CCRC Specific Positions for CCRC Residents

CCRC Residents favor the availability of a full range of care commitments and refund options to all CCRC residents and prospective residents.

CCRC Residents favor ownership possibilities for CCRC residents including legislation to provide an equitable pathway for the conversion of third-party owned CCRCs into hybrid resident ownership with lifetime protection for existing residents.

CCRC Residents favor solvency protections for residents comparable to the protections enjoyed by insurance policyholders. The National Organization of Life and Health Insurance Guaranty Associations (NOLHGA) is a voluntary association made up of the life and health insurance guaranty associations of all 50 states, the District of Columbia, and Puerto Rico that helps jurisdictions to provide protection to policyholders when a life or health insurance company insolvency affects people in many states.

CCRC Residents recognize the limitations that caused the CLASS Act (formally the Community Living Assistance Services and Supports Act) to become enmeshed in controversy but CCRC Residents favor continuing the effort to devise a legislative and regulatory framework to foster advance funding of the long term care needs that can envelope the elderly toward the end of life.

CCRC Residents favor state regulation of CCRCs over Federal regulation since state regulation is closer to those regulated, less subject to concerted special interest lobbying, more likely to allow adaptability and innovation, and less risky than is the remote concentration of oversight through Federal agencies.

CCRC Residents favor uniform state regulation like that for commercial practices (the Uniform Commercial Code), electrical practices (the National Electrical Code), and insurance oversight (the model laws and regulations of the National Association of Insurance Commissioners). The National Conference of

Commissioners on Uniform State Laws develops model laws in many areas of state interest.

CCRC Residents favor insurance department regulation of CCRC contracts and finances because of the lifetime commitments provided by the best CCRC management and the special expertise that insurance departments have in the oversight of similar lifetime commitments related to human life contingencies.

CCRC Residents favor health department regulation of the health and safety elements of CCRCs. Such regulations should favor establishment of principles for sound operation over reactive rules and enforcement should focus on exceptions rather than universal surveying, investigating, examination or other unnecessarily costly modes of state oversight.

CCRC Residents favor self-certification by highly qualified CCRC leaders with impeccable ethical standards over minute level state examinations by periodic inspectors. Self-certification involves the acceptance by the provider of responsibility and liability for the provision of a safe, health-sustaining living environment. The consequence of false self-certification for those exceptional situations in which the privilege of provider responsibility is abused or neglected should be seizure by the state and restructuring of the enterprise under the leadership of a more responsible provider.

CCRC Residents favor lifting CCRC managerial leadership to a high level through education and collaboration. Collaboration here refers to the sponsorship of seminars, publication, and analysis that can elevate the aspirations of those who provide CCRC living and those who benefit from it. Self-certification requires leaders who have completed a rigorous qualification process including examinations to ensure the capacity to self-regulate and ethical vetting to ensure that those qualified to self-certify are of the very highest, most select caliber of leader.

CCRC Residents favor aging department oversight of affordable senior housing and CCRC Residents supports the development of programs to extend the benefits of the CCRC living model to ever widening demographic and economic segments of the population.

Contract and Financial.

CCRC Residents favor clear contracts that are readily understood by anyone with an eighth grade education, the same as the standard applied to life insurance contracts.

CCRC Residents favor explicit financial provision for all CCRC commitments made by contract or otherwise.

CCRC Residents find the following current practices to be questionable and favor phasing out of these practices:

- The provision that some entrance fee refunds are contingent on the receipt of replacement entrance fee proceeds from successor residents. It's unlikely that prospective residents would willingly pay entrance fees if they knew that the bulk of those investments were to go to prior residents or their estates rather than being used to fund the promises that induced them to move into the CCRC.
- The practice of taking refundable entrance fees into income over the amortized life of the facility. This has the effect of reducing the balance sheet liability for such refunds below the amount that is subject to payment as a refund. The rationale that refunds will be paid by successor residents is questionable and the practice of amortization reduces the assurance that funds will be there to pay such refunds at the death or withdrawal of a resident.
- The practice of many CCRCs of charging current market entrance fees to residents who transfer within the facility but only crediting them with what they paid for residency when they moved in which may have been many years earlier. The equitable practice would be to charge transferring residents the difference in the current entrance fees between the new residence and that relinquished plus the cost of effecting the transfer and

refurbishing the relinquished unit. Prospective residents are able to negotiate prices in an open market and can choose a competitive facility if they find an entrance fee to be unreasonable. Current residents no longer have that market flexibility. Moreover, the inequity inhibits transfers that may otherwise be beneficial physically and emotionally for residents as their life circumstances change.

