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NCAL Releases Assisted Living State Regulatory Review

States continue to strengthen or implement dementia care standards for assisted living and increase training requirements for direct care workers, according to NCAL's 2006 edition of "Assisted Living State Regulatory Review."

"In 2005, assisted living regulations continued to evolve, in some states reflecting a trend toward rising resident acuity levels," says Karl Polzer, senior policy director for NCAL and editor of the report. "While a few states overhauled their regulations, many implemented targeted reforms or made minor adjustments."

Assisted living is regulated primarily at the state level. While it can be difficult to identify national regulatory patterns due to wide variation in state regulatory approaches and market conditions, according to Polzer's analysis, some of the regulatory trends in the past year include:

- Some states implemented or strengthened standards for facilities housing residents with Alzheimer's disease or dementia. States also continued to increase training requirements for staff delivering care to this population.
- Several states added requirements for facilities to disclose information to prospective residents or increased disclosure requirements.
- A few states increased staff training and resident assessment requirements and made changes allowing facilities to admit residents with increased health care needs.
- States continued adding or refining Medicaid programs designed to serve low-income people in assisted living facilities.

The 171-page report summarizes assisted living regulations across 20 categories in 50 states and the District of Columbia. The report also includes phone numbers, e-mail addresses, and Web site information for state agencies that oversee assisted liv-

NCAL, continued on page 4

Top Markets Should See Steady Demand For Assisted Living In 2006

Assisted living operators in the nation's top 30 markets should see a steady increase in 2006 sales as occupancy rates increase due to pent up consumer demand, which is slightly outpacing the number of new units in most markets, says a seniors housing market analyst.

Seniors housing property occupancy rates, especially assisted living, showed a strong performance in 2005, says Michael Hargrave, a sales and marketing manager for the National Investment Center for the Seniors Housing & Care Industry (NIC), Annapolis, Md.

While occupancy rates are a common benchmark indicating profitability, NIC has coined the term "absorption" to reflect how consumer demand influences occupancy in new and existing assisted living units in a market. The official definition of absorption is the change in occupied units within communities from a previous quarter to the current quarter. A positive absorption rate means more units occupied. A negative absorption rate means fewer units occupied, says Hargrave.

The data are derived from NIC Market Area Profiles™ (NIC MAP), a data and analysis service produced by NIC. Each quarter, NIC MAP tracks pricing, occupancy, property, and demographic information from more than 7,300 seniors housing properties representing more than 1 million units/beds in the top 30 largest metropolitan areas. The subscription-based service covers market-rate (25+ units/beds) independent living, assisted living, continuing care retirement communities, dementia care, and nursing care properties.

The NIC MAP data showed that for 2005, absorption

ALF, continued on page 4

Inside Focus

2. Business: Aware Of LTC Cost, Americans Fail To Plan
3. Policy: NCAL On Federal Advisory Panel Developing National Survey

4. Activities: National Assisted Living Week Logo Available

6. StateWatch: State Legislators Strengthen Background Checks To Protect Seniors

8. People



Americans Aware Of Long Term Care Costs Remain Financially Unprepared

Americans are aware of long term care's rising costs, yet only 35 percent have made financial preparations for it, says a Genworth Financial opinion survey.

"While there is increasing awareness of long term care issues, and public policy in support of long term care planning continues to evolve, too many Americans are still unprepared," wrote Buck Stinson, president and chief executive officer of Genworth Financial Long Term Care Insurance Division, Richmond, Va. Genworth recently released its poll and cost-of-care findings. Among the findings:

- Nursing facility costs for a single-occupancy private room rose 2.2 percent in 2006, to \$194.28 a day (\$70,912 a year), compared with 2005 rates of \$192.28 a day.

- Assisted living facility costs for a private one-bedroom unit rose 6.7 percent in 2006, to \$88.48 a day (\$32,294 a year), compared with 2005 rates of \$30,265 a year.

Genworth Financial's current cost-of-care survey is based on information gathered by CareScout in January and February 2006. Telephone interviews were conducted in 88 separate U.S. regions, encompassing more than 9,000 nursing facilities, assisted living centers, and home care providers.

The most expensive private skilled nursing facility (SNF) rooms were found in Alaska, with an average annual cost of \$191,140, followed by New York City at \$140,708.

Louisiana and Missouri, excluding St. Louis and Kansas City, had the lowest average annual costs for a private room in a SNF at \$42,304 and \$43,249, respectively.

The highest annual cost for a private one-bedroom unit in an assisted living facility was in Bridgeport, Conn., at \$57,566. The state of New Jersey, excluding the Newark and Edison areas, was second highest at \$51,314. The lowest annual costs for private one-bedroom units were in North Dakota and Arkansas.

