionally, the facility did not adequately document the use of a pressure sensitive alarm pad in the resident’s bed.

Citation # 920018525

### CLAREMONTE CARE CENTER
219 E Foothill Blvd, Pomona

**$25 000  Neglect; Patient Care; Patient Rights 10/6/22**

On 6/12/22, a resident reported to an LVN that she could not breathe, and felt very tired and anxious. The LVN failed to assess the resident’s condition and told her to stay in bed, close her eyes and relax. The resident video called a relative and expressed that she could not breathe. In response, the relative called 911 and went to the facility to check on the resident. Emergency services arrived at the facility and transferred her to an acute hospital. The resident was having a heart attack, which required surgery and stents placed in her heart.

Citation # 950018061

### INLAND VALLEY CARE AND REHABILITATION CENTER
250 W Artesia St, Pomona

**$25 000  Patient Care; Death 3/30/23**

An 88 year old resident died on 2/11/23, after facility staff failed to provide effective life support interventions when the resident became unresponsive. Staff did not properly administer CPR, did not ensure resident’s oxygen mask was connected to an oxygen tank and did not continuously provide CPR until emergency personnel arrived. When emergency personnel entered the resident’s room, she was observed to be sitting upright, with her head flopping around and chin touching her chest. A facility staff member could not state why CPR was stopped after identifying that the resident was unresponsive.

Citation # 950018595

### INLAND VALLEY CARE AND REHABILITATION CENTER
250 W Artesia St, Pomona

**$120 000  Administration; Careplan; Patient Care; Patient Rights; Death 7/21/22**

A resident with diagnoses of kidney disease, type-2 diabetes, morbid obesity and anemia required dialysis treatments every Tuesday, Thursday and Saturday, which was ordered by his physician and documented in his careplan. The facility failed to ensure that transportation met the resident’s needs, which resulted in the resident missing 18 appointments from 11/23/21 to 3/3/22. On 3/4/22, resident was transported to an acute hospital due to shortness of breath. On 3/6/22, resident died of a heart attack and kidney failure.

Citation # 950017809

### LIVE OAK REHABILITATION CENTER
537 W Live Oak St, San Gabriel

**$25 000  Patient Care; Death 3/30/23**

An 88 year old resident died on 2/11/23, after facility staff failed to provide effective life support interventions when the resident became unresponsive. Staff did not properly administer CPR, did not ensure resident’s oxygen mask was connected to an oxygen tank and did not continuously provide CPR until emergency personnel arrived. When emergency personnel entered the resident’s room, she was observed to be sitting upright, with her head flopping around and chin touching her chest. A facility staff member could not state why CPR was stopped after identifying that the resident was unresponsive.

Citation # 950018595
Whittier Hills Health Care Center
10426 Bogardus Ave, Whittier

AA $120 000 Careplan; Medication; Neglect; Notification; Patient Care; Patient Rights; Death 3/9/23

The facility failed to ensure the licensed nurses administered medications as ordered and failed to monitor, document and report abnormal blood sugar to the attending physician immediately. As a result, a resident experienced adverse reactions and health complications from missing doses of significant medications. On 1/12/23, the resident was transferred to the emergency room with high blood sugar. The resident later expired on 1/13/23.

Citation # 950018489

--- Orange County ---

Foothill Regional Medical Center D/P SNF
14662 Newport Ave, Tustin

A $25 000 Dietary Services; Feeding; Nutrition; Patient Care; Other 3/15/23

On 1/6/23 a CNA incorrectly administered G tube feeding to a resident. The G tube feeding infused for approximately 30 minutes directly into the resident’s lungs. G tube feedings must be performed by a licensed and trained health care professional and was out of the CNA’s scope of practice. The resident was transferred to the PICU and treated for aspiration pneumonia with diagnoses including respiratory failure with low blood oxygen. The resident’s ventilator settings were increased due to a buildup of carbon dioxide in the bloodstream.

Citation # 060018510

Pomona Vista Care Center
651 N Main St, Pomona

A $25 000 Careplan; Hydration; Neglect; Nutrition; Patient Care 6/2/23

The facility failed to monitor a resident’s blood sugar level and monitor, document and report to the doctor regarding the resident’s signs and symptoms of high blood sugar. On 4/12/23, a 59 year old resident had slurred speech and an elevated blood sugar level received regular insulin subcutaneously. The resident was then transferred to an acute hospital for further evaluation with elevated blood sugar and high sodium, and was ultimately transferred to the ICU.

Citation # 950018826
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