Questions and Answers for
Prospective CCRC Residents

Introduction and Foreword: We assume that you are seriously considering the Continuing Care Retirement Community (CCRC) option for your retirement and that you would like information that is as exhaustive as possible. To make that information more palatable and easier for you to absorb, we've formatted this guide as Questions and Answers. Moreover, the National Continuing Care Residents Association (NaCCRA) has volunteer residents who are prepared to answer any further questions that you may have.

Congratulations on your decision to consider CCRC living. The communal, often intimate, living experience that CCRCs offer can bring you much happiness, many new friends, and ongoing support as your grow older. It's also a responsible decision to move to a community so that you won't become a burden to the state or to others. We want you to have a good experience both during your search for a suitable community and afterwards for the rest of your life. We are here for you and we hope that you will join with us in this common cause to give you the

carefree, fulfilling, and empowering retirement that you have earned and deserved.

The big plus of CCRC living is the communal environment and the mutual support that can develop among the residents of a well-operated CCRC. It's fun to get to know an engaging selection of peers from many different walks of life and many different perspectives. A secondary positive is the ready availability of care and support services on campus if or when the need for such services becomes evident.

The big negative lies in the lack of self-governance and self-determination in many CCRCs, though not in all. It can be disconcerting to sell a home, in which you have enjoyed the privileges of ownership, to invest in an Entrance Fee continuing care contract which does little more than give you a license for residence and lifetime care. If the provider, which uses those Entrance Fees as the equity in ownership, doesn't reserve funds to meet those lifetime commitments, then it can be disheartening to learn that commitments made lack the financial rigor than one might expect from an insurance company making similar deferred promises. Most often, resident financial interests are subordinated to the more senior interests of debt holders. Prospective residents need to weigh both these positives and the negatives in making their deci-

sions. They need, too, to learn the circumstances at any particular CCRC to which they may consider committing their future wellbeing.

Not all CCRCs are the same and that is the foundation for this guide. We can help you to find the great CCRCs and to avoid the others. Before you begin, set up a spreadsheet with criteria across the top in the column heads and with a list of CCRCs (or other options) that you are considering in the rows down the left hand column. This will facilitate your assembling information which can guide your choice. Although the CCRC living experience is generally a positive one, there are certain trouble signs that you should heed as you assess possible CCRCs in which to live and with which to contract for services.

It's easy to envision the positives – and you will want to include them on your spreadsheet – but it's more difficult to identify deal breaker items. These are not matters that marketing people are likely to tell you about, or if they do discuss them, they may spin the discussion in a way that leaves you confused, with your head in a whirl, and with you doubting your own thinking.

You're on your own in sizing up alternative CCRCs, especially with the marketing people regaling you with confusing rationalizations, so it's important that you keep a level head and not be mesmerized into a choice without your fully understanding what you are getting yourself

into. Choosing a CCRC is not a matter of faith, to be accepted as blind belief without mental reservations. Making a wise choice calls for levelheaded analysis of the alternatives and a full understanding of what is promised, what is likely to be delivered, i.e. how likely is it promises will be kept, and what risk exposures you will be accepting by your decision.

The following four items detail CCRCs offerings to be avoided; for the most part we consider these matters to be deal breakers, or nearly so, and you, too, may come to think of them that way. You may find as you search out the CCRCs that you have on your short list that it is nearly impossible to find a CCRC that upholds the same high standards that you have for your own life. CCRCs may be on your list because they are near where you live, or near where your children live, or because they carry the name of a religious or other affiliation that you trust and identify with.

Still, it's only human for executives and board members to put first what they imagine to be the best interests of the enterprise or of themselves before their mission to serve and protect residents. For CCRCs this can result in executives believing that they are being prudent when they shift risk from the enterprise onto the residents, or when they shift an obligation from the CCRC onto an unknown future resident, or when they put a low vacancy rate before formation of a congenial

community or before financial considerations, or more commonly when they just follow conventional thinking copying what they believe that others are doing without thinking through from first principles the undertakings and commitments of the CCRC.

The list of trouble signs to which we point in what follows can help you get started with your own list of criteria. Although we characterize these elements as deal breakers, you may still decide to go ahead anyway, perhaps because you already know people in the CCRC of your choice and believe that you will fit in there, or because the location is unbeatable, or because you have experienced a health setback or perceive a growing infirmity and are seeking a high end assisted living environment.

Taking into account the matters discussed here will allow you to be fully informed about what you are undertaking and what the risks are that you are likely to encounter. If you still decide on a CCRC, for instance, even though the financial risk for care is left with the residents, then you need to be sure that you have the wealth to be able to afford that additional risk exposure. Remember, too, that if the Entrance Fee is fully at risk, and the CCRC you choose has a negative net asset position (more on that below), then you need to have sufficient resources so that you can afford to lose your entire Entrance Fee and still meet all

your needs. If you are counting on a refund contract to fund your estate, then you will want to be wary of contingent refund contracts in low demand markets, and you may decide that you are better served to buy life insurance to cover the Entrance Fee than to pay the upcharge for the refund contract. If you do decide to move forward in the face of suboptimum CCRC management strictures, at least you will do so with your eyes wide open and in full knowledge of the risks to which you are exposing yourself.

Here then is our list of items that you should consider deal breakers unless you have the resources and are willing to take risks as just described:

1. Does the CCRC offer a full care, inclusive contract (what the industry confusingly calls a Type A contract)? It's our view that the absence of a full care contract should disqualify a CCRC from consideration, resulting in a black mark on your evaluation spreadsheet.

    Here's why: If the provider does not offer a full care contract, then the provider has shifted the risk onto the residents. That suggests a provider outlook that may be inimical to resident interests in other matters. A provider that is committed to the care and well-being of residents for the

rest of their lives will show that commitment in the contracts offered.

Moreover, anything less than a full care, inclusive contract means that residents must have resources over and above the usual entrance requirements. Those asset requirements, as enforced by CCRC entrance standards, typically cover only the expected cost of recurring monthly charges for residence, amenities, and minimal care. Since in the absence of a full care contract, the residents have to self-insure all or most of the potentially catastrophic costs of long term care in addition to just paying the recurring fees, they must have enough wealth, over and above the entrance requirements, to meet that risk exposure.

A rule of thumb is that each resident, in the absence of a full care contract, should have additional assets of roughly 1,500 times the daily rate for confinement in the skilled nursing facility. Thus, for a CCRC with a nursing care rate of $300 per day (not uncommon), the added assets should be $450,000 per person, so $900,000 for a couple, and that doesn't allow for increases in nursing care rates which are rising more rapidly than are rates for other aspects of CCRC living.

2. Does the CCRC have a strong balance sheet? It's our view that a Negative Net Asset position should disqualify a CCRC from further consideration. A Negative Net Asset position means that the accounting basis liabilities are greater than the assets. In most situations other than a startup, liabilities greater than assets is considered a financial impairment but CCRCs are able to use the cash from Entrance Fees to continue in business even while they are technically impaired.

   Like a risky contract that isn't full care, inclusive, a Negative Net Asset position should result in a black mark on your evaluation spreadsheet. Unlike bank deposits, which are shielded from bankruptcy loss by the Federal Deposit Insurance Corporation, and unlike insurance obligations, which are shielded by state insurance guarantee funds, there are no guarantee protections for CCRC residents and Entrance Fee investments are fully at risk. Moreover, most CCRCs have either no or low solvency risk ratings from the bond rating firms, such as Standard & Poors, Moody's, or Fitch.

3. Does the CCRC hold mathematical reserves or does it just rely on an accountant's estimation using life expectancy? It is likely that you won't need care for many years but the projection of care commitments – critical to continuing care – is omitted from a life expectancy, which is simply an average measure of how long a healthy person might expect to live. Since the American Institute of Certified Public Accountants and the Financial Accounting Standards Board countenance the use of an arbitrary life expectancy amortization for Entrance Fees, many CCRCs do not calculate the mathematical value of the contractual commitments they make. This can lead to shortfalls that residents will be asked to make up, or you might find yourself without the care you expected just when you reach the most vulnerable stage of your life. These distortions with the simplistic use of life expectancies adversely impact residents. It is our view, therefore, that the absence of actuarial reserves, or the unwillingness of the CCRC to share its most recent actuarial report with prospective residents, should disqualify such a CCRC from consideration and result in a black mark on your evaluation spreadsheet.

4. Although not a deal breaker by itself, prospective residents should view offers of Entrance Fee refunds with skepticism. These refund offers are not like bank deposits or life insurance cash values which are customarily paid promptly when due. Many, probably most, CCRC refund offers are contingent on the resale of the residential living unit and that may take years in a CCRC that is facing occupancy challenges or which has overbuilt relative to market demand. Moreover, the upcharge for the refund may not be actuarially determined, so it is frequently the case that many residents can do better to keep and invest the difference rather than trusting that the refund will be payable when they expect it to be. A contingent refund is a questionable marketing ploy, and the CCRC may not consider it an obligation of the CCRC but instead of the successor resident. Hence, while a contingent refund may or may not be given a black mark on your spreadsheet, it should certainly be considered a red flag suggesting that the provider may not be fully forthcoming with prospective residents and that attitude is likely to apply to residents as well.

We recognize that some people may ignore these deal breaking, black mark items and go forward anyway but they do so at their own risk. The basis for this brief list of disqualifiers will become evident as you

work your way through the rest of the Questions and Answers in this guide.

The alternative, of course, to CCRC living is to stay put where you are. You may believe that you can readily adapt your home to your changing needs, or that you can find caregivers if the time comes that you need assistance. The major challenge from staying put is the risk of isolation and loneliness. If you are not a social person, that may not be an obstacle for you. But, if the prospect is daunting for you that you may go for weeks at a time without seeing anyone except someone who comes in to provide for you as a job, then you should seriously consider a congregate living situation. It can also be challenging to find people of sufficient integrity and trustworthiness to provide unsupervised care for you in your home. There have been too many reports of hired caregivers who take advantage of those they are employed to care for. This is low wage work and the temptations (and rationalizations) for malfeasance can be great. If you do decide that you will likely move eventually to a congregate living situation, then it's desirable to do so while you're still sufficiently in command of your senses and judgment to be able to make a wise choice.

Not all CCRCs are alike in fostering communal engagement. Some have assisted living environments with apartments that are comparable to

the independent living apartments, so making the move to a more intimate close-knit assisted living neighborhood is not a difficult choice. But many other CCRCs have smaller apartments, even studios, for assisted living and you may then be reluctant to make the move. Many CCRCs have responded by offering what they call “aging in place” by offering assistance services in the independent living apartments so that the resident doesn’t have to move. But that then leads to the same kind of isolation and loneliness that can occur if you simply stay put where you are.

You should think twice before giving up your home to move to a CCRC if it doesn’t have high quality, attractive, and sufficient assisted living quarters so you will be comfortable there if the need arises, or if it doesn’t have a homelike skilled nursing center to care for you if worse comes to worst. Living permanently without privacy in a shared room and in what is essentially a fluorescent-lit nursing work area is not an attractive end for a life of independence and self-sufficiency. Shopping for a suitable CCRC is one of the most challenging and difficult decisions that you or your family will ever face. It’s most important to bring a full measure of understanding and discretion to your choice.

Good luck and smooth sailing in your quest for a suitable CCRC. There are some very well managed CCRCs. There are even some CCRCs that

allow resident ownership. And if you continue looking until you find a well-managed community, then you won't be disappointed.

Questions and Answers.

Q. My wife and I are considering options for our retirement. Is it better to just stay where we are, to move to an active living community, or to move to a Continuing Care Retirement Community?

A. Moving into a Continuing Care Retirement Community (CCRC) can be almost magical in the lift that it gives to your spirits. Although giving up a home of your own can seem like a loss of autonomy, most people who have the courage to make the change are delighted with the out-come.