Genworth surveyed 600 adults over the age of 40 from Feb. 27 to March 1, 2006, for its public opinion poll about long term care.

The results showed that in general Americans realize long term care is expensive, and a majority of them expect the costs to rise faster than inflation.

- Fifty percent of those surveyed have a parent or relative who needs or has needed home health care or long term care in a skilled nursing or assisted living facility.

- Two-thirds of Americans over 40 say they have supported or are now providing financial, emotional, or physical support to a parent or relative.

Despite the realities, fewer than 10 percent of the people nationwide reported purchasing, long term care insurance, yet 18 percent of the survey respondents reported having coverage. More than one in four older Americans remain under the incorrect impression that Medicare covers long term care, the survey found.

Extendicare Considers Sale, Shake Up

Dissatisfied with current share prices, Canadian-based Extendicare announced its exploration of either a sale or restructuring that might affect its long term care division, according to the company's chief executive officer.

Its wholly owned U.S. subsidiary Extendicare Health Services (EHSI) operates 493 skilled nursing and assisted living facilities through the brand name Assisted Living Concepts (ALC).

Extendicare announced the appointment of an independent committee of directors and has hired Lehman Brothers to advise the company on the potential sale or restructuring. For 2005, EHSI's revenue from continuing operations increased 29.6 percent over 2004, to \$271.5 million. Extendicare purchased ALC on Jan. 31, 2005. After almost an entire year of operations, ALC contributed \$169.1 million to the company's 2005 revenue.

Register Now For AHCA/NCAL 2006 Congressional Briefing

Register today for AHCA/NCAL's Congressional Briefing, which will be held in Washington, D.C., June 27-28. The registration and hotel deadline for the conference is Tuesday, June 6.

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For more information Visit www.ncal.org. Click on 2006 Congressional Briefing.



NCAL On Federal Advisory Panel For Study Of ALF/RCs

NCAL Executive Director David Kylo recently participated as a member of a technical advisory panel meeting organized by Research Triangle Institute, Research Triangle Park, N.C., to discuss the survey design and scope for a federal study of residential care facilities that will focus heavily on assisted living residences and similar settings that care for the elderly.

Three U.S. Department of Health and Human Services agencies are working together to conduct the federal government's first thorough examination of the residential care market.

The meeting of the technical panel is the first significant step since the three agencies told NCAL about their plans for a national study more than a

year ago. The objectives of the unprecedented research initiative are to:

- Estimate the number of residential care settings and the number of residents.

Development Of Government Survey On Assisted Living For Seniors Begins

- Determine characteristics of residential care settings such as geographic location, size, services offered, and admission criteria.

- Determine the characteristics of people living in residential care settings, such as demographics and functional disability.

Preliminary research plans are to survey small to large residential care facilities that have the primary mission of caring for the elderly. The study will not focus on facilities that primarily care for people with mental retardation or developmental disabilities or people with mental illnesses. Nursing facilities are also excluded from the study.

According to government officials, the next year will be spent developing a survey instrument and obtaining funding approval. Tentative plans indicate that researchers will go out to the field in 2008, with a final report tentatively scheduled for release in 2009.

NCAL will keep members apprised of additional developments related to the study.



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National Assisted Living Week Logo Released

NCAL has released its National Assisted Living Week (NALW®) logo illustrating the week's "Hearts in Harmony" theme with a heart entwined with a treble clef.

The logo is symbolic of the harmony achieved between the resident and caregiver when quality care is delivered and resident needs are met. The theme seeks to promote that special bond between the assisted living caregiver and the residents they care for. Often, those bonds are taken for granted, however; NALW seeks to celebrate these special relationships.

Assisted living and residential care residences nationwide will celebrate the 12th annual NALW starting on Sept. 10–16, 2006.

This year's 2006 planning guide will be available in June and will be mailed to all NCAL member facilities. The guide will contain suggestions for special activities that promote both social and recreational interaction between residents, staff, family members, and volunteers.

NCAL established NALW in 1995 to acknowledge the role that more than 36,000 assisted living residences play in helping about 1 million seniors and people with disabilities enjoy a meaningful quality of life.

The logo is available on the NALW Web site at www.nalw.org.



NCAL, continued from page 1

ing regulation.

NCAL produces the annual "Assisted Living State Regulatory Review" as a service to members, policy makers, and the public. It is widely used by assisted living professionals, policy makers, aging organizations, and consumers.

Areas of state assisted living regulation covered in the 2006 review include licensure term; definition; scope of care; move-in and move-out criteria; requirements for resident assessments; Alzheimer's unit requirements; Medicaid waiver policy; and requirements for medication management, physical plant, staff training, and disclosure.

An electronic copy of the report is available on the NCAL Web site at <http://www.ncal.org/about/statsum.htm>.

