

CANHR

Long Term Care Justice and Advocacy

PROGRAM REPORT 2011

2011 is turning out to be a remarkable year. Remarkable in that, while the number of number of elders and their families needing information about long-term care options in California continues to rise, the drastic budget cuts of the past few years has insured that far fewer options are available. State funding has been eliminated for such essential programs as Alzheimer's Resource Centers, Linkages, Nutrition programs, respite care, senior companion programs, senior tax assistance and property tax deferral programs; while other community support programs, such as IHSS and the Multi-Purpose Senior Services (MSSP) programs suffer from severe budget cuts. Adult Day Health Care was eliminated entirely, but is hopefully being replaced with a comparable program, and Medi-Cal providers are facing a 10% reduction in fees, making more likely that Medi-Cal recipients will have a harder time finding treatment. In short, this has not been a good year for long term care consumers and their families.

For the past 28 years, California Advocates for Nursing Home Reform (CANHR) has been dedicated to improving the choices, care and quality of life for California's long term care consumers and their family members. Through direct advocacy, community education, public policy and litigation, it has been CANHR's goal to educate and support long term care consumers, their families and advocates regarding the rights and remedies under the law, and to create a united voice for long term care reform and humane alternatives to institutionalization.

Following are some of the highlights of CANHR's work in 2011:

Campaign to Stop Drugging in Nursing Home

CANHR's statewide Campaign to Fight Drugging of Nursing Home Residents, launched in late 2010, has resulted in an extraordinary response by consumers, legislators, and policy makers. The Campaign included a first-of-its-kind website (www.canhr.org/stop-drugging) that focuses exclusively on describing, fighting and ending the pervasive use of antipsychotic drugs as chemical restraints in nursing homes; a free consumer guide on how to fight nursing home misuse of psychoactive drugs; a CANHR video series on how to prevent drugging of nursing home residents; specific information on each California nursing home's use of antipsychotic drugs and other psychoactive medications; and a petition urging the Governor to crack down on nursing home misuse of psychoactive drugs.

On October 26 and 27, 2011 CANHR co-sponsored back-to-back symposia, "Dementia Care Without Drugs – A Better Approach for Long-term Care Facilities," in Sacramento and South San Francisco. Over 650 people attended the symposia, approximately two-thirds from nursing homes or residential care facilities. Each symposium was a full-day affair, featuring three speakers discussing the significant shortcomings of psychotropic drugs as a treatment for dementia and the merits of

non-pharmacological approaches. The theme of the symposia was “comfort care” as the model for dementia treatment using a coordinated “least medicating” approach. The symposia are an integral part of CANHR’s effort to assist long-term care providers to improve dementia care. CANHR hopes to continue to provide symposia throughout the state. Tentative plans are already in place to have symposia in Los Angeles and San Diego in 2012.

With the new attention of CMS and federal and state legislators on the over-drugging of our elders, it is our goal that in 2012, we’ll actually start to see a reduction in the use of such drugs.

Residential Care For the Elderly (RCFEs)

On January 1, 2012, SB 897 (Leno), The RCFE Residents Foreclosure Protection Act of 2011, will go into effect. SB 897, co-sponsored by CANHR, will require RCFE licensees to notify the Department of Social Services and the facility residents and their representatives when the facility is in financial distress such as foreclosure or bankruptcy. It provides for civil penalties and loss of licensure when a facility fails to notify residents and a resident is subsequently relocated and suffers transfer trauma.

CANHR also continues to coordinate an RCFE Advocacy Coalition to pressure the Department of Social Services, Community Care Licensing, to once again assume their proper role as a consumer protection agency.

Consumer Resources

CANHR developed several useful consumer resources in 2011, including:

- **Examining Faulty Foundations in Today’s Reverse Mortgages.** Developed in collaboration with The Consumers Union, CANHR and the Council on Aging Silicon Valley, the report calls for stricter oversight of the reverse mortgage market and new consumer protections for borrowers. The report notes that “Reverse mortgages are a very risky deal for borrowers who don’t understand the complicated terms of the loan and how quickly fees and interest charges can add up.” The report also offers tips for consumers to help avoid unnecessary or unsuitable transactions.
- **Your Right to Visit: A Guide to Visiting Resident of Long Term Care Facilities and Hospitals.** This free guide, available on CANHR’s web site, discusses the right to meet with visitors of a person’s choosing, which is among the most intimate rights we have. Despite federal and state laws that protect the right to visitation for people who enter a long-term care facility or hospital, health care providers often prohibit visitors who are considered problematic. These providers illegally assume the role of sentinel - deciding who may or may not see a resident. This Guide reviews the laws protecting a resident’s right to visitation and common visitation issues and offers ideas for remedying visitation problems through the use of sample cases.

www.canhr.org

CANHR’s web site, www.canhr.org and its two search sites, nursing home guide and residential care guide, received over 20,000 visitors per month. These include consumers, legal services and private bar attorneys, long-term care professionals and others. The web site feedback form allows consumers to get answers to questions and referrals on a daily basis providing pre-placement counseling, information on resident and consumer rights, legal services support and referrals through our Lawyer Referral Services. All of the consumer fact sheets can be downloaded, and most are available Spanish and Chinese.

