Progress and Challenges in California Assisted Living

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Justice in Aging is a national non-profit organization that fights senior poverty through law. We secure health and economic security for older adults of limited income and resources by preserving their access to the courts, advocating for laws that protect their rights, and training advocates around the country to serve the growing number of older Americans living in poverty.
• All on mute. Use Questions function for substantive questions and for technical concerns.

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• Slides and a recording are available at Justice in Aging – Resources for Advocates – Webinars: http://www.justiceinaging.org/resources-for-advocates/webinars. See also the chat box for this web address.
TODAY

- **Overview**: General background on California Assisted Living

- **Challenges**: Residents’ increased care needs, and need for systemic change among facilities and regulatory system

- **Improvements**: Regulatory and staffing updates strengthen the State’s capacity
Overview:

Assisted Living standards are set at the state level

Regulated at the state level

In California:
Assisted Living = Residential Care Facilities for the Elderly (RCFEs)

Two categories:

Licensing by Community Care Licensing Division of California Department of Social Services
OVERVIEW

Majority of *residents* live in larger RCFEs.

Majority of *facilities* house six or fewer residents

7,453 Total number of RCFEs

149,937 total capacity

1980s

- RCFE regulatory system established in 1985. RCFEs developed under a non-medical model for seniors needed limited assistance with activities of daily living.

1990s/00s

- Seniors with significant health needs who previously lived in nursing facilities begin living in RCFEs. Other states grapple with the changing resident landscape and update their regulations.

Today:

- 1,000 Californians turn 65 each day and 75% of assisted living residents live with two or more chronic conditions. California’s senior population and assisted living resident acuity is increasing.
CHALLENGES
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One size fits all regulatory model

• When enacting RCFE system, Legislature stated intent to develop three levels of care.

• Section of the law has never been implemented.

• Instead, facilities are regulated under a “one size fits all” approach.

• Approach struggles to accommodate the range of care needs of older residents.

CHALLENGES

Lack of health care expertise in facilities

• Despite greater health care needs, facilities are not required to enhance staff health care expertise.

• Often, health care only delivered through outside hospice professionals or home health care agencies.

• Very little data on health care staffing at RFCFE.
As a result, California has a low level of nurse staffing.

RN staffing levels are low.

Lack of health care expertise in facilities

Lack of health care expertise in facilities

- Licensed practical or vocational nurse staffing levels also are low.

CHALLENGES

Gaps in medication administration regulation and practice

• California medication work-around: “assistance with self-administration” of medication.

• Medication can only be administered by nurses, physicians, and other comparable health professionals.

• Caregiver staff can assist a resident to self-administer medication.
CHALLENGES

Regulations increasingly allow admission with certain conditions:

- Current regulatory system has loosened the ceiling on care needs.
- “Restricted conditions” can be accommodated with planning and (often) participation of “appropriately skilled professional.”

Title 22, § 87612(a)(1)-(11)

SOURCE: National Center on Health Statistics:
http://www.cdc.gov/nchs/data/databriefs/db91.pdf
CHALLENGES

Eviction and non-admission if facility claims that it cannot meet care needs

• Without any levels of care, facilities that cannot meet resident’s care needs have a right to evict residents.

• Great deal of discretion granted to facilities, and often uncertainty for residents.
CHALLENGES

Limited Medicaid Assisted Living Waiver (ALW)


- Available to Medi-Cal beneficiaries.

- SSI Payment Rate to RCFE: $1,014 - $1,034.

- Operated by Department of Health Care Services, not by Department of Social Services.

- Total ALW capacity: [http://www.dhcs.ca.gov/services/ltc/Documents/ListofRCFEfacilities.pdf](http://www.dhcs.ca.gov/services/ltc/Documents/ListofRCFEfacilities.pdf).
IMPROVEMENTS
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ENHANCED QUALITY ASSURANCE FOCUS

• CCL has increased the agency’s focus on compliance, enforcement, prevention.

• Created Quality Assurance, Advocacy and Technical Support Bureau to improve RCFE quality by identifying and addressing areas of non-compliance by licensees.

• Sharing more information with the public, i.e. list of common RCFE deficiencies: http://ccld.ca.gov/res/pdf/RCFE-MostCommonDeficiencies2014.pdf.
• CCL created a *Find Licensed Care Transparency* website
• Information includes:
  • Complaint investigation reports on facilities
  • Citation numbers and plans of correction

https://secure.dss.ca.gov/CareFacilitySearch/home/index
IMPROVEMENTS

GREATER TRANSPARENCY AND WEB PRESENCE
• January 1, 2016: AB 601 became effective.

• New law requires increased RCFE applicant disclosure of ownership information.

• Helps CCL provide a more systemic process in licensing.

• Implementation plans available: http://ccld.ca.gov/PG3063.html.
IMPROVEMENTS

INCREASED FREQUENCY INSPECTIONS

• CCL will increase inspection frequency from every five years to every three years.

• Now codified in CA Health and Safety Code, Section 1534(a).
CCL launched a centralized complain hotline to streamline complaint process for consumers.
IMPROVEMENTS

CCL ENHANCING AGENCY HEALTH EXPERTISE

• Program Administrator of Adult and Senior Care Program is a registered nurse with expertise in the Department of Public Health.

• CCL has hired two registered nurses to consult on improving oversight and nursing expertise.

• CCL is open and collaborative in finding ways to improve health care expertise in assisted living facilities.
Amended hospice regulations went into effect on July 1, 2015 implementing AB 1967.

Licensees must ensure hospice care plans identify condition and care the hospice agency will provide for that condition.

Amended regulations allow licensees, under certain circumstances, to contact a hospice agency in lieu of calling 9-1-1- during an emergency situation.

QUESTIONS?