To obtain a printed copy, call Martece Yates at (202) 898-2855 or send an e-mail to myates@ncal.org. Be sure to include your name, address, and phone number.

ALF, continued from page 1

in the seniors housing and care industry increased significantly during third and fourth quarters 2005. "In third and fourth quarters we saw a negligible increase in the net supply of units across all facets of seniors housing, especially assisted living. Yet there was a very large increase in the number of seniors," says Hargrave. "There are signs through the NIC MAP data that indicated demand has caught up with the over supply of assisted living units we saw in the late 1990s."

Hargrave says the moderate construction growth and growing senior demand translates into higher occupancy rates. The NIC MAP data showed that 2005 occupancy rates in the top 30 metropolitan areas jumped 300 basis points in assisted living and dementia care. For assisted living the aggregate occupancy rates rose from 88.7 percent in fourth quarter 2004 to 91.7 percent in fourth quarter 2005. Dementia units increased from 88.2 percent in fourth quarter 2004 to 91.2 percent in fourth quarter 2005.

For more information about NIC MAP, visit www.NICMAP.org.



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State Background Checks For Employees And Residents

Increasingly, legislators are looking at strengthening or implementing background check regulations by utilizing the national criminal database and expanding the types of violations and misdemeanors that would disqualify job applicants for long term care positions.

Assisted living facilities and residential care (ALF/RC) operators conducting background checks of their employees often use services to conduct a search of state or federal records to identify a current or potential employee's past criminal offenses. Federal background checks will run an employee's name against the FBI's national criminal records database, whereas state checks process a job applicant or existing staff member's information to the statewide criminal registry. Each state however adopts its own legislation enumerating the degree to which facility administrators should examine employee criminal records.

Background Regulation

Currently, 42 states require background checks for prospective employees, and 26 of those states bar employment for people who have been convicted of certain types of offenses, such as neglect or abuse. All 42 states mandate a statewide criminal record review. Nine states—Alaska, Arizona, Arkansas, California, Delaware, Michigan, Nevada, New Mexico, and New Jersey—also require national background checks.

Five states—Missouri, North Carolina, Ohio, Pennsylvania, and Utah—mandate national background checks for applicants who have recently relocated from another state. Illinois and Minnesota require extensive

national checks in the event that an outside party notifies an employer that an applicant has an out-of-state criminal history. Oregon may initiate a national background check for an applicant who meets either criterion.

Pilot Programs

In 2005, the Medicare Modernization Act (MMA) established grant monies to fund state pilot programs that would identify the best practices for background checks. Specifically, the Centers for Medicare & Medicaid Services (CMS) has awarded funding to seven states—Alaska, Idaho, Illinois, Michigan, Nevada, New Mexico, and Wisconsin.

Idaho's state pilot project is already in progress; however, the state legislature passed new bills that would help long term care. Idaho's governor signed the legislature's proposals that authorize the state's Department of Health and Welfare to use CMS funds to conduct criminal background checks on long term care providers, employees, and contractors who have access to residents. The Idaho Health Care Association supported the legislation because it reimbursed providers for the background processes and does not pass on the costs once the federal grant monies run out. Under the new law, employers became responsible for determining whether an applicant could provide care or services before the fingerprint and criminal history background check was completed by Health and Welfare. Previously, the department made the determination.

Meanwhile, Michigan's pilot program is setting new benchmarks for background checks.

Michigan's Program

Michigan is using its \$5 million federal grant to implement new background check requirements. In February 2006, Michigan lawmakers adopted a package of bills that authorize nationwide background checks for all new employees and contracted hires who will have direct access to patients. Michigan's governor signed the resulting package of legislation, which is reportedly the nation's most far-reaching state regulation governing background checks for long term care employees, according to Health Policy Tracking Service.

The law applies to current long term care employees working at Michigan's homes for the aged and adult foster care homes (the state's terms for licensed assisted living) and nursing and county medical care facilities. The law also applies to hospices, hospitals with swing-bed services, home health agencies, psychiatric facilities, and intermediate care facilities for people with mental retardation.

Current employees will be fingerprinted within two years and the prints kept on file. The CMS grant does not cover the cost nor does it require a "background check" to be run on current employees.

Facilities are required to conduct criminal background checks on all new hires as of April 1, 2006, and dismiss any employees who commit certain crimes.

The new law requires that background checks be FBI fingerprint checks rather than an applicant's name being checked against the state police database. The costs for prospective employees will be reimbursed through the fed-

continued on next page



eral grant, and once the grant monies expire, the state agency will share the cost via Medicare and Medicaid.