Consumer Outreach & Advocacy

During 2011, CANHR staff made over 240 presentations to community groups, family councils, social workers, health care providers, government agency staff and other advocates and policy makers

throughout California. Topics included Medi-Cal for long-term care, estate recovery, residential care rights, family councils and elder financial abuse, among others. The information that CANHR receives from consumers and legal services staff informs our advocacy and helps us to direct our resources to those policy areas identified by consumers of care and their advocates.

CANHR also assists with Family Council Organizing, which involves speaking to family councils, providing technical assistance to family councils and promoting family council organizing whenever possible. CANHR's **Family Council CD, "Organizing a Family Council,"** along with the Family Council Organizing materials, is distributed without charge to consumers in California and around the country.

Legal Services Delivery

As a qualified Legal Services Support Center, CANHR staff provided California's legal services projects with training, advocacy assistance and technical assistance. CANHR staff also assisted hundreds of individual clients referred by legal services programs and others on a variety of long term care-related issues. CANHR presented a number of trainings – both on-site and on-line- to legal services staff on legal issues such as resident rights, Medi-Cal, health care decision making and elder financial abuse, and assisted individual legal services staff with technical assistance and consultations in response to phone or email requests for assistance.

Public Policy Advocacy

Standardized Admission Agreement: Effective 4/6/12, all nursing homes in California will be required to use a standardized admission agreement pursuant to regulations finally issued by the Department of Health Care Services. The result of legislation, SB 1061 (Vasconcellos), developed and co-sponsored by CANHR in 1997, it has taken the Department over 14 years to finally implement this important legislation. During 2011, CANHR staff provided detailed comments on the proposed regulatory packages.

Legislative Hearings: On December 8, 2010, CANHR's Executive Director, spoke to the U.S. Senate Special Committee on Aging on CANHR's campaign to end the epidemic misuse of antipsychotic drugs by nursing homes to chemically restrain residents who suffer from dementia. The Senate forum, *Until There's a Cure: How to Help Alzheimer's Patients and Families Now*, included a number of experts on alternatives to drugs for treatment of dementias. CANHR's Executive Director also testified about the state of elder abuse in California during a first-ever joint hearing of the Assembly Aging and Long-term Care and Public Safety Committees on Tuesday, February 22, 2011. CANHR' staff presented testimony at a number of legislative and committee hearings on issues such as residential care rights and nursing home enforcement issues, and, at the request of legislative staff, provided background information and assistance on issues such as elder financial abuse, the ombudsman program and Medi-Cal.

Memorials

2011 was marked by the deaths of **Pearl Caldwell** and **Ian Sammis**. Pearl, a long time CANHR member and – for over 25 years - the Coordinator of CANHR's Santa Clara County Family Support Group, was untiring in her advocacy for elders and persons with disabilities. Pearl received many awards for her work, including a CANHR "Advocate of the Year" award, and was honored in 2011 by the Senior Care Commission in Santa Clara County. Pearl's unflinching good humor, her advocacy, optimism, and – most of all - her friendship, will be sorely missed. Ian Sammis was one of CANHR's first Lawyer Referral Service panel members. Ian was a devoted family man and a wonderful attorney. He joined the CANHR LRS back in 1987 and remained a part of CANHR's estate planning family until his death.

A Special Thank You

CANHR's work in 2011 was made possible by the support of thousands of individual members, donors and volunteers and by the time and expertise of CANHR's LRS Advisory Committee and our Board of Directors. We owe a special thanks to these unique individuals. Nor could CANHR do its work without the contributions of the private bar, legal services staff and other long term care advocates who have donated time and expertise to our trainings and newsletters throughout 2011.

Financial Support

We sincerely thank the hundreds of CANHR supporters who sent individual donations to support our work in 2011. We also thank the following organizations/foundations for their support in 2011:

Consumer Attorneys Public Interest Foundation
Cotchett, Pitre & McCarthy, LLP
Majors and Fox, LLP
Michael Thamer, Esq.
Southern California Council of Elder Law Attorneys
The State Bar of California, Legal Services Trust Fund Program
The Wallace Alexander Gerbode Foundation
The Law Offices of Michael Moran

Join CANHR's 2012 Long Term Care Justice & Advocacy Campaign!

We thank all of you who have supported CANHR's work over the years and particularly during this past year, and we hope that you will join us in 2012 to continue to mobilize for justice and a better quality of life for all long term care consumers.

CANHR's financial statements are available through the California Attorney General's Office web site <http://ag.ca.gov/charities/> or upon request from the CANHR office.

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