Immediately after moving in, new friends are found. The focus on community is the essence of a CCRC and the stimulation from the new friendships that develop can bring renewed vigor and vitality to your life. Most of us in the National Continuing Care Residents Association have made that decision and we firmly recommend it for almost every-one of retirement age.

Q. If the benefits are so compelling, why isn't CCRC living – either in apartments or in villas – the norm for people retiring in their 60's?

A. That's hard to say. Each person makes a decision about where and how to live individually and there are many reasons why people make the choices that they do. One challenge, though, for many who have long owned their own homes, is the loss of the empowerment that ownership brings. While there are some "equity model", i.e. resident ownership CCRCs, they tend to be few and far between. The National Continuing Care Residents Association (NaCCRA) has an initiative exploring whether more widespread resident ownership might be possible.[1]

Q. What about the contract? Are all Continuing Care Contracts about the same?

A. Contracts are a particular point of contention between providers and residents; contracts cannot be modified once they are executed without mutual consent. Continuing Care Contracts, in particular, are offered to a population that may no longer be as discerning or have as many options as do younger people. Nevertheless, such contracts are drafted by the provider organization, typically, to shield the provider as much as possible and must be accepted by residents unchanged and as proffered.

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[1] See the "Conversion to Enable Resident Ownership" item in the Catalog of Standards and Model Laws at http://www.naccrau.com/Standards%20and%20Model%20Laws/CatalogOfModelLaws.html accessed April 2, 2013.

Although you might think that residents should be able to understand and agree with contracts they are asked to sign, this is often not the case and provisions giving the provider “sole discretion” to determine matters that may come into contention are commonplace. Furthermore, Continuing Care Contracts are more binding on residents than on providers since providers have wide latitude through the Resident Handbook and otherwise to change fees and services over time. Since the contracts are drafted by providers it’s not surprising that they tend to favor provider interests over those of residents. This is something to be carefully weighed before moving to a CCRC. You will be relying on the good will of the provider more than on enforceable commitments; provider decision makers, policies and attitudes can shift over time.

Q. Aren’t the contracts subject to regulatory review before they can be offered to the public?

A. Although some states do require providers to file contracts with the state authorities before they are offered to the public, such a requirement is not the case in all states. More particularly, even in those states which require such filing, the review is likely to be pro forma allowing providers to include anything that is not contrary to statute. Since continuing care statutes relating to contracts are almost non-

existent, there is little protection for residents in the contracting process.[2]

Prospective residents are on their own when it comes to oversight of the contracting process, and since quality of life and residence options are more critical in the decision to move to CCRC, many residents accept contracts contrary to the counsel of their professional advisors. With the contract being presented for acceptance only late in the marketing process, prospective residents are often already committed before they see the contract and are likely to overlook details as technicalities that have little materiality. They then accept a contract that may seem questionable on its face, hoping that all will work out for the best and that someone, somewhere, somehow will look out for their interests as residents.

Q. The CCRC that we are considering is nonprofit. Doesn't that mean that we can trust the contract that is offered?

A. The CCRC may appear to have sponsorship or affiliation with a church or other charitable group that you are inclined to trust. Nevertheless, although many CCRCs are tax exempt, most market based CCRCs make a profit on their fee income and are not dependent on do-

[2] See the Standard Contract Provisions proposal at http://www.naccrau.com/Standards%20and%20Model%20Laws/CatalogOfModelLaws.html accessed July 9, 2013.

nations or charitable intent. The executives and directors of such organizations tend to act like directors or business executives in any organization, whether it is not-for-profit or otherwise, and they put the interests of the organization before any other interests.

Q. Isn't the nonprofit CCRC business model best suited to give the lifestyle and protection benefits that make CCRC living so attractive for the residents?

A. Whether the CCRC is nonprofit or for profit is less important than the regulatory and business protections in the state in which the CCRC is located. Almost all CCRC providers believe in their mission but some providers are more effective. Some operate efficiently; some are inefficient. Some involve residents in guiding the community; others hold residents at a distance and seldom confer with them in decisions that affect the residents including critical choices like the hiring of an executive director.

Q. What do you mean? Can you elaborate on that a bit?

A. Some CCRC provider executives seem to believe that they provide charitable care even for residents who pay the full cost of their residence and other services. Residents, in contrast, may feel that they have paid the full market value for their Continuing Care Contract. That

difference in perception can lead to resident disillusionment and dissatisfaction.

Residents may believe that they have contracted for services and so are simply receiving that for which they have paid and to which they are entitled. If the managing executives have a different perspective, tensions are hard to avoid. It's important when shopping for a CCRC to determine the underlying attitude of the executives who will be exercising the ownership authority after you move in.

For instance here is the actual mission statement of a CCRC that filed for financial protection after it proved unable to meet its contractual undertakings. The mission is "to provide retirement communities of superior quality to those individuals who entrust us with their future health, social, spiritual and recreational needs and who wish to continue the standard of living they previously enjoyed."[3] Notably absent from this mission statement is any mention of fiscal responsibility and, as the record shows, the undertaking took an adverse and unfortunate turn. It's important that prospective residents assure themselves that a nonprofit organization, with which they are considering entrusting an investment as large as is an Entrance Fee investment, is financially as-

[3] http://www.glenmoor.com/about_mission.aspx accessed July 13, 2013.

tute and has the capability to manage that investment with the same care that the prospect exercised in accumulating those funds.

Even a finding that the organization now has the needed competencies and commitment involves risk; the executive management team is likely to change during the course of your residency. A new team of executives or a new CEO may have a very different value system from what you expect. You are committing to a contract for the rest of your life; executives serve on an at will basis and at most for the balance of their careers. You will have more at stake in your residency than the executives have in their careers.

Q. Aren't all CCRCs about the same in the way in which the management works with and supports the residents?

A. Not at all. The operative motto in shopping for a CCRC is *caveat emptor*, buyer beware. It's crucial to evaluate not only the obvious such as the location, the quality of the facility, the ambiance of the meals, and the congeniality of the residents, but also the less obvious things such as the willingness of the executives to respect and listen to residents, the one-sidedness of the proffered contract, the financial balance sheet, the efficiency and effectiveness of staff operations, and the provider's general reputation.

Not only do practices and managerial integrity and competence vary widely from CCRC to CCRC, but the laws in many states exempt CCRC contracts from the investor protections in so-called “blue sky” laws, i.e. the requirements of full disclosure to prospective investors. This exemption allows CCRCs a license in the solicitation of Entrance Fees that is extended to almost no other industries. This exemption is particularly surprising in light of the inherent vulnerability of prospective CCRC residents, many of whom have reduced discernment, and who are often induced to sell their homes and to invest their life savings in an Entrance Fee contract. We know of no jurisdiction that has required that the solicitation of Entrance Fee investments in Continuing Care contracts comply with the securities laws. Clearly, buyer beware has to be the governing principle in shopping for an Entrance Fee CCRC.

There are very profound differences from one CCRC to another. This can lead to disillusionment among some residents who move in believing that a CCRC will be a safe, protective environment that can give them peace of mind. Of course, the best CCRCs that pursue excellence of service as a core part of their mission do create a trouble-free existence to the extent that it is possible to achieve that ideal. Others view regulatory requirements as little more than a checklist for compliance with little effort to go beyond the minimum to ensure that residents

are protected and sustained. They are apt to be managed with an eye solely on passing the next health and safety inspection.

Q. What are some of the kinds of disillusionment that can lead to resident disappointment?

A. An inquiry by the National Continuing Care Residents Association (NaCCRA) revealed concern among many residents about a growing trend among some CCRC providers to shift risk from the provider organization onto the residents. This is particularly manifest in the dwindling commitment to full care contracts, in which residents pay about the same ongoing fees even as their need for care services increases. More and more CCRCs are moving toward fee-for-service contracts leaving the residents with the financial risk that their care costs may escalate or that they may outlive their assets.

The argument is that residents shouldn't have to pay for services that they don't use. However, there is little evidence to suggest that base fees are adjusted downward to reflect the lower cost exposure of the providers. Moreover, the increased resident risk exposure requires residents to hold substantial assets in reserve against the eventuality that they may suddenly or unexpectedly require intensive care services. Most long term care insurance programs have limits, limitations, and

adjudication protocols that make long term care insurance an unreliable alternative to the traditional CCRC full care contract.

There is also a concern that a growing number of what were independent living apartments are being repurposed to provide assisted living and caregiving services to residents who are already infirm when they move in. This can change the balance in a community from the camaraderie of communal living among active, vital independent residents to a preponderance of disengaged people well advanced into age-related withdrawal. It also deprives ailing residents who are dispersed amidst their independent living neighbors of the intimate association that is characteristic of the best assisted living neighborhood clusters.

The admission of people who already are advanced into the need for assisted living services is not the same as serving long term independent living residents who grow infirm as residents and need services. The result of this trend toward the admission of very advanced elderly people is that the living experience that independent living residents contracted for is changed to their detriment. The industry refers euphemistically to this trend as "aging in place." Accompanying the trend is the need to provide a growing range of services requiring higher and higher levels of healthcare acuity in independent living residences to new residents directly from the time of admission. That can be little

different from providing such services to in homes dispersed through the general community outside the CCRC campus.

Q. Shouldn't residents be aware of the risk burden that the provider places on residents before they move in?

A. Evidence suggests that few CCRC residents fully understand their contracts before moving in. Frequently, residents sign a contract against the recommendations of their attorneys or financial advisors. CCRC contracts are unilaterally drafted by the providers and are often designed to maximize protections for the provider organization by deflecting possible sources of litigation or other claims.

Regulatory oversight is often limited to what the State statutes permit and those statutes are quite restricted in many states. This can result in a contract that is highly inequitable for residents but that must be accepted as presented without modification if the resident is sold on living at the particular community.

Since sales and marketing staff are skilled at presenting a CCRC in a favorable light, and since existing residents share an interest in maintaining full occupancy to keep resident costs as low as possible, entering residents may have a rosy view of the CCRC and simply accept the proffered contract despite their qualms in order to gain the perceived benefits that are offered. This can later lead to disillusionment as residents

become aware of the unilateral nature of decision making in some CCRCs.

Of course, material changes in the nature of the community, such as those related to the admission of infirm new residents, is not something that a resident can anticipate and residents have no recourse in the face of such changes.

Q. Are fee increases a problem?

A. Fee increases are inevitable in a society in which continuous inflation is a part of the economic direction. Still, this is another area in which the provider is able to shift the risk onto residents. If the provider has underpriced the contracts for some residents, subsequent residents may be asked to pay more to make up the deficit. Also, initial underpricing or unwarranted optimism can lead later to fee increases that are more than what may have been illustrated or what a resident may feel is reasonable. If fees increase more rapidly than do the invested assets which the residents has set aside for the purpose, then the resident may be in a financial bind.

Q. If things aren't what they seem after we move in, isn't the remedy simply to move out to find a more suitable home?

A. Moving out can be problematic if the CCRC is an Entrance Fee community. Even when refunds are offered as part of the marketing package there may be delays in receiving the funds, which can make it difficult to invest in a successor home. To better understand the limitations involved with early termination of a Continuing Care Contract click on this sentence.

Q. Since we are buying in by paying a substantial Entrance Fee, which is taking most of the proceeds that we are able to raise by selling our home, aren't we gaining some of the rights of owners in the CCRC?

A. Unless you are moving into a CCRC that specifically includes ownership either as a condominium or cooperative, then you are just paying a lump sum advance payment in consideration of benefits and services to be provided under a Continuing Care Contract. Moving to a CCRC is a wise and fulfilling choice but it is not one that is without risk. You can learn more about these risks by clicking on this sentence which will link you to a video talk detailing risks and possible solutions.

