

1. NaCCRA's Board will continue work on the Bill of Rights as begun under Dan Seeger's Chairmanship as a paradigm for adoption by all states. NaCCRA may also consider a Federal approach to resident rights if that is deemed appropriate. Is the Bill of Rights, as it now stands, complete, principled, and enforceable?

LeadingAge and the Task Force support residents right in principle and we note that several states have some form of resident's right in statute. We have reviewed the rights adopted by NaCCRA, but suggest it could be the starting point for further discussion. One of our concerns is the requirement of 3 residents on a board. We strongly support resident involvement in governance, but oppose a specific number of board seats for reasons to detailed for this document. At our meeting at PEAK, there was much discussion about residents and governance and maybe we can use this as a springboard to further discuss this issue and perhaps come up with some agreed upon guidance. We also talked in March about efforts to educate C-suite professionals on this issue and that also could be something that comes from these discussions.

2. NaCCRA will propose to LeadingAge a joint project to consider how to establish patient welfare as paramount over compliance in the American healthcare system. Currently, government oversight by the Centers for Medicare and Medicaid requires hospitals and skilled nursing facilities to put compliance first.

We're unclear what your intent here is and would like clarification. However, if clarified this is certainly beyond the scope of this work group and we see it as something that is well beyond anything LeadingAge and NaCCRA can accomplish.

3. Consider expansion of the requirements for charitable status for CCRCs to include resident governance and to better define the cost containment requirements. This would involve reviewing Revenue Ruling 72-124, which is the basis for tax exemption of "not-for-profit" profitable luxury senior housing for America's affluent, to consider whether the nearly 43-year-old administrative ruling conforms with sound public policy today. Such a review can allow addressing resident governance and pricing integrity issues. As background, 72-124 provides that any CCRC organization, "which devotes its resources to the operation of a home for the aged will qualify for charitable status for

purposes of Federal tax law if it operates in a manner designed to satisfy the three primary needs of aged persons. These are the need for housing, the need for health care, and the need for financial security.” As an example of a possible addition NaCCRA might advocate resident self-determination as a fourth “primary need” for California charitable status qualification. That need could be met by requiring as a precondition for tax exemption that all residents be members of the nonprofit corporation during the period of their residency. Many, perhaps most, nonprofits have members (think of AARP, LeadingAge or NaCCRA); few CCRCs, however, have members. For instance, the Articles of Incorporation for Pacific Retirement Services state explicitly, “The Corporation shall have no members as that term is defined in ORS Chapter 65.” (click on the quote to go to the source). If revisions are determined to be desirable from a residents’ and prospective residents’ perspective, we will seek then to work with LeadingAge to persuade the National Office of the Internal Revenue Service to adopt an up-to-date Revenue Ruling. The corresponding approach for investor funded CCRCs (for profit) is for resident entry fees to result in a proportionate ownership stake in local CCRCs .

We believe this is beyond the scope and purpose of this workgroup.

4. NaCCRA will consider the principles and content that should apply to the creation of an unbiased Consumer Guide to eldercare services including CCRCs and will use that base to develop a true Consumer Guide. A valid Consumer Guide must reflect the consumer perspective and avoid the seduction of the status quo. The draft Consumer Guide will be submitted to LeadingAge for review to ensure that it is both practicable and fair but NaCCRA’s independent perspective will govern.

We support the concept of an unbiased guide for consumers. We recognize that the consumer perspective is important, but feel a balance is important. We would support a guide that is approved and endorsed by both NaCCRA and LeadingAge.

5. NaCCRA will continue to advocate with the Financial Accounting Standards Board for fair accounting standards for entry fee contracts. Such standards can require accounting consistent with how similar transactions are accounted for in other industries, recognizing the time value of money, and conforming to the matching principle that revenue recognition should coincide with the fulfillment of performance obligations. CCRC accounting is now singled out from general accounting principles which front ends revenue recognition favoring executive interests over the interests of residents in financial assurance that end of life needs will be met.

FASB has recently implemented new rules for CCRC accounting. We need to review that and see if this is still a relevant issue.

6. NaCCRA can seek LeadingAge engagement with the Model Laws and continue to pursue the involvement of the National Association of Insurance Commissioners in improving the technical financial and contract oversight of continuing care contracts. We first approached LeadingAge about this in 2010 and met on May 18, 2010 with Steve Maag to discuss the need. Our new affiliation can facilitate mutual engagement on these long deferred matters.

We would like to discuss this further to better understand the ramifications of this course of action. There are a significant number of contract variations across the country and the best estimates are that less than 50% are the traditional Type A life care contracts that would even arguably be a quasi-insurance model that would have characteristics that would make it appropriate for insurance commissioners model laws.

7. NaCCRA can propose to LeadingAge a joint working task force to take a fresh look at healthcare costs in America relative to quality and convenience. It seems unlikely that long term care costs can be covered by social insurance without a well-reasoned, comprehensive approach to America's healthcare cost challenge. The California MEDChat Collaborative is a useful starting point for this (<http://chcd.org/our-approaches/chat-for-priority-setting/california-medchat-collaborative/>).

LeadingAge, along other stakeholders, is pursuing what is called Pathways before federal elected officials. It is a comprehensive look at alternatives to the current payment system for

long term support and services. There are several options discussed and it will be up to the policy makers to determine which version to adopt. We would welcome your assistance in our efforts to move Pathways forward.

We have also recently launched our Senior Action Network which is an effort to develop a grassroots network of residents, other seniors, employees and families to influence national public policy. We would welcome any interest NaCCRA may have in becoming involved in this network

8. NaCCRA can develop a self-completing Consumer Continuing Care Evaluation Tool, including such elements as financial strength, contract fairness, ambiance, etc., that prospective resident can use to evaluate alternative continuing care communities or services consistent with their own needs and values.

We see this as a next step after the development of a consumer guide. We believe there are objective measures that can be used in evaluating a CCRC, but there are many subjective criteria that will be more difficult to develop. For example you list contract fairness and ambiance as elements to evaluate; both of these are highly subjective and difficult to translate into an evaluation tool. However, a tool can be a useful part of evaluating a community and we are willing to work with you on this.

9. NaCCRA might develop resources to help those members who prefer to use a professional fiduciary for healthcare and similar needs to find trustworthy practitioners. Many CCRC residents lack family to intervene for them, while others who have family would prefer that their healthcare decisions, while they are incapacitated, be made by someone who does not have the emotional involvement of family members. Locating trustworthy, knowledgeable and capable practitioners can now be a challenge.

We are not clear who you intend to focus on as “trusted advisors”, but we see this as primarily an education issue. Too many of the advisors seniors look to do not understand what a CCRC is, let alone much of the rest of services available for seniors.

We support working with NaCCRA on an educational program that would be available to our members as well as others to use to better educate advisors and others.