CCRC Residents believe that entrance fees should be reserved to fund the benefits promised by contract or other marketing inducements even though they may be invested in buildings and other non-fungible assets during the interim between the time of receipt and expenditure.

CCRC Residents believe that investment earnings related to the use of entrance fees should be allocated to the support of the contract and other commitments in anticipation of which the entrance fees are entrusted to providers.

CCRC Residents favor statutory actuarially computed financial reserves for all contract and other commitments and/or actuarial certification that CCRC liabilities include adequate provision for all such commitments using conservative actuarial assumptions to provide assurance at a 95% confidence level that the CCRC will be able to fulfill its commitments to residents.

CCRC Residents favor that the determination of liabilities related to refund obligations be calculated with the expectation that such refunds will be paid immediately when due, even though the payment may be contractually deferrable until a successor resident provides the cash flow needed to enable the actual payment of the refund.

CCRC Residents favor the inclusion in CCRC contracts of nonforfeiture provisions to provide actuarially computed refunds related to present value of future commitments from which the CCRC is released by withdrawal of a resident from a contract. As an alternative a resident can be given a lower cost contract with the difference in cost actuarially computed to be equivalent to what the cost would have been with an equitable nonforfeiture value.

CCRC Residents favor individual, rather than facility, selection of mathematically equivalent alternatives for funding care and refund provisions, in order to preserve equity among cohorts of residents so that some residents are not forced to subsidize other residents for no reason.

CCRC Residents favor regulatory requirements that CCRCs have available sufficient cash liquidity to be able to meet all reasonable current cash requirements including the payment of refunds subject to limitations similar to those of banks holding demand deposits or at least the requirements for banks holding time deposits, term deposits, or savings deposits.

Accounting.

CCRC Residents favor the crafting of legislation to require CCRCs to report their financial condition on the basis of Liquidation Basis Accounting[1] as well as Going Concern GAAP. CCRCs that are insolvent by either measure, i.e. CCRCs that have a negative net asset position, should prepare a plan of rehabilitation to restore the CCRC to sound operation with the implementation of the plan to be overseen by qualified regulators. Liquidation Basis Accounting is the a more conservative financial standard to better assure that commitments made to residents can be met; Going Concern Accounting allows liberal capitalization and estimation that may conceal risks to the financial soundness of a CCRC. Insurance companies are already required to meet a modified standard of Liquidation Basis Accounting.

CCRC Residents favor regulatory intervention to protect the interests – financial and contractual – of residents in any instance in which a CCRCs net asset position, i.e. the excess of assets over liabilities, falls to a level that has inadequate provision for unforeseen contingencies. Reasonable people may differ over what constitutes "inadequate provision" but it is clear that a position in which the assets are merely equal to the liabilities is a situation requiring remediation and that a negative net asset position not only calls for remediation but also will inevitably cause inequities among successive generations of residents.

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[1] See http://www.fasb.org/jsp/FASB/FASBContent_C/ProjectUpdatePage&cid=900000011115&pf=true accessed on January 24, 2012 for a discussion of the Liquidation Basis of Accounting

CCRC Residents favor the use of the uniform reporting forms required of life insurance companies for the reporting of statutory CCRC financial results. This form, known as the blue book, is uniform across all jurisdictions and the processes for its completion are well-established.

CCRC Residents favor accounting standards for Going Concern GAAP that appropriately match revenue recognition to the provision of the benefits and services that the revenues are intended to cover.

Health and Safety.

CCRC Residents favor allowing residents to have maximum freedom of self-determination and self-actualization within commonsense constraints of safety. This means that when there is a tension between an absolute standard of safety and the freedom of the residents to enjoy life the balance should tip toward freedom even if this results in an occasional injury or worse.