Q. We know that, despite your qualms about the loss of decision input and the potential for adverse developments during residency, you are nevertheless pleased with your choice to live in a CCRC. But, what about other retirement options? Aren't there other options that are more supportive of aging people?

A. How to live in retirement is a matter of personal choice, but here are some considerations to help you to evaluate the options.

Many people choose the course of inertia and just continue living where they've lived all along. This is fine if you like solitude or if you live with a compatible partner. There is an increasing array of care options available to provide support in your home if you should ever need them. But it can be difficult to find care providers who have the heightened degree of trust and integrity to work independently and unsupervised in a home environment.

Also, if you live with a spouse, it can be devastating to lose that spouse and to find yourself suddenly totally alone and without options or ready community support. If you think you would move to a congregate setting after the death of your spouse, it's best to do so beforehand since it can be difficult to make the needed decisions when you are all alone. It's easier if you explore your options together as a couple and if you can get established in a communal living setting as a couple, rather than as a widow or widower.

Q. What about Active Living Communities for seniors? They seem to offer an attractive and vibrant lifestyle combined with home ownership.

A. An active living community offers ownership but no protection. If you fall in your home, there is no one to respond unless you have separately made arrangements for that. An active living community has no responsibility for your well-being. Moreover, although there is a communal living aspect to the community club house, the community is not likely to have the supportive intimacy that can be found in a Continuing Care Retirement Community (CCRC).

CCRC living promises the highest response capability for the challenges of aging. Most CCRCs, too, are relatively intimate with a high degree of mutual support and companionship among the residents. The major drawback is the lack of ownership and the access to decision making that ownership brings with it. While there are some resident owned CCRCs, they are very few and hard to locate.

Q. My friends all think that moving to a CCRC is unimaginable but you moved there. What has been your experience?

A. We are very glad to be living in a CCRC and would make the move again, but we know of the social disdain for CCRC living, and we find it perplexing. As best we can tell, the fear is that of institutionalization and, yes, some owners, executives, managers, and directors of CCRCs could be more open to residents and their concerns. Others may not take seriously as a matter of personal responsibility the trust that CCRC

residents place in the owners when they accept the often one-sided contract proffered. Still, the benefits of communal living far outweigh the factors that lead people to resist making the move.

Q. We don't feel that we are ready for a CCRC yet. When is the right time to move to a CCRC?

A. Today's typical CCRC pricing favors those who move in at an early age. Yet there is a widespread sense that a CCRC is something that is halfway between living in the larger community and assisted living. That perception is unfortunate since it inhibits many people who might otherwise benefit by living in a CCRC from considering that possibility while they are still able to derive the maximum benefit. If you can find a CCRC which has a commitment to admitting only truly independent residents (these are usually communities that provide predominantly full care inclusive contracts), then you will find yourself living among a dynamic group of friends with whom you will have much in common. It is that social experience, and the freedom from the chores of home maintenance, that makes CCRC living a wise choice for younger retirees.

Q. Is there a reliable indicator other than nonprofit status to indicate that a particular CCRC is one that can be trusted with our Entrance Fees and future well-being?

A. Although there is an accrediting entity, CARF-CCAC which stands for Commission on Accreditation of Rehabilitation Facilities and Continuing Care Accreditation Commission, accreditation is undifferentiated and merely suggests that a community has paid to be found acceptable. The community mentioned above as financially impaired because it was unable to meet its commitments had CARF-CCAC accreditation at the time of its impairment and continued to tout its accreditation even after it had failed financially.[4]

CARF-CCAC accreditation involves an extensive review process, based on "field-driven" standards, but few communities fail to qualify as accredited. There is no reliable standard other than the provider financed accreditation process to indicate which CCRCs are desirable and which are to be avoided. There is a relative new evaluative organization that shows promise, LifeSite Logics (https://www.lifesitelogics.com), though their reliance on GAAP accounting measures, and their lack of a relative rating or ranking measure, limits the value of what you can glean from their offerings. This question and answer discussion can give you some suggestions for what you should look for during your evaluation.

Nonprofit status merely means that the organization has been awarded tax exemption by the Internal Revenue Service or the State Attorney

[4] http://www.glenmoor.com accessed July 13, 2013.

General’s Office. Nonprofit CCRCs do not typically operate as charities. They are fee supported businesses led by executives. There is a savings from the avoidance of taxes though that may be offset if operations are not as efficient and cost effective as otherwise. Also, residents do not have the benefits that accrue to taxpayers who own their own homes.

Q. The marketing staff at the CCRC which most appeals to us have shown us favorable results from a Resident Survey. Isn’t that a reliable indicator that the CCRC would be a good choice?

A. Positive survey results are a good sign but there are many things – for instance, financial matters – affecting a CCRC which may be beyond the knowledge of most residents. Also, some of the survey companies which are active in the CCRC industry use pseudo-scientific approaches to skew the results in favor of the provider organization. After all, it is the provider organization that retains the survey firm and that pays for the survey.

For instance, a survey may have ambiguous questions, e.g. is staff friendly? (Some staff members may be friendly while others may be condescending), etc. Since residents want to be cooperative, they are likely to interpret ambiguity in favor of a positive response. Some surveys follow the usual five point scale, in which a middle rating is generally seen as neutral, but the response designations used by some survey

firms, which offer providers a competitive advantage, are phrased to mislead as in “Far Exceeded”, “Exceeded”, “Met”, “Nearly Met”, and “Not Met”.

In the interpretation the survey firm then combines the top three ratings as indicating a positive response which they label a “competitive advantage.” Since residents who are unsure or undecided or neutral are likely to choose the middle response, it is misleading to characterize that as a “competitive advantage” and the very use of that term shows the survey firm’s view that its client is the provider rather than a prospective resident. Such distorted survey results are the results that marketing departments are most likely to show to prospective residents. After all, they’ve paid to have a “competitive advantage.” Remember the marketing staff is not your friend. They are employed to keep the CCRC filled and the vacancy rate as low as possible.

Q. You’re making me uncomfortable. Is it best just to stay away from CCRCs?

A. Not at all. The CCRC concept is the most dependable way for responsible people to provide for their own old age. The challenge is that there are few standards or regulatory safeguards that a prospective resident can look to as assurance that a particular CCRC is all that the marketing staff presents it to be. Unfortunately, until dependable

standards are implemented across the industry, and in all states and jurisdictions, the burden falls on prospective residents to do their own research as to which CCRCs are desirable. Fortunately, that is not an impossible task and this Q&A can help you to become a better informed evaluator of the choices available to you.

Q. I still don't feel adequate to size up the options. Can I rely on a referral service or a financial planner to help me?

A. Many referral services and financial planners are paid by providers in return for the channeling of new residents to their facilities. This compensation from the provider can bias the information and that is something that you need to be wary of.   Of course, there are some fee based advisors who have the requisite expertise but it may be as difficult for you to evaluate the qualifications of the advisor as it would be to do your own analysis. Since it is those CCRCs that have the most trouble maintaining occupancy that pay the highest referral fees, referral services that are paid by providers are incentivized to direct prospective residents toward the less desirable facilities. It's best to rely on your own analysis unless you have someone whom you believe you can truly trust for unbiased advice.

Q. What about me? I'm not married. Does that make a difference?

A. If you are comfortable living on your own and like the home you live in, there's no need to make a move, though you may eventually encounter the need for care. Care provided in the home is expensive – since it's less efficient for caregivers to travel a distance to give care than to work within the close confines of a campus environment – and the issues of trust can be even more pronounced for a person living alone than for someone living with a partner.

On the other hand, if you would like the security of knowing that care is always nearby and available instantly on call, and if you would enjoy the communal living life, then a CCRC would be a wise option for you to consider.

Q. Let's say that we decide that a CCRC offers the best balance of independence and standby support. How then does one go about choosing among the many CCRCs?

A. Again, this is a matter for personal choice.   For many people location is their top priority. They may want to be near their children. Or they may want to be in a place with ample public transportation in case the time comes when they can no longer drive. Others are attracted to a gentle climate. Beyond location, though, other factors affect how comfortable you might feel living in a CCRC for the rest of your life. And that is something that should be emphasized. Most CCRCs are struc-

tured so that moving to a CCRC is a lifetime decision. There are often severe financial penalties or forfeitures for people who leave.

Q. That sounds daunting. The thought of moving to our last home is a bit disconcerting. What is your experience with people facing qualms about making such a final move?

A. It's important that you feel comfortable in any CCRC that you might seriously consider as a home for life. You can ask to spend a weekend or several days in a guest apartment at the community so that you can mingle and dine with the residents and get a sense of whether this is a place you would want to live or not. Most communities will offer such arrangements, either on a complimentary basis or for a nominal charge. It's a clear negative for your evaluation, if a community doesn't allow prospective residents to experience the community with a short term stay prior to making the commitment to move in.

Q. How important are the amenities at a CCRC?

A. Many people form impressions about the CCRC where they would like to live on the basis of the quality and variety of the food and the availability of other amenities on the campus. Such matters are, of course, important to how you will feel about living in the community, but there are many other hidden factors that are also of great weight.

It’s important to keep the superficial factors in perspective so that you are not misled by other less obvious factors.

Q. The CCRC that is nearest to us seems institutional with its cluster of large block-like apartment structures? Is that typical for CCRCs?

A. Many CCRCs do fall into architectural patterns and many are even designed by a small group of architectural firms that specialize in CCRCs and healthcare facilities. There are a number of questions that a prospective resident might be interested in when comparing the physical design appeal of alternative CCRCs or stay at home options.

- Attraction: Is this a place that you would be proud to present to your friends and relatives as your new home? Is the appearance of the community welcoming and do you find comfortable places in which to relax or to get to know new friends?

- Suitability: Is the outward appearance of the building consistent with the setting in which it is situated? Do you draw a sense of comfort and well-being from the thought of living here? Does the building seem in character with its surroundings and with the history of the area in which it is located?

- Parking: Is outdoor parking the only alternative or is there sheltered indoor parking? Is there adequate storage other than for

cars? Do the parking lots detract from the livability of the community? Is the outdoor area designed for recreational use, or is the property dominated by automotive access and parking?

- Technology: Is the facility outfitted with communications conduits allowing upgraded cabling to be easily installed as technology advances? Is there sufficient communications connectivity to each living unit and area of the CCRC to enable the rapid deployment of new technologies as they become available? Does the facility have an integrated electronic system or is it paper dependent?

- Green Commitment: Is power used generated on the premises or is the CCRC dependent on the local power supplier? If power comes from the local electric utility, is the CCRC equipped to transition seamlessly to local power generation as that becomes more economical?

- Ability Transitions: Is the facility designed to accommodate changing needs for people who may lose capabilities as they age? Are cabinets, shelves, sinks, and other elements of independent living hydraulically adjustable to adapt to changing needs? Are doors automated to accommodate people who have to use wheelchairs or walkers?

- Cluster Flexibility: Are neighborhood clusters within the CCRC readily adaptable from one configuration to another to accommodate a changing resident mix as people age? How does the facility maintain internal neighborhood affinity for compatibility and congeniality?
- Refurbishment: Are only apartments for new move-ins brought up to current status while existing residents are left to languish in outdated units? That may indicate the management is focused on inducing new residents to move in but simply treats existing residents as captive customers to be used to grow revenues. Revenue per resident is an increasingly popular measure within the CCRC industry for executives to evaluate subordinate manager performance.

There are many factors which a provider must take into consideration when deciding what kind of CCRC to build or when deciding how often it is desirable to modernize the facility. Financial considerations tend to be paramount. The provider seeks maximum revenue relative to the cost of the development. Prospective residents are looking for value. They want to be sure that the cost they pay is the lowest feasible cost consistent with the benefits and quality that they expect.

