

NaCCRA CCRC FINANCIAL SOUNDNESS COMMITTEE

INTERIM REPORT

Origin, Purpose, and Membership

In an email on February 20, 2012, Ruth Holland Walsh, President of the National Continuing Care Residents Association, challenged Walton Boyer to form and chair a NaCCRA CCRC Financial Soundness Committee **“to come up with concepts and recommendations as to how the safety and integrity of resident entrance fee investments can best be assured and preserved. In addition - evolve strategies/plans for CCRCs in crisis and more”**. She added that **“the scope of the Committee would be/could be as broad (or narrow) as the committee deems cogent”**.

The challenge was accepted in mid- March and a committee established by late-April consisting of Jack Cumming (CA), Paul Gonson (VA), Ron Herring (VA), Gerard Hyland (OR), Charles Paulk (FL), and Barbara Trezona (VA). Ellen Cotts (CO) was accepted as an interested party. Richard Suetterlin (FL) was added as a member in June. Bill Root (MD) and Walter Hood (FL) were accepted as interested parties in September, all in 2012.

Activity and Status

During the spring and early summer numerous emails were exchanged providing insights into the problems, issues and concerns about CCRC financial soundness. The later portion of this report attempts to summarize some of that thinking in a manner intended to suggest and govern future committee activity. Although a short hiatus in activity followed in July and August, three committee members, Jack Cumming, Ron Herring, and Walt Boyer remained active in related projects which directly and indirectly support the mission of this committee.

Jack Cumming has been continuing to build the NaCCRAU website into an important resource containing reference material necessary to the deliberations of the committee, including previous government studies, scholarly reports and analysis, educational material, and copies of related laws and statutes from those states considered to have strong laws governing the finances of CCRCs. As a long-term project, Jack is also attempting to draft a set of recommended CCRC financial statutes that could be a model for adoption by state legislatures. Ron Herring was instrumental in generating CCRC resident activity, which convinced the Virginia State Senate to establish a special study into CCRC financial health known as the SJR 49 Study. As a result of his activity and important personal background, he was invited to participate in the study and has provided his initial testimony to the study panel. Walt Boyer has completed and submitted the initial draft for a North Carolina Continuing Care Residents Association Financial Guide for Resident Finance Committees, which includes a discussion of relevant North Carolina General Statutes.

Discussion

Documents under review and the content of emails between members of the committee have been wide ranging and comprehensive in scope. For purposes of this report, several topics considered key in these discussions are reported here. This discussion, however, should not be taken as all encompassing.

Financial Models

A major core of the difficulties that the CCRC Financial Soundness Committee is to address lies in the use of CCRC entry fees. Entry fees are at the heart of CCRC stability. Current models for deferred recognition of reentry fees and opened ended use of reentry fee assets with little, if any, consideration, framework, or standards for their use that would ensure long-term health care commitments. Interested resident queries elicit contradictory descriptions for the use of resident entry fees. A common response from actuaries is that the fees are to offset increased future expenses in higher cost units such as assisted living and nursing care. The IRS in permitting a portion of entry and monthly fees to be tax deductible as advanced medical costs shares this interpretation. Investment bankers look to entry fees as a part of development loan fiscal requirements and loan guarantees. Bankruptcy courts use reentry fees for payment of CCRC indebtedness. Allied to this task is consideration of the various parameters for timely return of refundable entry fees.

NaCCRA's CCRC Financial Soundness Committee should pursue development of a fiscal environment that provides clarity to the entry fee model and ensures the long-term health commitments implied by the CCRC contract.

External Fiscal Oversight, Review, and Correction

A second core difficulty for the CCRC Financial Soundness Committee to address is the dearth and inadequacy of external fiscal oversight and correction despite several avenues available to provide this service. Several states (unfortunately, still just a few) have laws requiring CCRCs prepare comprehensive annual status reports (commonly titled Disclosure Statements) that provide detailed information on mission, management structure, audited financial reports, entry and monthly occupancy charges, and contract provisions. Some require projections of expected future financial posture and more. Some states provide for review of these statements and action by an entity of the state in cases of defined unsatisfactory status.

Alternative and complementary opportunities for external status review include independent financial audits, the required reports and financial standards imposed by lenders and bondholders, accreditation by CARF-CCAC or similar organizations, acquiring a financial rating from Fitch or Moody, and formal actuary review. Audits, accreditations, financial ratings, and actuary reviews can be expensive, and some CCRC managers appear to consider that they are an unnecessary financial burden. Audits, ratings, and accreditations can provide an important and informed picture of a CCRC's current financial status. Only the actuary can adequately project the future needs of a CCRC to ensure a reasonable expectation of long-term financial health.

NaCCRA's CCRC Financial Soundness Committee should pursue development of standards for CCRC external oversight, review and correction that include evaluation of both current and future fiscal health.

FASB Accounting Standards

The Federal Accounting Standards Board requirements for CCRCs have been characterized by one committee member as weak and inadequate. Few, if any, current committee members are familiar with the FASB standards for CCRCs. There exists a perception that they are written in a manner that does not adequately protect the CCRC resident. Rules concerning entry fees are reported as a hot topic for changes in 2013, with proposals both favorable and unfavorable to resident interests. Further concerns exist that they may contribute to the difficulties described in previous paragraphs. At the present time, there does not appear to be a continuing advocate for the interests of the CCRC resident in review and comment on FASB Standards for CCRCs.

NaCCRA's CCRC Financial Soundness Committee should obtain and review the FASB Standards for CCRC accounting with the objective of recommending changes where appropriate to protect the long-term interests of CCRC residents.

Governance and Transparency

The governance of CCRCs displays wide variety. The majority of CCRCs appear to be well managed for long-term health, asset growth and success, with frequent communication, good understanding, and mutual trust between management and residents, a characteristic known as transparency. A few, however, often through historical trends, can generate unease and concern among residents.

Many CCRCs evolved from nursing homes to improve cash flow issues, and still too often in CCRCs evolved from such beginnings, independent residents continue to feel that they are treated as less than fully competent. Many CCRCs started as church sponsored entities and some continue to operate with many of the concepts common to church finances (The chairs initial CCRC Board experience was with a church appointed clergy CEO/CFO CCRC management). CCRC Boards of Directors are increasingly including independent residents in their membership, but many still refuse to do so on the basis of perceived resident short-term biases. A lack of transparency, which can result in many of these situations, leads to a condition in which residents have a feeling of living under autocratic management with little, if any control over their personal situation within the CCRC.

A select few states have developed CCRC Resident Bills of Rights, which contribute to the sense of transparency.

NaCCRA's CCRC Financial Soundness Committee should pursue development of standards of governance, management qualification, a model resident Bill of Rights and general practices, such as may lead to good management-resident transparency and trust.

Respectfully submitted,

Walton T. Boyer, Jr.