The new law expanded the number of crimes that can disqualify job applicants to long term care facilities. The law added drug and theft offenses, lengthened the disqualification period for serious felonies, and proscribed a lifetime ban on employment for those convicted of patient abuse and health care fraud. It included a 15-year ban for violent felony convictions, a 10-year ban for nonviolent felonies, a 10-year ban for violent misdemeanors, a five-year ban for less-offensive misdemeanors, a three-year ban for nonviolent misdemeanors, and a one-year ban for misdemeanors committed by those under 18 years of age.

The state's previous legislation required only statewide background checks for prospective nursing facility or assisted living employees and only mandated national investigations if a job applicant had recently moved to Michigan from another state.

The Michigan Center for Assisted Living, along with the Health Care Association of Michigan, is working with state health agency and State Police to train their members in the new procedures for conducting background checks on current and future employees.

Focus On Residents

Although states' agendas have focused on curtailing potential harm caused by unscrupulous employees, measures adopted in Oklahoma require facilities to conduct criminal record searches on residents as well as employees. An Oklahoma-based group called A

Perfect Cause has garnered major newspaper attention through its report on the number of sex offenders living in long term care facilities.

In 2006, Oklahoma lawmakers introduced legislation (SB 1707) that would protect seniors from other long term care residents who have criminal histories of abuse or other violence.

Virginia assembly members adopted a similar resolution (SJR 120) on March 6 that will study the impact of sex offenders who reside within nursing and assisted living facilities. SJR 120 became a vehicle for Virginia's Crime Commission to study sex offenders in nursing and assisted living facilities. The commission will examine avenues to protect residents from sex offenders, current procedures to protect residents from other residents who may commit sex offenses due to debilitating physical or mental self-control as a result of stroke or other illnesses, the number of prisoners being released on geriatric parole, the number of registered sex offenders housed in nursing and assisted living facilities, notification and monitoring of sex offenders in long term care facilities, and treatment options available to sex offenders housed in Virginia's facilities.

The Virginia Health Care Association/Virginia Center for Assisted Living (VHCA/VCAL) will be monitoring the study closely.

Virginia Initiatives

Virginia's SB 421 would require national background checks for elder-care personnel. The legislation awaits Gov. Tom Kaine's signature. The legislation will require federal fingerprint checks rather than a state check on all com-

pensated employees within 30 days of working for skilled nursing, assisted living, home health, and hospice providers. The change would become effective July 1, 2007, provided funding is made available by the legislature through July 30, 2008, and passed during the 2007 session of the Virginia General Assembly.

VHCA/VCAL worked closely with the patron of the bill and the Attorney General's Office to amend the legislation that, in its original form, contained a number of provisions that would have had a negative impact on providers and prospective employees. The change from the current requirement for a state criminal background clearance to a national criminal background check will have a price tag of more than double the current requirement, says Beverley Soble, vice president of regulatory affairs for VHCA/VCAL.

Another proposal, Virginia HB 1398, was introduced at VHCA's request to address the confusion in the barrier crimes statutes for nursing facility, assisted living facility, home health, and hospice providers due to the words "or moral turpitude." The words "moral turpitude" had not been problematic until the past year when barrier crime guidelines were published by Virginia's Department of Health and contained references under the definition of "moral turpitude" to crimes that are not barrier crimes, such as shoplifting or bad checks. The barrier crimes remain the same with the term "moral turpitude" removed, says Soble.

Compiled by Health Policy Tracking Service, a service of West NetScan.



Dennis Cressman, director of maintenance/environment at Burton's Ridge Assisted Living, located in Lima, Ohio, was selected by the Ohio Health Care Association/Ohio Center for Assisted Living (OHCA/OCAL) as its Hero of Long Term Care for the month of April 2006.

OHCA/OCAL chooses one long term care employee each month to honor for service to the long term care facility, its residents, and the community.

Cressman will be featured on the association's Web site at www.ohca.org in April and will be honored at the association's 2007 convention in Columbus.

Jeff Jerebker, chief executive officer and president of Pinon Management, Lakewood, Colo., has been appointed to the Pioneer Network's national board of directors. Pinon Management provides management and consulting services to owners, managers, and developers of

assisted living and skilled nursing facilities in Colorado and New Mexico.

The Nebraska Assisted Living Association (NALA) annual awards program recognizes direct care staff for work that is beyond their job descriptions. For 2005, the theme of the awards program was "Superheroes in Long Term Care." Awards were given to one caregiver from each of NALA's six regions. The winners are: **Marty Kollasch**, a housekeeper for Grandview located in Ord; **Faye Schellpeper**, a medication aide for Stanton Health Center, located in Stanton; **Debbie Farhnam**, a personal care associate for Victoria Gardens in Omaha; **Betty Maguire**, an activity assistant for Haven Manor in Havelock in Lincoln; **Colleen Ashburn**, a medication aide for Linden Estates in North Platte; and **Pat Weinbender**, a direct care staff domestic aide for Sloan Estates in Sidney.

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