Q. Are there clear markers that you suggest indicate something about a CCRC?

A. Since technology is changing rapidly and has the potential to ameliorate many of the concerns and challenges of aging, a cursory investigation of the technology in evidence can be indicative during a visit to a CCRC you are considering. Effective CCRC managements make use of technological advance to reduce staff costs and to improve the reliability of resident services. Does a community still have old style projection or cathode ray style televisions in the common areas or in the skilled nursing unit? That can be a sign of an unengaged management that is dated in its thinking. Are residents monitored by mechanical devices, e.g. door flippers, or is there an electronic tracking system in place? Again, tracking that involves less staff monitoring will be more reliable and less costly. Mechanical tracking systems suggest inattentive management. Is there a computerized system for meals and other service usage so that residents can readily track usage? More backward managements still use paper records with an increase in staff time and staff expense. Hence, a quick overview of the quality of the technology found can be a good indicator of how responsive and forward looking the management is.

Q. How can we know if the cost to move in is compatible with the value that is offered?

A. This balancing of cost with value is the key business judgment made in conceptualizing a new community or in repositioning a community to adapt to a changing demographic. As is true for the cruise ship industry, the larger a CCRC complex, the lower the cost per resident, assuming a market large enough to ensure full occupancy. This means that a larger complex has greater margins to meet resident needs and still stay competitive, but some of the intimacy that comes from knowing your neighbors can be lost in the process.

The answer is to structure the community with many cluster neighborhoods, each of which can attract an affinity of people likely to meld well together, and each with its own dining facilities. Thus, in looking at a larger CCRC it is important to get to know the neighborhoods that comprise it. Likewise, in looking at a smaller community, which may have an inherent affinity character, it is important to ensure that the CCRC will be able to meet all your needs even if your circumstances change. Many smaller CCRCs transfer residents outside the community if they develop special needs.

The attractiveness, convenience, and practicality of the physical CCRC are only part of the evaluative process for prospective residents, but it's an important part and one that is worth thoughtful consideration.

Q. Will my Entrance Fee give me ownership? The marketing people talk about "sales" and "buy ins" which imply that I am buying something.

A. Generally Entrance Fees convey no ownership. This is particularly true of nonprofit organizations in which the organization remains the owner even though the Entrance Fees may provide a substantial portion of the capital of the corporation. An Entrance Fee is simply a payment in partial consideration of a Continuing Care Contract. The contract is a contract of adhesion, meaning that the provider drafts the contract and the entering resident has to accept that draft as a condition of entry. Some states nominally regulate contracts but, as mentioned previously, the standard is often to permit a provider to include anything in a contract that is not explicitly contrary to statute.

Q. How can we be sure that what is offered to us is the same as what others are offered?

A. Prospective residents can ask for, but may not receive assurance that the contract that they are being offered is at least as favorable to the resident's interests as is any contract that the facility has made

available to residents. If current residents are being offered only a more costly or less liberal contract than that which other residents have, it is reasonable to ask how the provider justifies the resulting in-equity. Those residents with higher priced, lower benefit contracts will be subsidizing earlier residents who have better contracts. Prospective residents, who find themselves in this situation, need to consider whether they are willing to provide this subsidization.

The provider is likely to respond that the contracts are priced to what the market will bear and that more favorable terms were needed in the past when market resistance was greater. Since the entering resident will be locked into the contract for life once it is accepted, and since the contract gives the resident no equity in the market value of the enter-prise, that is something to which a prospective resident will want to give serious consideration before consenting to the terms offered.

Q. If Entrance and other fees are simply market determined, does that mean that we might pay fees that are far greater than the value of the services that we can expect to receive?

A. There are no constraints on market pricing other than the ability of prospective purchasers to be able to compare offerings in a reasonable way. In one instance a lawsuit arose after a for profit company was al-leged to have set the recurring monthly fees to cover the full cost of

operating the community as though it were a pure rental operation. However, the provider also charged substantial Entrance Fees, and was able to market them because of the highly desirable location of the CCRC. The provider is alleged to have then "upstreamed" the Entrance Fees to the owners as "entrepreneurial profit" depriving the residents of the value that they thought they would receive from the Entrance Fees. While these allegations may be overstated, and while this may be an isolated case, the fact that it can be conceived of shows the risk that residents face with a standard in which pricing is solely market determined.

Q. Are there protections that ensure that CCRC contracts are fair toward residents and reflect a mutuality of agreement between the needs of the provider and the interests of the entering resident?

A. Since providers and their attorneys are concerned to protect the enterprise, such contracts can be one sided. Here is a sentence from an actual contract used by a provider (in this context "I" is the entering resident and "you" is the provider organization).

> "I understand and agree that at any time and from time to time, all without notice to me and without affecting your rights or my obligations hereunder, you may:…"

The contract then goes on to detail things that the provider can do unilaterally, including amending the contract itself. Clearly, signing such a document deprives the entering resident of virtually all rights.

Q. Is that typical in the industry? Aren't all CCRCs roughly the same in the terms that they offer?

A. No two CCRCs are alike. There is a saying in the industry that "if you've seen one CCRC, all you've seen is just one CCRC."[5] There is no standardization of practice beyond the common structure that multiple levels of care are offered on a single campus. Some CCRCs are very responsibly managed by competent business people. Other CCRCs may be led by executives who lack business experience but who view a CCRC as a ministry. The result is that there is wide variance in the financial soundness of CCRCs; in the inclusion of residents as partners in decision making; and in the transparency with which the executives share the bases for their decisions and the financial results they achieve.

Q. You're making me nervous again. Should I rethink the advantages of CCRC living?

A. There is no better setting in which to age well than in the communal living environment of a CCRC. The benefits are so great that you should

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[5] http://www.elderlawanswers.com/continuing-care-retirement-communities-ccrcs-12050 accessed on April 2, 2013.

enthusiastically embrace the active life that will be yours after you move to a CCRC.

With that in mind, however, great caution is needed. Although the CCRC industry caters to customers who have reached a vulnerable stage of life, there is a surprising lack of regulatory oversight to ensure that expectations can be fulfilled. The watchword for the prospective resident, therefore, is to be cautious. Caution should guide all consideration of the pros and cons of specific CCRCs. Some are excellent. Others are best avoided.

But you should definitely stick with your attraction to the CCRC lifestyle. If you are careful, you won't be disappointed.

Q. We're concerned about our health and we've heard of a senior living community in which a woman died after being left unattended until the paramedics arrived even though she needed resuscitation that any willing, healthy person could have provided. Is the care in a CCRC reliable or overregulated?

A. You may be thinking of an instance in Bakersfield.[6] Communal housing for the elderly is generally licensed and closely regulated. A provider may fear that providing assistance may be outside the scope of the

[6] http://www.kget.com/news/local/story/CPR-Controversy-Elderly-woman-dies-at-senior/zDDjozQr00CLX9rwY4vfDA.cspx accessed March 3, 2013.

provider's license. Or the provider may fear that assistance may lead to legal liability if the assisted person perishes.

These are societal challenges that we need to try to address in a principled way together as a society. Considering the specific case which may lie behind your concern, it seems likely that the outcome would have been the same had the woman been living on her own at home. Nevertheless, one would hope that there would be more safety and security in a communal home than in the isolation of living on one's own.

You may be thinking that the governing principle in a community for the elderly should be to preserve life as long as hope for a meaningful life persists. That is how one would look at the matter from a resident or a resident's family's perspective. The facility operator, though, considers its legal and financial exposures and may take a different direction. It is difficult for a provider organization to respond proactively in an environment characterized by reactive, zero-tolerance regulation and a fear of unbridled litigation. It's best for a prospective resident to learn the provider's policies concerning intervention before committing to residence.

Q. Is living in a CCRC healthier in terms of food and exercise compared with what is possible living independently at home?

A. Although many new residents expect that the living will be healthier, the practice varies widely from one community to the next. Of course, central food preparation is likely to result in wholesome eating. Some CCRCs have very effective wellness programs including exercise and dietary counseling. Other CCRCs may emphasize luxury living, which can extend to restaurant style meals, which are not always the healthiest choice, and which can include elaborate but underutilized fitness facilities. The degree to which a particular CCRC adopts a healthy living environment reflects both the culture that the residents develop among themselves and the effectiveness of the provider to support healthy aging.

Q. Do CCRC residents live longer than people who live independently?

A. This is a widespread myth.[7] The most often cited authority for this belief is a Federal government publication which states, "It is widely recognized that the life-span of a CCRC resident is longer than the typical older person."[8] Unfortunately, the objective evidence does not support that optimistic wish.

[7] See for instance http://www.retirement.org/support-studies-proof-that-ccrc-living-is-beneficial accessed March 3, 2013.
[8] http://aspe.hhs.gov/daltcp/reports/ccrcrpt.pdf accessed March 4, 2013.

The following Chart compares the most recent study of CCRC Mortality[9] with comparable Pension[10] and General Population Mortality.[11] From this it is evident that CCRC mortality is comparable to other mortalities except that it is slightly elevated during the early retirement years. There are few scientific studies of CCRC mortality and the study used here is the most recent that is publicly available. The slightly higher CCRC mortality likely is manifest because people who have or think they may have health challenges are more likely to choose CCRC living so that they can have ready access to the care that is available there. Hence, there is a tendency for those who are somewhat less healthy to be more likely, on the whole, to choose to live in a CCRC.

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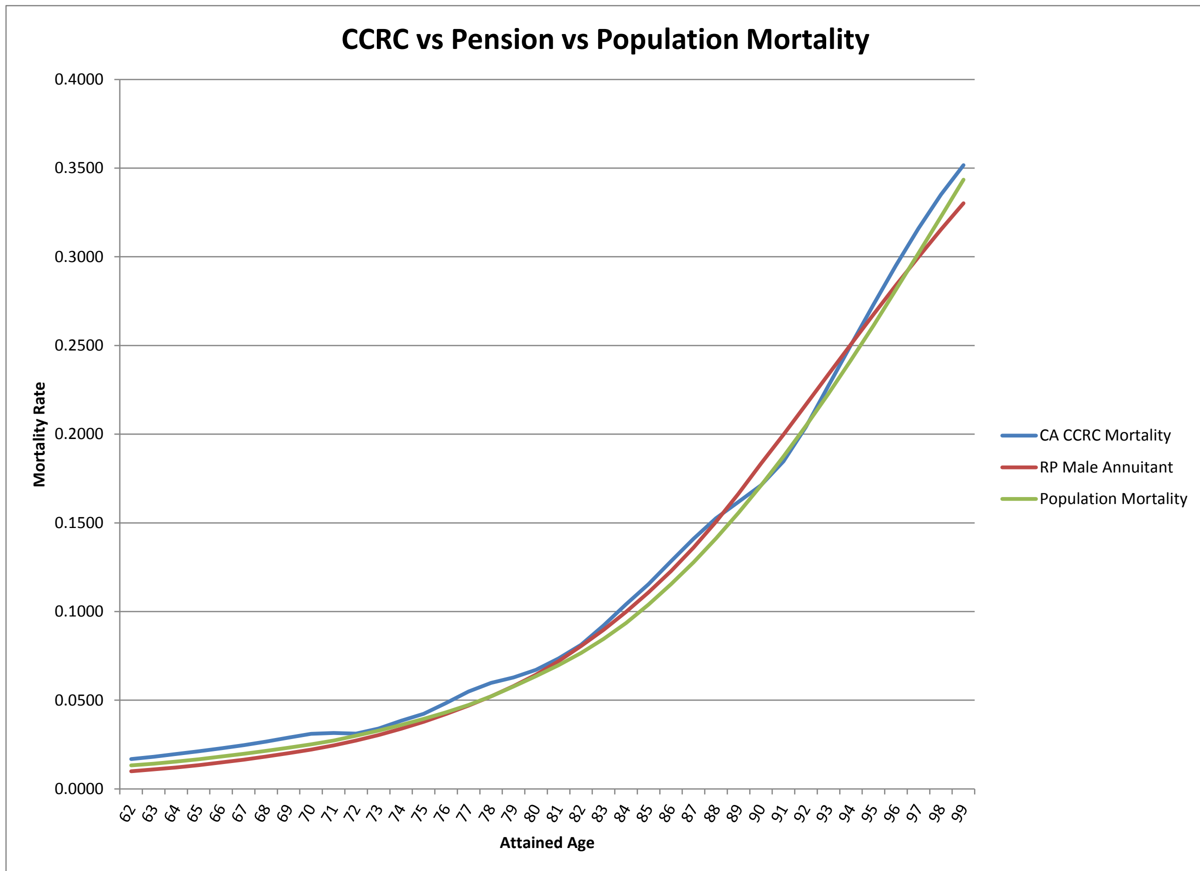
[9] http://library.soa.org/search.aspx?go=True&q=&page=1&pagesize=10&or=True&refine=ARABSGFyb2xkIEwuIEJhcm5leRYBYXV0aG9yc3NlYXJjaGFibGVtdWx0aQECXiICIiQ=&taxid=4294967539 accessed March 3, 2013.

[10] http://www.soa.org/research/experience-study/pension/research-rp-2000-mortality-tables.aspx accessed March 3, 2013.

[11] http://www.cdc.gov/nchs/data/nvsr/nvsr61/nvsr61_03.pdf accessed March 3, 2013.



Nevertheless, many CCRCs offer amenities and access to care that can be expected to have a salutary effect on mortality and to help residents to maintain their vitality and vigor longer.

Q. Can I rely on the audited GAAP (Generally Accepted Accounting Practices) statements as an indication of the financial stability of a CCRC?

A. GAAP is focused on the enterprise as a going concern. It is the enterprise which is the auditors' customer and not those the enterprise serves. GAAP is determined by a set of rules promulgated by a seven

person Financial Accounting Standards Board (FASB) which is located in Norwalk, CT. It does not purport to consider questions of consumer security or individual equity. A recent FASB discussion of CCRC accounting included the following revealing statement: "The objective of financial reporting is to provide information that is useful to present and potential investors, creditors, donors, and other capital market participants in making rational investment, credit, and similar resource allocation decisions."[12] Customers, beneficiaries, residents, and similarly situated consumers are omitted from this recital. Entering residents, who pay large Entrance Fees, are not treated as investors. Accounting is focused on the capital markets.

Q. But given the size of the Entrance Fee aren't CCRC residents investing in a security? Isn't that regulated by the state or Federal securities authorities, and shouldn't GAAP, therefore, consider Entrance Fee payments to be a capital market transaction?

A. Well, your question is a valid one, but it's far more technical than what most prospective CCRC residents consider when evaluating CCRC options available to them. Of course, an Entrance Fee Continuing Care Contract might be regarded as a security in light of the large upfront investment that such a contract requires. That large initial investment

[12] ASB, Accounting Standards Update, No. 2012-01, July 2012, Health Care Entities (Topic 954), p. 9.

combines with the reduced discernment and increased vulnerability which are common – though far from universal – among the prospective customers for CCRC living. Still, despite these compelling elements, we know of no state or Federal oversight that approaches such investments as a security, and many states have exempted such contracts from the securities laws much as they have exempted conventional life and annuity insurance contracts. Despite this tendency by states to exempt CCRC contracts from the securities laws, nearly all states lack the kind of protective laws for CCRC residents that shield life and annuity insurance policyholders.

The clear evidence is that CCRC GAAP accounting gives little heed to the interests of residents or prospective residents and that it doesn't require a standard of accounting for Entrance Fee proceeds that even has the rigor which is required of the accounting for insured annuity contracts which provide the closest financial analogy. The result is that investors in marketable securities are given a far better information base for making an investment decision than the information which is given to the more vulnerable class of people contemplating the major investment required by an Entrance Fee CCRC contract.

Q. The marketing staffs at the CCRCs which we've visited us have given us copies of the GAAP audited financials. How should we view such financials?

A. Since today's CCRC accounting does not match revenue recognition from Entrance Fees to the benefits promised, it's hard to use accounting data as a guide. Many CCRC managers believe that they are managing acceptably if their cash flow is positive, giving them enough cash to be able to pay the current bills and to meet debt service requirements as they come due. Since Entrance Fees inherently generate large amounts of cash, the cash flow threshold is a relatively low standard as far as residents are concerned. The cash you invest in your Entrance Fee may be dissipated before the CCRC enterprise is called to account for failure to meet its commitments.

The result is that today's GAAP accounting overstates revenue recognition in the early years of a community leading to shortfalls in the later years. Not only does that mean that rate increases after fill up are likely to be larger than what might be expected, but it also means that today's CCRC GAAP accounting tends to make CCRCs appear initially to be financially healthier than they are in fact in light of the deferred commitments they have undertaken. Hence, it's fair to say that a dismal GAAP accounting picture is a financial red flag.

Q. Our preferred CCRC has a "negative net asset position." What does that mean? The marketing people have said it's not significant and should be of no concern to us.

A. Since many CCRCs are nominally nonprofit, the accounting terminology used in the CCRC industry can be somewhat difficult to interpret. It's not uncommon for a CCRC to report a "negative net asset position" on its financial statements. On its face that sounds innocuous, and CCRCs that have such an accounting position tend to dismiss that fact as irrelevant, arguing that all that matters is that their payments are current and that they are in compliance with their bond covenants. Still, the plain fact of the matter is that a "negative net asset position" simply means that accounting basis liabilities are greater than the assets, which in most business contexts means that the business is impaired unless it is simply an undercapitalized start up. Hence, I think that you can consider a "negative net asset position" to be a warning sign.

Q. Does that mean that a "positive net asset position" is a sign of balance sheet strength from which we can take comfort?

A. No, the departure of CCRC accounting from the universal accounting principles that revenue recognition should be matched to the obligations they fund (the matching principle), and CCRC GAAP's departure

from the consistency principle, which holds that similar transactions should be treated similarly regardless of the industry giving rise to the transaction, means that CCRC GAAP financials are only a crude and distorted indicator of the true financial health of a CCRC.

Q. What can I do, then, to find a CCRC that is operated on a financially sound basis?

A. CCRCs are inherently actuarial in that they promise, at a minimum, an availability of future care services when and if they become needed. Actuaries are trained in the probability and statistics of finance, and schooled in the judgments needed to match contingent future events to what is most likely to occur, and so they form the profession best equipped to make these prognostications. The most highly qualified actuaries are Fellows of the Society of Actuaries, a standing for which they qualify by undergoing a lengthy and rigorous set of professional examinations, demonstrating relevant experience, completing ongoing continuing education, and by establishing their ethical standing.

A well-managed CCRC not only has a positive accounting position and offers a full care contract but the pricing and contract reserves are developed with the active, ongoing involvement of qualified actuaries. It's always desirable to ask the marketing people to let you see the actuarial report. Although GAAP for insurance companies requires that

reserves be actuarially determined, CCRC GAAP does not and simply incorporates a life expectancy rule of thumb which is the reason so many CCRCs appear financially healthier in their early years of operation than they do after the lapse of a decade or so.

Q. Do you mean that we should avoid any CCRC that doesn't hold actuarial reserves and that relies solely on accountants?

A. In the absence of actuarial involvement in the pricing and reserving of a CCRC, there can be no assurance that reserves are related to the promises made or that the experience used to establish contingent liabilities is related to the entrance screening and other practices of the CCRC. To the contrary, accountants use a relatively arbitrary life expectancy approach that tends to underestimate the escalation of contingent costs with the natural aging of a CCRC population.

Accountants are not trained to match contingency assumptions to a specific CCRC's experience, nor are they skilled in the financial implications of deferred future contingent benefits. Despite this, CCRC GAAP includes the rule of thumb alluded to above and many accountants simply apply the rule of thumb uncritically without the input of experienced and qualified actuaries.

Q. Do CCRC providers recognize this inconsistency of CCRC GAAP with universal accounting principles? In other words is the provider com-

munity working to improve CCRC financial accounting or do providers make allowance for the challenges in the accounting?

A. Our impression is that most in the industry simply defer to the "experts" in the American Institute of Certified Public Accountants and at FASB headquarters. Many providers just follow the guidance given by their auditors without questioning whether it is sound.

Since many in the industry have not embraced the actuarial concept that Entrance Fees required of new residents should be matched to the contractual and other commitments made, many providers may equivocate when asked about their working with actuaries. The absence of actuarial involvement in the pricing and reserving of a CCRC, and especially managerial dismissal of the value of actuarial studies, is a red flag, and a concerned consumer should avoid any provider that does not show a strong grasp of the actuarial nature of the undertaking.

Q. In the absence of suitable financial expertise among the executives leading the industry how does the industry view its financial responsibilities?

A. Of course, there are some executives who do fully grasp the finances of aging and what is needed to operate a CCRC on a sound financial footing. For those, however, who simply defer to their accountants or who confine their understanding to current operations without concern

for the future, one can only speculate concerning how they themselves envision their stewardship responsibility for the organizations they serve for those who are served by those organizations. One person with substantial experience in the industry, who has chosen not to be named here, has speculated that the current approach to finances in many CCRCs is the legacy of church affiliation, and the traditional charity thought processes that promote the organization to use its financial assets largely as they are received and then to work hard for more income to cover future expenses. This philosophy results in small reserves. He goes on to say that not all CCRCs work this way, but his impression is that a significant number of them still do. One of NaCCRA's most difficult challenges is to change this philosophical attitude and approach to finances so that CCRCs are prepared to meet their commitments and to provide reasonable value to their residents as is the standard for most responsible businesses.

Q. We've heard that occupancy is a challenge in a down economy and that makes sense because CCRC costs would then have to be spread over a smaller base of residents. How concerned should we be with occupancy levels?

A. Occupancy is a measure of market acceptance of the pricing and product offering of the particular CCRC, and low occupancy should, of

course, be a warning that there may be other unmet managerial challenges. To some extent a provider can scale down to reduced occupancy, thereby matching resources to the reduced resident population, but fixed costs will have to be spread over a smaller base, so unit costs are likely to rise.

Some new properties have low occupancy because initial fill up takes longer in challenging economic times. The provider may be tempted to discount fees that can advantage the early move-ins at the expense of those who move in later, since it is likely that the discount will have to be made up elsewhere if the provider is operating at the lowest feasible cost. Also, extended high vacancies in a new project mean that apartments that were new, say, five years ago, may seem dated after sitting unoccupied for an extended period even though there has been no use of the unit.

High vacancy rates are even more troubling in an older facility since it may reflect deferred renovation and maintenance that makes the facility seem unattractive, old and tired. No one wants to move into a home that has not been kept up to date and in good working order.

Q. How then should we view occupancy?

A. Occupancy is the metric that CCRC managers focus on most closely. Clearly it is desirable that the CCRC be as close to fully occupied as pos-

sible. Occupancy levels below 90% or so are a danger sign, and one would then have to question if management has a plan to redress that challenge. On the other side, though, some managers maintain high occupancy by admitting increasingly decrepit new residents or by making costly concessions. That, too, can have adverse financial implications especially in a CCRC with a full care contract. Beyond the financial impacts presented by the elevated expected costs for their care, an influx of less functional residents is likely to make for a less attractive communal life and can create a depressing living environment.

Q. If new residents already have early dementia or other debilitating conditions, won't that affect the living experience?

A. As just indicated, the short answer is "Yes." When you visit the CCRC for a trial stay, try, particularly, to meet new residents since they are likely to be the source of your friends shortly after you move in. Some CCRC marketing departments seek to build a compatible community while others just try to keep occupancy at a peak. An undue emphasis on occupancy rather than on suitability can result in the admission of more decrepit people with whom you may not feel fully comfortable. Remember that the people on the marketing staff are not your friends; they are employed to sell apartments and continuing care contracts. The best marketing departments try to counsel people to

help them find a CCRC that is best suited to them, their health condition, their background, their interests, and their wherewithal. But many are constrained by their managers to do whatever it takes to make a sale.

Q. Why do some CCRCs require Entrance Fees while others just charge a monthly fee or a nominal initial processing fee?

A. Some CCRCs are structured solely as rental properties and obtain their capital from outside sources. Recently, some CCRCs, which ordinarily offer only Entrance Fee contracts, have begun to offer straight rental contracts in an effort to increase occupancy. Rental contracts may attract a more transient resident population and may affect the quality of the community. On the other hand, the rental option gives people a chance to experience CCRC living before they commit fully to the concept. It also allows a discerning analyst with the requisite mathematical skills to calculate the degree of equivalency between rental charges and those for Entrance Fee paying residents. Your short term trial stay will give you a chance to meet a variety of residents so that you can decide for yourself whether you are able to identify with the resident community.

Q. How do CCRCs manage their finances in the absence of data matching revenues to the promised commitments? How can they know if the

pricing is working out as anticipated or if it understates, or overstates, the costs to which the CCRC is committed?

A. One CCRC CEO told me that he uses the Entrance Fees to cover the nursing facility costs and that all other costs are paid for from the monthly fees. This would be valid only if the discounted value of the additional costs of nursing confinement were equal to the Entrance Fees, but the CEO told me that this was just his experiential rule of thumb. Hence, in this case the CEO has recognized the need for some sort of matching albeit using a crude rule of thumb. Using this rule of thumb can lead to problems if the CCRC starts admitting new residents who are less healthy and, therefore, more likely to need nursing care sooner than the historical experience. This is likely to cause future financial problems.

Q. Are there FDIC protections, like those for bank deposits, in case something goes wrong?

A. The FDIC (Federal Deposit Insurance Corporation) is a Federal program of intervention to protect most bank depositors from loss if the bank fails or is impaired. There is no comparable protection for CCRCs and resident Entrance Fees overwhelmingly, though not always,[13] are at

[13] Some investor funded CCRCs, i.e. CCRCs that are not nonprofit, treat all or a portion of the Entrance Fees as a first deed of trust with a priority claim against the physical plant if the provider goes bankrupt. This form of financial organization gives residents much greater security than what is typical as a matter of general industry practice.

risk capital, which is subordinate to the bondholders in the event of a bankruptcy. It would be possible to give CCRC residents the same protections that life and annuity insurance policyholders now enjoy through legislation enacted in every state, but any protection like that is now likely to be far in the future. For now life and annuity insurance policyholders are better protected from loss than are CCRC residents who invest in Entrance Fees what is often their life savings.

Q. The provider has offered us a contract that provides a substantial refund if we move out or die. Isn't that a desirable protection?

A. Refunds are another industry practice to be wary of. Some few CCRCs offer true Entrance Fee refund contracts. But many CCRCs offer nominal "refund" contracts, providing that all or part of the Entrance Fee will be refunded if the residents leave the facility or die. The catch is that the payment of the promised "refund" may be contingent on the resale of the CCRC apartment unit. The payment of such "refunds" can be delayed substantially, sometimes for years, though some states may have a limit on the delay period (Florida, North Carolina, and New York have relatively strong CCRC oversight, given the current weak state of CCRC regulation generally).

Q. Why do CCRCs offer a conditional refund, i.e. conditioned on a subsequent resale? Why isn't the refund simply paid as soon as the apartment is vacated and available for a new resident?

A. CCRC GAAP accounting allows CCRCs to recognize income from amounts that are otherwise subject to call as refunds. This differs from the practice for refund commitments in other industries. The providers book Entrance Fees which are subject to refund into income ratably over the life of the building, thus ignoring the contingent liability to pay a refund. This permits providers to appear to shield residents from loss by offering a refund while taking that principal, on which the resident appears to have a put,[14] ratably into revenue. The resident believes that the refund money, the principal, will be there if the resident dies or has to leave, but the CCRC claims the freedom to use that same money for corporate purposes.

In rationalizing this recognition of a liability exposure as income, the FASB (Financial Accounting Standards Board) justified its rule as follows: "The basis for this exception is that in this instance the Continuing Care Retirement Community is merely acting as an agent between the current resident and the subsequent resident and bears no risk associated

[14] A "put" in investment terminology is an option to sell at a preset price. Thus, for a CCRC contract a refund "put" would be the right to sell the contract back to the enterprise for an amount stated in the contract often, say, 90% or 75% or some other percent of the Entrance Fee paid as partial consideration for the contract.

with the refund."[15] Of course the enterprise "bears no risk" solely because the risk is left with the resident who is entitled to the refund. The "exception" is a departure from the more stringent standard required by GAAP for other entities, which would have the refund booked as a liability and, thus, not available for revenue recognition. Thus, the answer to your question is that the providers offer such conditional refunds because it gives them the marketing advantage of offering a refund but without their having to accept the offsetting responsibility to make the payment. Instead, they take a ratable share into income in every accounting period.

Concerning this practice of double counting refund liabilities as income and commitment, the AICPA (American Institute of Certified Public Accountants) stated in a recent letter to FASB relating to CCRC accounting rules, "… the CCRC's own funds will never be used to make the refunds to the prior resident; instead, the CCRC is effectively facilitating the transfer of cash between the successor resident and the prior resident."

In other words the payment by the successor resident goes to pay the predecessor and does not benefit the paying successor at all, thus benefitting the CCRC enterprise which takes the refundable Entrance Fees into income. Prospective residents may want to make sure that their

[15] FASB, Accounting Standards Update, No. 2012-01, July 2012, Health Care Entities (Topic 954), p.7.

Entrance Fees will be used to provide benefits for their cohort of residents and not diverted to prior generations of residents. Accountants' primary loyalty to their clients may affect their rulemaking.

Q. Is a nonrefundable or limited refundability contract, therefore, better than a refund contract?

A. That again is a matter of personal preference though it's wise to be aware of the limitations that may delay or impair the payment of refunds when the time comes that you might expect the refund to become payable. Before entering into a refund contract it's important to research the conditions under which the provider commits to the payment of the refund.

Q. What about a nonrefundable contract? One CCRC we've met with has what they call a "standard" contract which reduces the refund amount ratably by 2% a month. Is that a desirable arrangement?

A. If the CCRC is just pricing to the market, there can be no assurance that the relative pricing for a nonrefundable contract is mathematically related to the refundable contract options that are offered. One CCRC, for instance, offers a 90% refund contract for an Entrance Fee that is double the Entrance Fee required for a limited period, declining balance refund contract. If you plan to live in the CCRC until death, the 90% refund is no more than a death benefit such as you might have with a life

insurance contract. Depending on your age it may well be more advantageous to buy life insurance rather than to pay the upcharge for the refund contract. There can also be estate tax advantages to funds paid from a life insurance policy as opposed to the receipt of an Entrance Fee refund from a CCRC.

Additionally, the doubling of the Entrance Fee means that the 10% deduction inherent in the 90% refund contract is also doubled to be 20% of what the Entrance Fee would have been with the declining refund contract. That further diminishes the value of paying the extra charge to have the 90% refundable contract. On the other hand, the 90% refund can be advantageous if you are very old when you move in, or if your circumstances change and you have to leave the CCRC before death.

Ideally, all contracts would have a refund built in so that the CCRC provider neither gains nor loses when residents die or leave the community. In life insurance parlance such a termination benefit is called a Nonforfeiture benefit since it avoids the financial forfeiture on early contract termination which many providers require of their residents. From the life insurance world you likely know of such payments as "cash values" which are mathematically calculated to be equitable both to the policyholder and to the insurer. They are generally shown in a

table on page 5 of a life insurance contract. Such an equitable termination arrangement could be equally applicable to Continuing Care contracts. With a "standard" CCRC contract like that described above, the provider can have an unearned gain from withdrawals or early deaths since the resident is required to forfeit much of the Entrance Fee if the resident dies or has to leave. It is a questionable practice for a CCRC to depend on forfeitures as a source of income.

Q. You've made me uneasy again. How can we find trustworthy CCRCs that are operated on a conservative financial basis?

A. That requires conscientious search, thorough analysis, and astute comparisons. You have a major advantage if you simply realize that the market is one that the providers dominate so that buyers are dependent on the good will, integrity, and competence of the provider executives, staff, and their outside advisors.

More, perhaps, than in any other sphere of today's financial world, consideration of CCRC choices is one in which buyer wariness is essential. It is a high calling to ask people to sell their homes and to invest their life savings in the form of Entrance Fees deposited into an enterprise under nonprofit management. Unfortunately, not all executives have the competence and insight to rise fully to that challenge of trust

and stewardship and the regulatory framework is not yet in place to guide those who fall short.

There are, however, some excellent and well managed CCRCs and, if you search long and diligently, and if you solicit expert evaluative assistance as needed, you will be able to find an excellent well-managed CCRC that you will be proud to call home. There is nothing like the friendships and support that are available within the extended family that CCRC residents become.

Q. You've mentioned expert assistance. How can one find that expertise?

A. It is very difficult to find objective financial advisors, in general, and there are even fewer who specialize in CCRCs. Many "advisors" are compensated by a fee or commission paid by the provider organization after a new resident moves in. As previously mentioned, but worth repeating, this compensation structure tends to bias the advice toward less desirable facilities since it is those facilities that have to resort to paying sales incentive payments to "advisors".

The need for better guidance for prospective residents is something that we have been considering within National Continuing Care Residents Association (NaCCRA), i.e. how to give folks better guidance than what is now available. So far, we have developed the materials that

you can find on the internet by clicking on this paragraph. You can get more of a sense of how one person views the choices in the item there titled, "CCRC Living as Choice and Investment."

Q. Does NaCCRA maintain a list of suitable experts?

A. NaCCRA doesn't have a directory of suitable financial planners. Most financial planners are either purveyors of financial products, or accountants, or wealth managers, few of whom have the depth in the analysis of CCRCs that you might wish for. In addition there are elder law specialists and some placement advisors, most of whom are compensated by a commission from the provider CCRC. Of course, the reputation of CCRCs in your area is likely to be well-known among the financial planning community, but that may relate more to the current lifestyle that the community offers, than it does to its prospects for future financial soundness.

You may decide to do your own analysis, which for those who have the needed analytical skills is the most informative approach. If you do that, we suggest first eliminating any CCRCs with a negative net asset position unless you have sufficient resources so that you can withstand the potential loss of your Entrance Fee investment. You can lay out the criteria across the top line on a spreadsheet, with a list of all potential CCRCs that you would consider down the left hand column. That grid

can give you a good start on your own fact finding, analysis, and comparisons.

Q. Can we get a tax advantage by exchanging the equity value in our home for an Entrance Fee investment so that we can retain the capital gains basis of our home? We bought our home many years ago and it has appreciated in value substantially since then.

A. Internal Revenue Code Sections 1031 and subsequent define the rules for tax free exchanges. A reading of the code suggests that an exchange of a home for an Entrance Fee contract would not retain basis unless the Entrance Fee contract provides ownership and most do not. In the majority of CCRCs the ownership is vested in a nonprofit corporation which precludes any ownership interest by residents.

Q. Isn't there an exemption for home sales by older people?

A. There has been a one-time exemption allowance for the sale of a home. At one time the exemption was limited to people age 55 and older but more recently the exemption has been extended to all ages. This newer allowance exempts from capital gains taxation the first $250,000 of gain for a single person and $500,000 for a married couple. Since the home has to be sold and not exchanged to qualify for this exemption, the sale of a home to invest in an Entrance Fee contract qualifies. As far as can be determined this exemption has not been revoked

in The American Taxpayer Relief Act of 2012 (the so-called Fiscal Cliff Bill… the origin of the automatic budget cuts — known as “sequester”).

Q. What are the tax implications of moving to a CCRC? Marketing has told us of a medical deduction. Can’t that offset part of the Entrance Fee required?

A. If you now own your home, and you move to a CCRC which is owned by the provider, you lose all the tax benefits of home ownership including the deduction for mortgage payments and property taxes. Those tax benefits are available, though, in the few resident-owned CCRCs for residents with an ownership interest in the facility.

There is also a prepaid medical deduction, which is an offset to the Entrance Fees, and which continues for the recurring fees of later years on a much reduced basis. Since the rationale for the deduction is the advance, or current payment of medical expenses, CCRCs that don’t offer full care contracts should generate a materially reduced medical deduction.

Some providers, however, manipulate the determination of the deductions. Thus, there can be distortions in what is appropriate. We know of no case, however, in which the Internal Revenue Service has audited the representations that providers make about what is deductible. Responsibility for the deduction rests with the individual taxpayer, and

not with the provider, so residents who rely on the provider's guidance do so on their own recognizance. Clicking on this sentence will take you to a very thorough discussion of these issues by Robert Atkins Walker PC, CPA, PhD.

Q. You've referred to CCRC providers with higher standards. I forget your words… "Good will, etc." something like that. Can we rely on church affiliation as an assurance that a CCRC will be well run?

A. Churches often initiate and control the leadership of CCRCs, and at one time some churches stood behind the financial commitments made to CCRC residents. That changed in 1977 with the collapse of Pacific Homes, the operator of several CCRCs sponsored by the Methodist Church. It appears that the executives had underpriced the Continuing Care Contracts, leading to shortfalls, which they then tried to cover by expanding, using the cash from new Entrance Fees to meet the commitments made to earlier generations of residents. Thus, there was a cascade of overstated promises – comparable to a Ponzi scheme – which collapsed only after a deficit of $27 Million had been incurred.[16]

In the aftermath of the collapse the residents impacted by the bankruptcy sued the United Methodist Church for the damage they had in-

[16] Ian Morrison ed., *Continuing Care Retirement Communities: Political, Social, and Financial Issues*, Haworth Press, 1986, p. 22.

curred. The accountants, Coopers & Lybrand, paid $1 Million to settle the case. Eventually, "The Pacific and Southwest Annual (regional) Conference took on a $21 million financial commitment to save Pacific Homes. Two general agencies and other annual conferences around the country rallied around the cause and raised money."[17]

At the trial, William Lerach, the plaintiff's attorney asked the jury, "How could something that should have been so good end up so bad?" He recognized that the Methodists had had good intentions, but the answer to the question he had posed to the jury was that "Incompetence and cowardice—with a dose of fraud—were the answers…" The parade of elderly witnesses, devastated by their losses, lent credibility to his case.[18]

Churches might have responded by taking greater fiscal responsibility for the CCRCs that operated under a claim of affiliation. In other words the churches might have continued their support and financial underwriting of CCRCs serving the elderly but with the imposition of church-wide standards to ensure that all such CCRCs were operated on a fiscally sound and sustainable basis. If that had occurred, then the use of

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[17] http://archives.umc.org/umns/news_archive1999.asp?ptid=&story=%7B50D9D98A-8D38-47E6-BB06-5505FC3B320E%7D&mid=3368, accessed January 6, 2013.

[18] Patrick Dillon, Carl Cannon, *Circle of Greed: The Spectacular Rise and Fall of the Lawyer Who Brought Corporate America to Its Knees*, Broadway Books, 2010, p. 27.

church affiliation as a part of a CCRC brand might have come to have some meaning as an attribute to be trusted.

Sadly, in light of Christian principles of stewardship and responsibility, that is not what occurred. Instead the churches took the Pacific Homes settlement with the Methodist Church as a warning that they should disclaim all financial sponsorship or responsibility. As a result of that settlement churches since then have generally disclaimed sponsorship of CCRCs though they maintain affiliation. Most of today's CCRCs, in the fine print of the contracts though not generally in the marketing materials, explicitly deny any sponsorship or guarantee for the contractual commitments made, which are solely an obligation of the CCRC organization itself.[19] Church affiliation is likely to determine little more than criteria for the leadership and the target resident group to be attracted into CCRC residence.

Q. Yes, but aren't church affiliated CCRCs likely to be more pastoral and caring in their leadership than a profit-motivated enterprise would be?

A. Some churches are more charitable and pastoral than others. Some churches are more authoritarian than others. Some churches have a reputation for astute leadership while others trust a higher power. The mere fact of church affiliation is no assurance that the leadership will

[19] http://www.canhr.org/publications/PDFs/CCRCGuide.pdf, p. 4, accessed January 6, 2013.

be more sympathetic or engaged with residents than an unaffiliated CCRC would be.

At one church affiliated community recently a busload of what appeared to be Asian executives in dark suits arrived at the door to be greeted by the Executive Director and given a tour by the Marketing manager. The residents were not told anything about this striking arrival of a group of conspicuous visitors. The rumors arose instantly and they were telling. “Maybe they’re here to buy our community,” one resident was heard to say. “We can hope,” was the rejoinder.

Although residents pay an Entrance Fee that is tantamount to an ownership equity payment, the ownership is fully in the hands of the not-for-profit organization, its executives, and its board. They often feel no accountability to the residents who can come to feel like pawns in a game in which they are not players. Talk of the movie, “One Flew over the Cuckoo’s Nest” is not uncommon on CCRC campuses, and what often comes to mind is the old spiritual:

When Israel was in Egypt’s land,
Let My people go!
Oppressed so hard they could not stand,
Let My people go!

Refrain:
Go down, Moses,
Way down in Egypt’s land;
Tell old Pharaoh
To let My people go!

Fortunately, not all communities devolve to this level of executive disengagement from residents. Terwilliger Plaza, for instance, a non-profit, Continuing Care Retirement Community in Portland, Oregon, has a majority of residents on its board. That is rare and highly unusual. Terwilliger Plaza claims that it is only one of three facilities in the nation that is self-governed.[20]

Q. Aren't executive directors who are trained to the ministry committed to service and, therefore, more to be trusted than business executives?

A. Typically ministerial training revolves around theological doctrine, empathetic support, prayer and pulpit skills, and church development. That is considerably different from the skills needed to manage a fee-supported enterprise that in order to survive must contain its expenses within its revenues and that has made promises that are paid for today with their fulfillment deferred many years into the future. Often, though not always, theologically educated leaders who accept executive and managerial posts in the CCRC industry believe that they have become business executives and, so, should enjoy what they imagine the perks of business office to be, i.e. high compensation and bonus opportunities. They may also surround themselves with staff employ-

[20] http://www.terwilligerplaza.com/retirement-community/board/ accessed July 10, 2013.

ees, who may be redundant (the financial imperative to operate efficiently is weakened in a nonprofit), and who owe their jobs to the executives. The cost of those handsome compensation packages and the cost of redundant, sometimes inept staff is a direct drain on residents, who provide virtually all the funds for the operation, including the funds to repay indebtedness or for the nonprofit to invest at interest to fund future deferred costs. The church trained executives may feel that it is their pastoral duty to tolerate ineptitude or to support nonperforming staff but that leads to unnecessary costs which directly tax the residents who are the source of the funding and who most often have no say in these matters.

At the same time directors, who may be drawn into board service because of their business expertise, often imagine that service on the board of a not-for-profit does not require the same attention to detail and business savvy that has made them successful in their own businesses.

Q. How critical is the executive director to the resident experience in a CCRC?

A. The short answer is simple, the executive director is extremely critical to the CCRC living experience. As a business, the owners – who are often not-for-profit enterprises – expect executive directors to manage

CCRCs for the benefit of the enterprise. From the resident perspective the executive director has unchallengeable authority to make decisions whether the residents like those decisions or not. With rare exceptions the executive directors are not accountable to the residents, but only to the executives and board of the owning enterprise.

Authority is focused in the person of the executive director, who alone is able to make most decisions. The executive director is hired by, and reports to, either higher level executives or to the board. Some CCRCs allow selected residents to participate in the selection process when a new executive director is to be hired or installed but most do not. The executive director is employed to run the business for the owners. If the residents are happy with the result, that's a plus but it's not the driving condition.

Q. What of nonprofit organization? Aren't nonprofit's inherently better than for profits?

A. People are people and the market for executive talent extends over both the nonprofit and for profit sectors. We can distinguish, though, between revenue supported nonprofits and donor supported institutions. Most CCRCs are supported by the fees paid by the residents with donations constituting only a minor source of revenue. Hence, there is

little inherent difference between nonprofits and for profits other than what appears on the surface.

Nonprofits are tax exempt and do not distribute profits to the providers of equity capital. For profits pay taxes and are expected to reward shareholders. But donors to nonprofits, or residents who contribute Entrance Fees to a nonprofit CCRCs, expect that there will be efficient use of their capital just as the investors require of a for profit company. Nonprofit executives may be more compassionate and altruistic in their business values, though not necessarily, and a nonprofit may have higher costs from keeping on staff people who are not effective or by being more lenient with compensation or performance evaluations. There is an extensive discussion of this topic which can be reached by clicking on this sentence. Prospective residents should not simply assume that a nonprofit is likely to be more trustworthy or more committed to residents than a for-profit CCRC. That may be true but not necessarily.

Q. What happens if my needs change and I move to a smaller living unit, or if a larger apartment becomes available and I want to take advantage of the opportunity? Are the financial arrangements affected by whether I have a refund contract or not? If I have a 90% refund contract does only the refund count toward the cost of the new living unit?

A. These are very good questions and the prevailing practice in the industry is not equitable for people whose circumstances change. More accurately, there are few rules so providers can do whatever they choose. The most common practice is to charge the market price for the new unit, but only to credit the original price you paid at move in for the unit you are giving up. The provider also generally charges costs related to the move. That means that the provider can profit from the difference between the market value of the unit you relinquish and what you paid for it.

The operative term here, however, is "prevailing practice" since provider practices vary widely.

Q. What happens if rate increases after I move in deplete my savings and I outlive my assets?

A. Internal Revenue Ruling 72-124 requires nonprofit CCRCs to keep residents in residence even if their resources are exhausted. This is a condition for the maintenance of nonprofit standing. Most, perhaps all, for profit CCRCs have adopted a similar policy.

The CCRC is free to solicit benevolent funds from philanthropically minded residents and others to meet this obligation but, if the benevolent funds are insufficient, then the nonprofit must maintain the residency from its general funds. Specifically, the ruling provides: "This may

be done by utilizing the organization's own reserves, seeking funds from local and Federal welfare units, soliciting funds from its sponsoring organization, its members, or the general public, or by some combination thereof."[21] The nonprofit CCRC, however, can be freed of its obligation to support indigent residents if it is found that the residents have unduly divested themselves of funds that might otherwise have provided their support. There is wide latitude for interpretation concerning what constitutes unwarranted divestiture and, without the resident realizing it, something as innocent as taking a cruise may be held to be an unjustified indulgence, thereby voiding the commitment to maintain a resident who becomes indigent.

Q. Do all CCRCs offer all the services that I may come to need?

A. There is no uniformity concerning what CCRCs offer. Some CCRCs, for instance, have memory care units that can allow Alzheimer sufferers to stay in residence. Other CCRCs send Alzheimer patients out to other specialized facilities. A CCRC is only permitted to offer those services which are encompassed within the scope of its license. For instance, a resident may reach a stage at which two people are needed to assist the resident with toileting. Not all facilities are staffed to provide such

[21] http://www.irs.gov/pub/irs-tege/rr72-124.pdf, p. 3, accessed on January 6, 2013.

an intense level of nursing care and such a resident may then have to move to an alternative facility.

Q. Are all CCRC contracts the same?

A. Decidedly not. This is one of the most perplexing challenges for a prospective resident since the prospect is not likely to be shown the contract until the prospect is mentally committed to moving in. It takes great forbearance at that stage to back off from what seems like a promising future life even if an attorney who reviews the contract recommends against accepting it. The prospect has to accept the contract as proffered or go elsewhere which is a Hobson's choice. CCRCs do not typically make available sample contract forms as part of their marketing packages.

Ideally, CCRC contracts would balance the interests of residents and providers and would be written in simple language so that anyone with a basic education can understand the agreement into which they are entering. That is not the case today when many contracts include one-sided terminology like the following statement, excerpted from an actual Continuing Care Contract, that differences will be resolved "…as determined by [the provider] in its sole discretion."

Although some states require regulatory approval for Continuing Care Contracts, we've mentioned earlier that a common regulatory position

is that anything is permitted in such a contract unless it is explicitly prohibited by statute. Thus, the use of phrasing like "in its sole discretion" is not regulated. Hence, buyers must be particularly wary and vigilant in reviewing contracts. The phrasing of the contract can reveal a great deal about what the prospective resident can expect from the CCRC management.

Q. One CCRC we've visited emphasizes the liberal long term care protection contained in its full care contract. They assert that not all of their competitors offer the same protection. Don't all CCRC contracts provide comparable benefits?

A. In addition to the latitude that CCRC providers have in writing the contract, they also differ widely in the degree of protection given to residents. Some years ago the providers' organization, which is now LeadingAge, developed the following typology for the primary contract categories.

> Life-care (extensive) contract (Type A)
>
> This is the original full-service contract in which individuals (or couples) agree to pay an Entrance Fee and ongoing monthly fees in exchange for living accommodations and an extensive range of services and amenities. A Type A contract generally provides for a resident's transfer to the appropriate level of care—assisted living or nursing, either on-site or accessible off-site—for an unlimited time at little or no additional cost. The CCRC bears the majority of the financial burden of the resident's long-term care.
>
> Modified contract (Type B)

> With this type of contract, the resident pays an Entrance Fee and ongoing monthly fees for the right to stay in an independent living unit and receive certain services and amenities. The Type B contract obligates the CCRC to provide residents with appropriate assisted living or nursing care for a specified number of days at no extra charge and/or at rates that are discounted from those charged to those admitted from outside the CCRC. The number of covered days and/or the discount varies from community to community. The CCRC bears the financial burden of the resident's long-term care during the covered period; thereafter, the financial responsibility for long-care shifts to the resident, who must pay the regular per-diem rate charged to those admitted from outside the CCRC.
>
> Fee-for-service contract (Type C)
>
> Fee-for-service continuing-care contracts require an Entrance Fee and ongoing monthly fees but do not include any discounted health-care or assisted living services. Rather, the resident receives priority or guaranteed admission for these services, as needed, but must pay the regular per diem rate paid by those admitted from outside the CCRC. With this type of contract, the resident bears the financial burden of his or her additional long-term care needs. The charges will vary, depending upon the services needed.[22]

Other commentators add Type D to cover the rental only communities that don't charge an Entrance Fee and that offer all services *à la carte* on a fee-for-service basis.

In addition to these variations in the protections provided there are also wide variances in the refund provisions. Many CCRCs offer what is referred to as the standard refund contract under which the Entrance Fee is refundable with the amount of the refund declining 2% per month, for each month the resident is in independent living and 4% per month for each month the resident is in the nursing unit. Thus, after 50 months of residence the Entrance Fee investment is fully forfeitable to

[22] Taken verbatim from the booklet, "Today's Continuing Care Retirement Community (CCRC), published in July 2010 by the American Association of Homes and Services for the Aging (now LeadingAge), p. 7.

the provider. At the other extreme are CCRCs that offer a 100% refund contract. As mentioned elsewhere in this Q&A prospective residents should be wary of the conditions associated with refund contracts.

This variability is described as follows in the provider-developed booklet excerpted above, "As CCRCs evolved, additional contract types were developed to provide choice for prospective residents and options for the providers." Few residents are able to assess the choices given and most CCRC providers limit choice. Hence, the seeming plus of offering "choice" has little meaning in practice with a few, very few rare exceptions. Contract type is another area in which prospective residents need to be circumspect in making their comparative assessments.

Q. Why don't all CCRCs offer contract options to allow them to compete with other CCRCs in the area?

A. Only the CCRC executives can know what motivates the decisions that they reach. What is surprising is that most CCRCs offer very few contract choices. All contracts types can be mathematically equated financially with all other types that are offered. There is no reason, other than a possible lack of sophistication, why providers can't simply offer all contract variations and make the choice of contract a choice that the incoming resident can make based on that resident's circumstances.

Providers often cite an unwillingness to assume risk as a reason for offering less comprehensive contracts, but reinsurance is available which could allow providers to cover that risk. It's simply an artifact of conventional thinking in the industry that leads providers not to offer a range of contract options. There are even ample risk management opportunities in the reinsurance marketplace that could allow providers to avoid risk exposures that the provider is uncomfortable with. There is no reason why providers can't offer a range of contract options to meet the individual needs of prospective residents. There is a Continuum of Care chart that accompanies the "CCRC Living as Choice and Investment" presentation which will give you a sense of the range of choices (click on this sentence to go to it).

Q. We have long term care insurance. Can't we use that to cover the cost of long term care?

A. Many people believe that long term care insurance is similar to the added protection included in a full care contract, in which the resident's recurrent cost remains unchanged regardless of the intensity of the level of care that the resident needs. It is not, since long term care insurance includes limitations that are likely to leave gaps between provider fee charges for more intensive care and the benefits provided by the insurance.

Also, most long term care insurance has a heavy expense load to pay the sales commission to the selling agent and that diminishes the ratio of prospective benefits to required premiums (this is not true, though, of the Federal employees long term care insurance program or of some similar group basis programs). Since the full care contract allows for better cost management and lower sales cost, it is a better consumer value than is long term care insurance sold by insurance agents.

Thus, for people who don't have the wealth to self-insure their care if they ever need escalated assistance – assisted living or skilled nursing care – a full care contract is an important protection to expect.

Q. Long term care insurance rates vary with age and health condition. Why don't CCRC Entrance and Monthly Fees also vary with age and health condition?

A. Many industries start with crude pricing practices and become more sophisticated as competitive pressures force change. An historical example will make this clear. Except for some incidental efforts, medical care insurance got its start in the 1930s when the American Hospital Association started a prepaid hospital insurance plan. That program was conducted under the brand name "Blue Cross."

The problem during those Depression years was that workers would lose their jobs when they were injured or became sick, meaning that

hospitals had trouble collecting for the care they provided. The answer was to allow workers to subscribe to prepaid hospital insurance so that their hospitalization was paid while they still could work and still had jobs with subscription payments allowing workers to "prepay" for the possibility of hospital care before their need for hospitalization ever became necessary.

The Blue Cross program was not set up by actuaries. The concept that was used, one monthly subscription fee for people of all ages, genders, and health conditions became known as community rating. It depended on their being some correlation between the payments received and costs of providing the promised benefits but since the hospitals were receiving more payments than they had earlier, that balance was not always refined.

Blue Cross expanded rapidly during World War II because there was extraordinary demand for labor but wages were frozen by a wartime decree. Despite the wage freeze employers were able to compete for employees by adding fringe benefits so group insurance and pensions flourished.

Later, insurance companies with actuarial expertise began to enter the group health insurance field, and they introduced age and gender pricing, which allowed the insurers to skim off from Blue Cross those em-

ployment groups with a younger healthier workforce. This left Blue Cross with the less healthy groups and claim costs (and resulting premiums) began to spiral upward making their plans uncompetitive.

Eventually, Blue Cross, too, responded by employing actuaries and introducing differentiated pricing in place of the earlier "community rated" subscription model. Today, there is little discernible difference between companies operated on the Blue Cross model, Blue Cross and Blue Shield, and insurers though they are still separately regulated in California and, perhaps, in other states as well.

This history is instructive since it indicates where the CCRC industry is today on the rate making trajectory. Of course, the risk and cost exposure faced by a CCRC varies, as you surmise, by age, sex, marital status, and health condition, but the CCRC industry still uses "community rating," i.e. one rate structure for all residents who enter at the same time. There may be some minor individual negotiation, e.g. upgrades to apartment amenities, and rates do vary among generations of residents by year of entry, but the former does not seem to be common and the latter is not yet widely recognized as inequitable.

The result is that, for most though not all Entrance Fee CCRCs, people who are older at move in subsidize those who are younger since the younger people are sustained in residence for a longer period for the

same initial outlay. It's not clear, though, whether this is true for older people who are already infirm or in decline when they move in. If the CCRC guarantees health protection, as is the case for an inclusive care contract, then the cost of care for elderly move-ins may well exceed the fees that they are asked to pay.

Q. Is pricing likely to change to a more equitable model, more closely matched to the expected costs of residency?

A. Unlike the economically sophisticated large employers, who were the purchasers of group insurance and who moved to differentiated pricing during the postwar years, prospective CCRC residents tend to be relatively unsophisticated individuals unskilled in their evaluation of the economics of the residence decision. Not only do residents lack the quantitative tools to allow them to make proper price comparisons that take into account the varying CCRC offerings and their own health condition, but most providers also simply follow the status quo in the industry without a full understanding of the underlying quantitative reality.

It was the aggressive pricing of the insurance companies, who saw opportunity in Blue Cross's "community pricing" model, that led to change in group health insurance pricing. It is unlikely that change will come to CCRC pricing unless, or until, some organization – most likely an inves-

tor owned corporation – sees opportunity by differentiating competitive pricing from today's uniform pricing structures. At this point there is no evidence that pricing will change anytime soon to a more differentiated, more equitable pricing structure.

Accordingly, prospective residents should evaluate their own condition relative to the pricing offered to see whether they are advantaged or disadvantaged by it. In general, younger, healthier people will be advantaged though some elderly people who qualify quickly for skilled nursing may be benefited if they can persuade a CCRC to give them a full-care, inclusive contract despite their imminent poor health.

Q. Are the CCRC industry associations open to the resident perspective?

A. The nonprofit CCRC industry is organized as LeadingAge, a 501(c)(3) public benefit organization comprising most of the nonprofit CCRC providers. The American Seniors Housing Association (ASHA) is the corresponding representative for the investor funded CCRC operators. While LeadingAge has a membership category for "retiree/consumers", ASHA's membership has no such category and membership dues start at $2,500 a year, with full membership costing $12,500 a year, a cost level which precludes most residents from involvement with the organ-

ization.[23] Moreover, LeadingAge's meetings are not only open to residents but LeadingAge encourages residents to attend its meetings by waiving conference fees while ASHA meetings are open only to its members.

Q. Are the CCRC industry organizations working to define standards for CCRCs and to ensure high qualifications for CCRC managers and executives?

A. LeadingAge and the American Seniors Housing Association are both committed to advancing the senior housing and services consumer experience. As provider organizations they are subject to the prevailing perceptions among those who work in the industry. Those perceptions may not always be the same as those who are considering living in a CCRC or other senior housing facility or who utilize senior services. Since the funding for both organizations comes principally from providers, any differences in perception are generally resolved in favor of the provider perspective. The provider view, for instance, of the desirability of higher operating and executive qualification standards, to take but a single example, can be expected to be lower than what residents or prospective residents might consider desirable.

[23] http://www.seniorshousing.org/join-levels-benefits.php accessed April 4, 2013.

Q. Where does the future vision come from for defining what senior housing and senior services can become?

A. Providers, residents, and society at large all have a stake in successfully envisioning the future of long term care and the aging experience in America. It's only natural that those who sell products and services want that future vision to result in growing revenues and profitability for their organizations. Hence, the least biased visioning leadership is likely to come from residents, other seniors, and those who are anticipating their senior years.